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MEMORANDUM

To: Finance Committee, Board of Directors, Legal Services Corporation

From: Lisa Wood, Chair, ABA Standing Committee on Legal Aid and Indigent Defendants

Date: June 8, 2015

Re: ABA Recommendation for FY 2017 LSC Budget Request

This memorandum sets forth the recommendation of the Standing Committee on Legal Aid and Indigent Defendants (SCLAID), on behalf of the American Bar Association, regarding the Legal Services Corporation's budget request for FY 2017. We appreciate the opportunity to submit this recommendation, and look forward to working with LSC to obtain adequate funding for the important work of the Corporation and its grantees. For the reasons set forth below, we urge that LSC seek an appropriation in the range of \$486.9 to \$494.2 million.

We urge that LSC seek an amount for FY2017 that adjusts for inflation the amount sought by LSC in FY2016. LSC made a well-reasoned request for FY2016 of \$486.9 million. There are several approaches to calculating the impact of inflation, and those methods yield results which vary slightly. We therefore propose a range within which we believe an LSC budget request for FY2017 would be appropriate.

We believe that it is important that LSC not retreat from the principled positions it has taken over the past several years. We understand that the Congressional environment has changed since 2014. At the same time, all relevant indicators point to an ongoing, overwhelming deficit in the availability of equal justice.

LSC Funding Lags Far Behind Inflation

In 2014, we recognized the fortieth anniversary of the creation of the Legal Services Corporation. If the appropriation for LSC provided in 1976 (the first year that funding was separately appropriated) had simply been adjusted for inflation through 2015, using the inflation calculator offered by the Bureau of Labor Statistics, LSC would be receiving \$486.3 million today. Few, if any, comparable federal expenditures have fallen so far behind. This is especially true when one considers that 92% of LSC funding flows directly to local programs providing help to desperate individual Americans. LSC is a model of an efficient government program, providing a unique and necessary service.

Eligible Client Population Remains at a High Level

The economic recovery continues to leave many Americans behind. The Census Bureau reported in 2014 that, as in 2013, nearly 30% of the U.S. population is financially eligible for LSC services. Research has demonstrated that approximately 50% of low-income households face legal needs at any point in time. Research has also shown that about half of those households will have more than one legal problem. This means that LSC will face ongoing high demand for legal help as people suffer problems with employment, housing and income maintenance.

Supplemental Sources of Funding are Important, but Cannot Substitute for LSC Funds

Federal funding available through LSC provides the foundation for the nation's civil legal aid delivery system. LSC is the only source that provides funding to every state and jurisdiction, based on a formula that allows for a baseline measure of justice for every state; every community nationwide benefits from the funding provided by LSC.

LSC funding catalyzes the development of other funding sources. Board and staff leaders of legal aid programs, recognizing the inadequacy of LSC funds to meet the critical legal needs of poor people, work diligently to increase local, state, and other federal resources to supplement their LSC funds. While such sources will never be able to substitute for LSC funding, state legislators, attorneys, and other private and public funders across the nation recognize the importance of legal aid and have stepped up to at least partially fill the gap.

In 2013 (the most recent year for which data is available), funding nationwide for civil legal aid from sources other than LSC increased by approximately 3 percent. However, the most important funding increase during the 2013 year was an increase in LSC funding of 7.5%.

Legislatures in 47 states and Puerto Rico either provide funding directly through appropriations or court filing fees or authorize local jurisdictions to do so. State legislative funding decreased during the recent economic crisis faced by almost every state legislature, but increased in 2012 by 7% and again in 2013 by 8%. As economic conditions in states improve, state legislators are demonstrating that legal aid is a very important service to the residents of their communities.

The board and staff of legal aid programs also continue to work hard to increase revenue from private sources, and these sources have increased in recent years. For example, private donations from the legal community increased by 6% from 2012 to 2013 and foundation support increased by 3.5%.

With the leadership of the organized bar, IOLTA programs have been established in every state, the District of Columbia, the Virgin Islands and Puerto Rico, and in many years had been second only to LSC in the amount of revenue generated for legal aid programs. However, falling interest rates and the reduction in legal business and therefore in the principal balances in lawyer trust accounts have caused overall IOLTA grants to legal aid nationwide to plunge by 68% since 2008, when those grants were at their height. The decline in aggregate IOLTA grants to legal aid from 2012 to 2013 was 13%. These decreases tempered the gains described above.

It is important to note that an aggregate increase in overall funding masks a serious problem of disparities from state to state. Relying more and more on state and local funding means that programs in states with greater resources – e.g. where state governments have recovered more quickly from the recent economic crisis, where there are more attorneys and/or private foundations per capita – are better able to cope with the inadequate funding from LSC.

Pro Bono Contributions Continue, But Meet Small Proportion of Need

The ABA continues to work closely with LSC to buttress and expand pro bono efforts by private lawyers, and in particular to foster more pro bono service to poor individuals with routine legal matters. We are optimistic that expanded LSC Pro Bono Innovation grants will stimulate additional creative approaches to engaging more lawyers in providing such service. All who work within the delivery system, however, recognize that pro bono provides only a supplement that cannot replace the network of LSC-funded staff legal aid offices, and that a robust pro bono system is dependent on the infrastructure provided by LSC-funded programs. LSC funding provides the institutional structure for intake and placement of pro bono cases, and the staffed legal aid offices provide pro bono attorneys with access to expert legal advice as they assume responsibility for work in unfamiliar areas of law. Continuation of a vibrant pro bono system depends upon LSC receiving adequate funding.

Federal Investment in Legal Aid Produces Important Returns on Investment

The funding that Congress provides through the Legal Services Corporation helps to build strong communities by producing important economic benefits that far exceed the amounts invested. A number of states have conducted sound, objective, research demonstrating that for every dollar spent on legal aid, significant additional savings result to the state and community.

For example, the Boston Bar Association published a report in October 2014 describing the results of research by independent economic consultants into benefits obtained through legal aid services in the state. One consultant, the Analysis Group (Economic, Financial and Strategy Consultants) found that the monetary benefits of representing eligible beneficiaries in eviction and foreclosure proceedings far outweigh the costs of providing these services; for every \$1 invested, the Commonwealth stands to save \$2.69 on the costs associated with the provision of other state services, such as emergency shelter, health care, foster care, and law enforcement. Another independent consulting firm, Alvarez & Marshall (Global Forensic and Dispute Services) found that for every dollar invested in civil legal aid for victims of intimate partner violence, the state will save a dollar and the federal government will save another dollar.

Similarly, a report issued by the Tennessee Bar Association in March 2015 showed that cost savings to communities statewide through provision of civil legal aid totaled \$42.6 million through avoidance of emergency shelter costs, prevention of costs resulting from foreclosure and prevention of domestic violence. A 2013 report by Community Services Analysts LLC determined that, in Arizona, civil legal services to address matters involving loss of home due to foreclosure, evictions, landlord/tenant problems, sub-standard housing conditions, lockouts and utility shut-offs resulted in \$1.1 million in immediate financial community benefits and over \$10 million in long-term consequential financial benefits. Civil legal services in matters involving domestic violence, child abuse or child snatching, and elderly clients facing loss of housing or

income resulted in \$3.3 million in immediate direct financial community benefits and another \$3.6 million in long-term consequential financial benefits.

It is clear that the funding provided to LSC is significantly magnified, impacting communities and constituents across the nation in ways that far exceed the modest investment.

LSC Should Continue Efforts to Attract and Retain Legal Aid Lawyers

LSC also provides an important foundation and support for other critical aspects of the delivery system. This includes support for attracting and especially retaining high-quality lawyers to/in legal services careers. The ABA has joined with LSC and many state bar foundations and educational institutions in focusing attention on the impact of educational debt on the ability of young lawyers to enter and remain in public service. It is especially important that, after investing significant resources in training new legal aid lawyers, every effort be made to retain the expertise that has been created so that a return on that investment can be produced. Federal funding for loan repayment assistance is no longer available through other government programs for civil legal services lawyers. We therefore urge that LSC continue to request at least \$1 million in funds for its program providing loan repayment assistance for selected lawyers in LSC-funded programs.

LSC Should Continue to Build a Strong Technological Infrastructure

Similarly, we endorse the continuation of the “Technology Initiative Grants” (TIG) program, enabling the civil legal assistance community to move forward with improving and expanding the technological infrastructure for serving clients, reaching into rural communities, etc. We urge the Board to include within its FY2017 budget request an amount that will permit continued development of a strong technological infrastructure within the legal services community.

Conclusion

As the LSC Board prepares its 2017 budget request to the Congress, we urge the Corporation to advocate for an increase in federal support for legal services for the poor. We believe that seeking a FY2017 appropriation that adjusts the amount requested in FY2016 for inflation is reasonable in light of the above, and that this would bring LSC a step closer to fulfilling its role in promoting equal access to justice. The American Bar Association will continue to work closely with LSC to vigorously support increased funding for LSC.