

NLADA Civil Caucus 2012

**2012 National Legal Aid & Defender Association Annual Conference
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Prepared Remarks by
**John G. Levi, Chairman,
Board of Directors, Legal Services Corporation**

Thanks, Don. It is good to welcome you all to the Windy City, and to be with NLADA as it begins its second century of exemplary service to the legal community.

I am grateful for your invitation to speak to the Civil Caucus once again, and for your continued support of LSC.

As many of you know, Don comes to almost all of our LSC Board meetings, even our committee meetings, and has been tireless in his efforts on behalf of LSC.

And, it is such a privilege for me to follow LSC's very distinguished former Board member, serving for a decade from 1993 to 2003 — the Honorable John Broderick. As Don told you, John has been such a powerful champion for access to justice, not only for his fellow New Hampshire citizens, but for low-income citizens all across this country.

And a word, too, about the recently late, very courageous Senator Warren Rudman — many would say, in fact, John just did, that I would not be standing here in the role I occupy were it not for his efforts to save the Corporation a number of years ago. As Senator, Warren Rudman resisted his own party's immensely popular President, and lectured his Attorney General to save LSC. The power of his work and his wisdom lives on.

I see that a number of executive directors of LSC-funded programs are with us today, and let me thank all of you for leading the effort to provide low-income Americans with civil legal assistance, particularly in this daunting period.

We gather today exactly a month after a national election that returned to office the President who appointed — with the confirmation of the Senate — the current members of our Board, including me.

We have been privileged and honored to serve on the LSC Board and look forward to continuing our service. We are fortunate to have a dedicated bipartisan board that has approached its responsibilities in a non-partisan way from day one.

I am so grateful for our Board's major commitment of time and energy, and for the Board's confidence in me as the 10th Chairman of the Corporation.

It is reassuring to have a supporter in the White House, but we must continue to reach out to members of Congress on both sides of the aisle to more fully educate them regarding the crisis that exists in civil legal assistance and the essential role that LSC plays in addressing that crisis.

LSC, as you know, was founded by a Republican administration just 38 years ago as a rule of law initiative. And what moved President Nixon in 1974 was echoed in 1989 by another occupant of the White House, George H. W. Bush, who in speaking of LSC said:

“Our legal system still exhibits a number of imperfections. These problems are particularly distressing to the poor. Many indigent persons are simply precluded from pursuing legal remedies to their grievances. All too often, this exclusion invites disrespect for our judicial system and subsequently invites disrespect for our democracy. It is everyone's responsibility to ensure the effectiveness and accessibility of the American justice system.”

I first addressed NLADA's Civil Caucus two years ago in Atlanta, when I had been in my post for only a few months, and we were in the midst of a national search for a new president.

We swung for the fences in that search, and we hit, in my opinion, a walk-off grand slam homerun when we convinced Jim Sandman to become our president.

Jim has done an extraordinary job and we are so fortunate to have him at the helm.

When we met in Atlanta, I spoke of a blue-ribbon task force that we had just launched, chaired by Board members Robert Grey, a former ABA President, and Victor Maddox, a Kentucky practitioner, to make sure that LSC's fiscal oversight reached the gold standard.

That Task Force completed its remarkable work over a year ago, and its many thoughtful recommendations providing a blueprint to enhance and update LSC's fiscal oversight were fully adopted by the Board.

We are well on our way in implementing the Task Force's recommendations, and in September hired Lynn Jennings as LSC's very first vice president of grants management. Lynn provides the consolidated oversight the Task Force called for by supervising LSC's day-to-day

programmatic operations, competitive grant process, and LSC's assessment of the work and internal controls of its grantees.

In Atlanta, I also promised to develop a new strategic plan for the Corporation, and to look for innovative ways to encourage pro bono.

I am proud to say with help from NLADA and input from the field, we created and adopted a far-reaching, 5-year strategic plan.

In addition to encouraging increased financial support for LSC and its grantees (which I am determined to try my best to obtain), the plan lays out three other foundational goals for the Corporation:

- To maximize the availability, quality, and effectiveness of the civil legal services that its grantees provide to eligible low-income individuals;
- To achieve the highest standards of fiscal responsibility both for itself and its grantees;

and

- To become a leading voice for civil legal services for poor Americans.

In August last year at Harvard Law School we convened a national Pro Bono Task Force of more than 60 leaders of the legal community under the leadership of LSC Board members and Task Force Co-Chairs Martha Minow, Harvard's Dean, and Harry Korrell, a Seattle practitioner.

Just a few weeks ago, the Task Force released its terrific report and recommendations at events in Washington, Boston, North Carolina and here in Chicago.

The Task Force Report attempts to find ways to expand the number of lawyers who are willing to do pro bono work, and then do a better job of matching that hopefully larger available talent pool with the growing unmet need.

If we are to succeed in meeting the civil legal needs of low-income Americans with a combination of properly funded clinics together with pro bono services donated by lawyers across the country, then we must make sure that this somewhat haphazard system actually works—that is, that it actually achieves the goal of delivering civil legal services to the many in our poverty population who need that assistance.

The many far-reaching recommendations of the Pro Bono Task Force were designed to take aim at the pro bono side of this equation and measurably and significantly increase pro bono

service. We have already started the process of implementing these recommendations and this implementation will occupy much of the Board's agenda and interest in the coming months.

You will see us trying to create a pro bono incubation fund, finding ways to create more fellowships at both the new lawyer and senior lawyer levels, and you will see us working to facilitate the creation of consortiums among law firms, corporate law departments and our grantees to better expand our reach. And, you will see LSC management and Board seriously examining LSC's own Private Attorney Involvement Rule.

In Atlanta, I also said we would work to expand our assistance to the nation's veterans.

We have since launched a nationwide program to introduce veterans' counseling centers to their nearby LSC grantee civil legal aid clinics so that each is aware of the other and better able to address the civil legal and the mental health needs of the many indigent veterans in our midst. Our grantee in Maine, Pine Tree Legal Assistance, developed the very first dedicated site, StatesideLegal.org, dealing specifically with veterans' issues for clients and lawyers across the nation. And, at our meeting in North Carolina just a few weeks ago, we heard from a panel including the General Counsel of the Veterans Administration, Will Gunn, and a number of our programs regarding how they are collaborating to best approach the myriad of civil legal issues facing our low income veterans.

We must also more fully educate the public and lawmakers about the growing crisis in civil legal assistance.

Although all of you know in heart-breaking detail the depth of the crisis, that sobering development and its consequences have not been fully appreciated by many in our own profession.

At our national LSC Board meetings, bar meetings, and other gatherings of the legal community, I have been frankly stunned by how little many lawyers know about LSC or the growing crisis in civil legal assistance.

When they hear the details, they are flabbergasted, concerned and want to know how they can help.

Here is some of what they need to know and what you probably could recite:

- The size of the population now eligible for civil legal assistance — Americans with incomes at or below 125 percent of the federal poverty line — has grown 10 percent since this LSC Board was nominated in 2009 to more than 61 million, or nearly 20% of the U.S. population. That is an all-time high. In fact, in 1974 when LSC was

established, the poverty population stood at approximately 12% of the then U.S. population.

- In the face of that, LSC's congressional appropriations have been reduced 17 percent since 2010 to just \$348 million this year. In inflation-adjusted dollars that is an all-time low.
- Funding from other sources for LSC programs across the country has also dropped and combined funding for these programs from all sources fell from \$960 million in 2010 to \$878 million in 2012.
- Legal aid offices, often rural, have closed and LSC-funded programs have eliminated nearly 1,500 positions from 2010 to 2012, more than a 15 percent reduction. Just last week, a New York Times op-ed reported an example of what is happening with such cutbacks, noting that in many housing courts around the country, 90 percent of tenants are unrepresented while 90 percent of landlords have counsel.
- These cutbacks have seriously eroded America's role as a leader in equal access to justice. In fact, recent studies rank the United States 21st on access to justice for disadvantaged groups and 52nd in the world in terms of access to legal assistance

Our LSC Board is calling attention to these challenges by convening panels of state supreme court justices as well as other judges and legal experts at our national quarterly board meetings across the country to discuss the state of civil legal assistance and access to justice in our judicial system.

The first such forum was held at the White House. Some of you were privileged to be there and to hear President Obama pledge to be a fierce advocate for the LSC and civil legal assistance.

Others of you have joined us at forums in Ann Arbor and Durham. We will be holding yet another in a few weeks in New Orleans.

At these forums, we are hearing stories of pro se litigants showing up in greatly increased numbers at all levels of the judicial system, including courts of appeal and the states' highest courts, . . . of in-take systems so overwhelmed that grantees must shut them down early in the week because of a lack of resources and an inability to handle any other matters for the balance of the week.

As we move forward, we must all also continue to innovate—to develop new technologies that will help us address these kinds of problems and put us in a position to provide legal services more efficiently.

LSC, as you know, has been a leader in the use of technology, and we will continue our leadership in the years to come.

In fact, our Board is extremely interested in how the use of technology can be expanded not only in the operation of our grantees' offices and programs, but also in relation to the work of pro bono lawyers.

Many of the innovations in the use of technology in our country's civil justice system grew out of LSC's first technology summit held fourteen years ago in 1998.

I am proud to say that under our leadership LSC has convened another such technology summit, which began in June and will hold its concluding meeting in a few weeks in Jacksonville.

Our Board will be particularly interested to learn of the many ideas and innovations that will undoubtedly come from this summit, and how they can help to make the civil justice system more accessible.

Continuing to expand access to justice is not only important to those of us gathered here today, and to millions of low-income Americans who are being shut out of the system, but also to the future of our great democracy.

At a Board meeting earlier this year in San Diego, we were privileged to hear from the remarkable Pepperdine Law Dean and former Chief Judge of the U.S. Court of Appeals for the Tenth Circuit, Deannell Reece Tacha--also a member of our pro bono task force.

Dean Tacha stirred our entire Board and all those present with words that I have quoted a lot this year, and that I want to be sure you all hear, because they really went to the heart of the matter:

“When the great majority of the individuals and small businesses of the nation no longer can, or believe they no longer can, get a lawyer, be represented effectively, go to court, settle their disputes in a fair and impartial way, and be treated like every other citizen, we quite simply, have lost the guiding principle of our republic—equal justice under law. When that goes, the rule of law goes, and when that goes, the great dreams of those patriots who founded and fought for this republic go with it—never to be reclaimed. Something must be done!

I know in this room, we all agree with Deannell.

What is happening to the civil justice system is something akin to global warming. It can't be fully seen on a daily basis, but we know it is there — 70 degrees in Chicago on the first weekend of December and you know something is amiss.

When I first came to LSC, I thought the term “justice gap” adequately described the disparity between the legal needs of low-income people and the capacity of the civil legal assistance system to meet those needs. Now I am not so sure. To me it appears to be something much wider than a gap — frankly, more like a gulf.

Millions of low-income Americans are attempting to swim alone in the strong currents of that gulf.

We can throw them a life line by acting now to shore up our civil legal aid system, or stand by and watch them flounder — eventually many will be swept out to sea.

For many of our fellow citizens, LSC-funded programs are that life line — their only one. Will they keep their home, will they be freed from abuse, will they get the veterans benefits they are entitled to after years of service to our nation?

As another President, George W. Bush, said of LSC 12 years after his father's compelling remarks:

“The federal government, through LSC, ensures equal access to our nation's legal system by providing funding for civil legal assistance to low-income persons. For millions of Americans, LSC funded legal services is the **ONLY** resource available to access the justice system.”

As Warren Rudman so eloquently put it:

“if you do not have equal justice — if the only people who have access are those with money — then your democracy and your society will eventually be in jeopardy.”

Folks, it is up to all of us here, and you can be sure that we will give voice to those issues wherever we can.

Thank you for the privilege of speaking here this morning . . . and for all that you do to improve the lives of so many Americans by protecting their right to equal access to justice.