



## MEMORANDUM

To: Robert Grey, Chair, LSC Finance Committee; John Levi, Chair, Board of Directors

From: Dennis Groenenboom, Chair, NLADA Civil Policy Group  
Steven Eppler-Epstein, Chair, NLADA Resources Committee  
Don Saunders, Vice-President for Civil Legal Services

Date: June 2, 2014

Re: NLADA Recommendation for FY 2016 LSC Funding Request

This memorandum is presented to you on behalf of the National Legal Aid & Defender Association (NLADA) Board of Directors and Civil Policy Group in response to your notice seeking input regarding LSC's request to Congress for funding for Fiscal Year 2016. We appreciate your invitation to the public and the civil legal aid field and welcome the opportunity to emphasize the critical need of NLADA's civil members for significant increases in federal support for legal services.

The challenges facing LSC grantees in responding to the legal needs of the millions of people and families living in poverty in this country are overwhelming. The confluence of the lingering effects of the deep recession with the stagnation of the overall financial foundation upon which our legal aid system is built makes it more important than ever that LSC send a strong signal to the Administration and Congress of the need for federal support for civil legal assistance. **As a result, NLADA urges LSC to seek an appropriation of at least \$580 million for FY 2016.** This figure reflects a slight increase over our FY 2015 recommendation of \$560 million, based upon the continuing growth in the eligible client population and cost-of-living increases.

We submit this request to you with recognition that the need for federal support for legal services is much, much greater than this amount. However, we are acutely aware that LSC must present its request for FY 2016 in an intensively competitive environment for very limited discretionary federal funding. Yet, as the leadership of LSC has eloquently pointed out over the last year in support of its current request of \$486 million, justice and fairness are not optional values in our country. As the leading voice articulating the critical need for federal support for civil justice, you must continue to strongly assert that our democracy's promise of equal justice remains a paramount priority of our nation, particularly in light of the enormous challenges facing your grantees.

While LSC has made significant progress in expanding the reach and accessibility of the legal aid system through its work with technology and pro bono innovation, no one can deny that the existing resources available among your grantees to meet the legal needs of 67 million potential clients with potentially devastating problems are woefully short of what is needed.

In this time of economic growth at the top of the income scale, a growing number of Americans are facing a future of increasing concern. One in five Americans ---67 million or 20% of the American population--- are at or below 125 percent of the federal poverty line.

The legal aid world is a stark reflection of this reality. As the number of individuals falling through the economic safety net increases, so too does the need for legal aid. Today there is an inverse relationship between the declining resources available to help vulnerable populations in need of legal assistance and the increasing need for legal services for people living in poverty.

LSC's own statistical analysis indicates the very stark realities - in terms of staff recruitment, morale and capacity - which have resulted from the continuing stagnation of funding available to grantees. Many legal aid offices have closed and thousands of positions have been eliminated. At risk is the very notion of equal access to justice.

Comparing the current level of federal support to the level provided in 1981 under the "minimum access" formula that was used in the formative days of LSC shows just how far congressional support for the civil justice system has diminished over the years. This analysis indicates that federal support relative to need for the basic infrastructure of the legal aid system in this country has fallen precipitously using today's dollars. The relative level of funding has declined by 300% since 1981, while the number of eligible clients has grown nearly 50% since 1981.

LSC grantees have responded to these funding challenges with innovative new delivery systems. Courts and many legal aid programs have developed ways to help the exploding number of self-represented litigants understand the law, processes and court procedures. They have worked vigorously in many states to expand the quality and impact of state-based access to justice commissions aimed at bringing a wide array of stakeholders to the table to support the delivery of quality, effective civil legal assistance.

Indeed, the nation's justice gap would be far greater except for the fact that the original idea of funding a minimum legal aid infrastructure through LSC at the federal level has led to significant, though disparate, growth in other revenue sources that add to the numbers of LSC- grantee attorneys in the field. However, there can be no mistake that a fundamental commitment of adequate resources at the **federal level** is the critical building block upon which the development of these other revenue streams within state justice communities has been constructed.

Strong federal support for LSC is particularly important in regions that have historically lacked other resources to support their civil justice systems. That federal support is particularly critical on the Indian reservation, in the Deep South and Rocky Mountain regions, and for politically disfavored populations in need of justice. The quality of the justice system should not be dependent upon where one lives in a country founded on principles of equality and justice under the law.

- **An investment in LSC ensures fairness in our justice system and results in significant social returns for both clients and society**

As recent public polling data suggests, the federal investment in LSC and its grantees pays dividends in ensuring that our system of justice is available not just for those of means who can afford access to a lawyer. LSC lawyers on reservations, in the fields and across urban America serve as a visible

embodiment of the principles of justice that form the foundation of our social contract.

Your grantees serve as a critical and unique resource to help poor people and their families escape the shackles of poverty and become self-sufficient members of society. In these extraordinarily difficult fiscal times, the federal investment in legal aid ensures significant positive outcomes for both clients and our society. Access to civil legal assistance empowers low-income people to take control of their lives and vastly increases the health and vitality of the communities in which they live.

The breadth of matters handled by LSC-grantees that have a profound impact in addressing serious human need is extraordinary. Every day legal aid lawyers in the United States assist people by:

- Preserving homes from illegal evictions or foreclosures;
- Assuring that domestic violence survivors live in homes free of violence;
- Increasing household income by helping those who have lost their jobs access unemployment insurance, food stamps, and other needed public assistance;
- Protecting families and the elderly from unscrupulous contractors or debt collectors;
- Helping individuals with disabilities gain to access Supplemental Security Income (SSI), medical insurance and/or care; or
- Providing a homeless veteran with the opportunity to obtain housing.

In addressing these, and many other issues, legal aid providers have learned firsthand the stark reality that children are the fastest growing segment of the “new poor”, those who have recently fallen into poverty. The 2013 American Community Survey indicates that **21.8% of children in the United States now live in poverty**. Child poverty rates have increased dramatically at the same time that the poverty rates of the elderly have been dropping.

Legal aid programs address a number of issues that help ensure that every young person has a shot at success later in life. Civil legal services directly impacts young people by:

- **Keeping families in housing/ warding off unfair foreclosures.** A homeless child is very likely to suffer dire consequences – health, education, even ability to sleep well can be affected;
- **Improving housing conditions.** When substandard housing is improved, toxins are eliminated and the health (i.e., intensity and rates of asthma attacks and amounts of medications required are all reduced) of everyone in the household improves dramatically;
- **Getting kids access to appropriate special education when needed.** This intervention dramatically increases the likelihood that a child can graduate from secondary schools and go onto college success, which could make all the difference for their future economic mobility;
- **Helping victims of domestic violence achieve safety.** Providing civil legal services to domestic violence victims has a direct impact on the rate of victimization, lowering the rates of domestic violence greatly;
- **Providing a safe environment.** A child exposed to violence in the home is much more likely to suffer mental and physical health problems, miss days of school and perform poorly in school. These factors place the child at greater risk of falling into or staying in poverty. Domestic violence also raises the health care costs to a family, thereby forcing family resources to be used to pay for these additional health consequences of the violence.

Legal aid offices are often the only provider of a full range of legal services to low income individuals, families and vulnerable populations in the communities that they serve. In addition to representation in individual cases, legal aid is part of a network of agencies providing services to the community's most vulnerable members. Many community organizations such as homeless shelters, domestic violence shelters, veteran organizations, housing counselors, child protective service agencies, case managers, and others rely on legal aid to help with legal barriers and emergencies to achieve positive outcomes for low income families.

Many of your grantees now measure outcomes achieved for the families that they assist. Statistics from legal aid programs throughout the country demonstrate the positive results realized for clients from their access to legal services. These studies suggest that addressing any of these legal issues not only helps keep the individual client from falling further into poverty and despair, but also saves the communities in which these individuals live the high cost of providing shelter, increased social services and acute care that often becomes necessary when legal intervention cannot be secured.

A recent report by Community Services Analysis, LLC (CSACO) illustrated many additional benefits to the community from the work of the LSC grantees in Arizona. Increased property values from reduced numbers of foreclosures, long-term employment of lower-income individuals due to enforcement of employment rights and significant savings on emergency housing are just a few of the many additional benefits shown by the study.

During 2011, the CSACO study found that Arizona Legal Aid Services closed 3,522 legal matters resulting in \$3,167,599 in immediate direct financial community benefits and \$13,350,240 in long-term consequential financial benefits.

The study found that the \$13,191,509 provided to Arizona programs in 2011 created a net value of \$84,328,327 to the communities they serve. This figure represents a social return on investment of **639%**. In other words, for every \$1 of investment in Arizona LSC providers, a value of \$6.39 was realized in these communities.

Many other states have conducted studies of the economic impact of legal aid (collated at: [http://www.nlada.org/DMS/Index/000000/000050/document\\_browse?start=1](http://www.nlada.org/DMS/Index/000000/000050/document_browse?start=1)). The most recent one of these studies in North Carolina found over \$18 million in economic benefits derived from the investment in civil legal aid (<http://www.ncequalaccesstojustice.com/wp-content/uploads/2009/07/NC-EAJC-econ-report.pdf>).

NLADA certainly welcomes, and will support in any way we can, the efforts of LSC and others to develop better data defining the actual need for legal assistance among the nation's poverty population. However, there can be no doubt, based upon existing evidence and the clear experiences of your grantees in the field, that the current demand far exceeds the capacity of our system to respond. A request of \$580 million, while providing much needed assistance to your grantees and the clients they serve, would not begin to address the need for resources in the field.

## **SPECIFICS BUDGETARY ISSUES**

There are several specific issues that NLADA would like to recommend with respect to various lines

within the FY 2016 request.

Because of the overwhelming need for basic field services (including agricultural worker and Native American grants) we believe that the great majority of LSC funding should be granted to programs to provide those services to clients rather than be earmarked for any special projects. Local control over priorities and expenditures has been an enduring principle that has brought great strength, flexibility and efficiency to the legal aid system over the past thirty-nine years. We urge you to continue to honor this principle as a general rule as you proceed in your administration of LSC.

However, we ask that funds be specifically allocated for three continuing LSC priorities 1) dedicated funding for agricultural worker representation; 2) continuation of the Herbert S. Garten Loan Repayment Assistance Program; and 3) Technology Initiative Grants.

- **Dedicated Agricultural Worker Funding.** We are aware that the LSC board is reviewing the allocation of grants to meet the special needs of delivering legal services to agricultural workers. NLADA strongly believes in the vital importance and necessity of continuing these grants and updating the data sources necessary to distribute them more appropriately under current agricultural realities.

Experience of legal aid lawyers in the field has shown that the legal needs of agricultural workers are unique, because they are especially vulnerable to exploitative recruitment for employment, have the lowest wages, are linguistically and culturally isolated and live in the worst housing in the United States. They are often isolated on farms and are subject to a very specialized field of law, requiring significant substantive specialization.

We look forward to working with LSC to update the data underlying the distribution of these specialized funds and strongly support their continuation.

- **Herbert S. Garten Loan Repayment Assistance Program (LRAP).** NLADA remains committed to finding ways to assist legal aid lawyers in meeting the often staggering law school debt they face. We think that the reports to date of the Garten LRAP program indicate that it can play an important role in retaining high quality lawyers in LSC grantee programs. Additionally, you are aware that Congress has chosen to discontinue funding for the Civil Legal Assistance Attorney LRAP program and it appears unlikely that such funding will be forthcoming in the immediate future. The future of the 10-year loan forgiveness component of the College Cost Reduction and Affordability Act program has also come under recent scrutiny.

Therefore, we urge you to seek funding of at least **\$1 million** for loan repayment assistance for FY 2016.

- **Technology Initiative Grants.** NLADA has worked in partnership with LSC and its grantees in helping the civil legal assistance community make great strides in using technological innovation to expand the reach and quality of legal services. The LSC Technology Initiative Grants (TIG) have played a vital role in helping states and local programs to improve their ability to use technology to better serve their clients and to develop a national infrastructure necessary to support state and local efforts. Therefore, we strongly support the continuation of the Technology Initiative Grant program. We recommend that the FY 2016 appropriation request

contain at least **\$3.450 million** for TIG.

As we have suggested in prior years' memoranda, we also remain concerned about certain specific areas related to delivery that remain in need of study by LSC:

- **Native American Special Grants.** NLADA continues to request that LSC study methods to address the significant disparities in funding for Native American programs and to help develop strategies to improve the delivery of services to Native Americans.
- **Training and Other Assistance for Substantive Advocacy.** We remain concerned about the need for training, professional development and advocacy support within the legal aid community. In today's environment of shrinking budgets, these issues are often neglected. Failure to invest in professional growth and expertise is both a short term mistake and a long term threat to the entire vitality of the system. NLADA would like to continue discussions with LSC about how it can work with the field to reinforce the importance of training and support and strengthen the capacity of the current system to meet these needs.
- **Pro Bono Innovations Fund.** Pro bono remains a critical component of the delivery system for civil legal assistance for the poor. We applaud the leadership on the issue shown by LSC, the Pro Bono Task Force and congressional leaders supportive of pro bono. NLADA supports the concept behind the Pro Bono Innovations Fund line and expects that significant creative thinking will be generated by the Fund, similar to that generated over the years by the Technology Initiatives Grant program. We recommend that LSC evaluate the best practices in pro bono innovation generated by the fund and give consideration over time to building the innovative component into the already-existing 12.5% of basic field funding already dedicated to supporting pro bono initiatives.

NLADA sincerely appreciates the support that every member of the LSC Board of Directors and staff have shown for advancing federal support for LSC. We recognize and commend your work with the Congress and the White House during the entirety of your time in office. We stand willing to support your efforts in any way we can.