



**TESTIMONY OF DONALD SAUNDERS**

**Director of Civil Legal Services**

**On Behalf Of**

**THE NATIONAL LEGAL AID AND DEFENDER ASSOCIATION**

**Before The**

**COMMERCIAL AND ADMINISTRATIVE LAW SUBCOMMITTEE**

**Of The**

**HOUSE JUDICIARY COMMITTEE**

**October 27, 2009**

**NLADA PRESENTATION TO THE  
COMMERCIAL AND ADMINISTRATIVE LAW SUBCOMMITTEE  
OF THE HOUSE JUDICIARY COMMITTEE**

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Good afternoon, Mr. Chairman. My name is Donald Saunders, and I am the Director of the Civil Division of the National Legal Aid & Defender Association (“NLADA”). I submit this testimony at the request of Chairman Cohen, and I would like to thank him and the members of the Subcommittee for giving NLADA the opportunity to voice its support for the Legal Services Corporation (“LSC”) and to comment on the provisions of the Civil Access to Justice Act of 2009 (“House Bill”) that was recently introduced by Subcommittee member Scott and numerous co-sponsors, including Chairman Cohen and Subcommittee Members Watt, Delahunt, Johnson and Conyers.

NLADA, founded in 1911, is the oldest and largest national, nonprofit membership organization devoting all of its resources to advocating for equal access to justice for all people. For almost a century, NLADA has championed effective legal assistance for people who cannot afford counsel. We serve as a collective voice for both civil legal services and public defense services throughout the nation, and provide a wide range of services and benefits to its individual and organizational members. Among NLADA’s 700 program members and 15,000 attorney members are most of the 137 recipients of LSC funds. I am proud to be here on their behalf and on behalf of the legal services community as a whole.

**Framework for the Federal Legal Services Program**

In the Preamble to the Constitution, our forefathers stated clearly and forcefully the purpose of the government they were creating:

*We, the people of the United States, in order to form a more perfect union,  
establish justice, insure domestic tranquility, provide for the common defense...*

and so on. It is noteworthy that “establish justice” comes before and is the basis for “domestic tranquility” and that both come before “provide for the common defense.” I think the sequence and those priorities are not accidental and we need to constantly bear them in mind.

Until passage and implementation of the Economic Opportunity Act of 1964 (“OEO”), the federal government had not sought to “establish justice” for poor people and had not provided any support for their representation in civil legal matters. With the passage of the OEO, the federal government began its efforts to fill this void. Ten years later, in 1974, Congress passed and the President signed the Legal Services Corporation Act (“LSC Act”), the comprehensive legislation to make permanent the vital legal services program started under the OEO.

The findings and declaration of purpose to the original LSC Act set out the appropriate framework for considering how to once again move forward on establishing justice for poor people.<sup>1</sup> Congress found that--

1. "there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;
2. "there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel...[;]
3. "[there is a need] to continue the present vital legal services program;
4. "providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of [the Act];
5. "for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;
6. "to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and
7. "attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the [Model Rules of Professional Responsibility] ...and the high standards of the legal profession."

It is important to keep in mind these critical principles, which are as salient today as they were when the LSC Act was first passed, and to evaluate where we are at present and where we should go in the future.

What we have today is a fundamentally sound legal services delivery system. Although it is woefully underfunded, unfairly restricted and continually besieged by its critics, the legal services delivery system continues to work extraordinarily well for those of our clients that it does serve. Of course, it can be made to work better. There is no enterprise, whether in government or in the private sector, that cannot benefit from efforts to enhance and improve it. That certainly includes the delivery of legal services to poor people in this country which has been evolving in form and in scope now for more than a century. Nevertheless, the basic system established by the LSC Act has served us well for 35 years; it should be improved and enhanced, not undermined or limited.

The civil legal aid system should be funded adequately and strengthened to provide meaningful access to our system of justice for low-income persons residing in the United States. Currently, the system is severely underfunded and LSC funding has remained relatively stagnant for more than a decade. As we show later in our testimony, LSC funding has gone down in real dollar terms by more than 48% since its high water mark in 1980. Yet, civil legal aid is a federal responsibility. LSC continues to be the primary single funder for civil legal aid, provides the underpinning and sets the standards for the entire program. To achieve equal access to justice in our country, it is therefore essential to increase LSC funding to provide a firm foundation for the rest of the legal aid system.

Nevertheless, increasing LSC funding is not sufficient to guarantee equal access to justice. Equal access is not a reality when legal services attorneys are not able to use

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<sup>1</sup> See 42 USCA§2996 (Section 101 of the LSC Act).

the same tools and strategies that other members of the legal profession are free to use on behalf of their clients. For example, the current appropriations act restriction on claiming attorneys' fees in those situations where other lawyers are permitted to seek them limits the leverage which legal aid attorneys can use in negotiations with defendants and undermines the fundamental policy goals of awarding attorneys' fees against losing parties which are to deter and punish illegal conduct. These and other similar restrictions on what legal services attorneys can do on behalf of eligible clients that were imposed by appropriations riders in 1996 are inconsistent with the purposes of the LSC Act and limit the ability of LSC-funded programs to provide effective and efficient legal assistance to the disadvantaged residents of the United States.

Restricting what LSC programs can do with non-LSC funds is particularly troubling. Even though such restrictions were inappropriate in our view regarding LSC funds, there was no justification whatsoever for also preventing LSC programs from receiving non-LSC funds that are provided for purposes that Congress does not want to fund with federal dollars. State legislatures and other public funders as well as private donors should have the same opportunity as Congress to determine the purposes for which their funds will be used and to select the institutions that can best carry out those purposes. Congress should not interfere in decisions by other public funders, including state controlled IOLTA programs, on how to allocate their funds and with whom to contract, nor should it intrude unnecessarily into the funding decisions of the private sector. Moreover, Congress should encourage, rather than discourage, the creation of alternative funding sources for civil legal services and should encourage public-private collaboration to ensure the provision of effective legal services and efficient use of resources, rather than stimulate wasteful duplication of programs that occurs when funders are forced to put their resources elsewhere in order to accomplish their purposes.

## **Legal Needs of the Disadvantaged**

As the testimony from the Legal Services Corporation, the American Bar Association and Harrison McIver of Memphis Area Legal Services aptly demonstrates, low-income households experience large numbers of legal needs, and the resources that are available to meet those needs are wholly inadequate. Legal needs studies conducted by numerous states during the past several years found that the combined efforts of publicly-funded legal services providers and the private bar serve only a small portion of the legal needs reported by low-income households. The LSC *Justice Gap* report showed that 50% of the eligible applicants who actually found their way to an LSC-funded program were turned away for lack of resources. Since 2000, numerous legal needs studies have been completed, and they have found that in the states studied, only 9% to 29.4% of the legal needs of low-income households were being met by legal aid programs or members of the private bar.

New legal needs are constantly arising to challenge the ability of legal aid programs to serve the low-income community. Current Census data reveals that the number of people in the United States eligible for LSC-funded services has increased significantly over the last several years, and, with the current economic crisis, the numbers of unemployed and newly poor who are likely to be eligible for LSC-funded services is growing rapidly. Low-income people are increasingly losing their homes to foreclosure, including large numbers of tenants who are being evicted because their landlords are facing foreclosure on rental properties. Low-wage workers are facing

major job losses as significant lay-offs continue. Instances of domestic violence are rising as individuals face significant stress caused by economic insecurity. Low-income consumers are experiencing mounting credit problems. As a result, the need for civil legal assistance is on the rise.

The current foreclosure crisis facing many thousands of low-income homeowners and tenants clearly illustrates the need for a strong legal services program. Families of limited means across the United States have turned to LSC-funded providers in increasing numbers to protect their vital interests in remaining in safe and affordable housing. LSC grantees in every region of the nation are reporting significant increases in the number of applicants needing legal assistance to prevent them from losing their homes to foreclosure. Many of these clients, both homeowners and tenants, have defenses that can only be raised by skilled and knowledgeable LSC attorneys. Otherwise, the legal system is hopelessly skewed in favor of lenders who fail to follow the law regarding interest rates, fees or other consumer protections.

The following stories from actual cases handled by legal services programs in the last several years amply underscore the fact that justice often turns on access to representation:

- Southern **Arizona** Legal Aid (SALA) helped a 55-year housecleaner stay in her home that had fallen prey to foreclosure. After living in her home for twenty years, she began struggling with her payments due to a 9.38 percent hike on the interest rate of her subprime loan. A SALA attorney assigned to her case sought a loan modification with her servicer to prevent her home from going into foreclosure. She was successful in negotiating a loan agreement that modified the interest rate to an amount that SALA's client could afford.
- Communities served by LSC grantee Neighborhood Legal Services of **Los Angeles County** are not only at the epicenter of the foreclosure crises, but are now looking at unemployment rates of 15% or more. Jobs in the informal service sector of the economy that many low-income families depend upon for survival have virtually disappeared - leaving homeowners jobless while they struggle with unconscionable mortgage payments to protect homes that are more than \$100,000 underwater. For these families threatened with homelessness LSC-funded legal services programs are the safety net of last resort.

Neighborhood Legal Services has responded decisively to meet this crisis by collaborating with community groups and local officials to develop creative pre-foreclosure solutions to keep families in their homes and maintain vibrant local communities. The City of Los Angeles has invested more than \$1 million to pilot a model developed by NLS-LA and its partners in the Northeast San Fernando Valley that avoids foreclosures through a mortgage renegotiation framework that reduces principal and leaves homeowners with fixed-rate interest loans and affordable payments. NLS-LA is implementing similar models with the African-American middle class communities of South Los Angeles and in the multi-ethnic San Gabriel Valley City of El Monte. Next month the same model will be presented to HUD Secretary Donovan.

NLS-LA is also at the forefront of providing emergency help to families struggling to keep their lives together. In 2009 alone, NLS-LA's widely praised system of court-based Self-Help Legal Access Centers will assist more than 100,000 people with family law and eviction problems. And, through \$1.2 million of city and county grants from HUD's stimulus-funded Homeless Prevention and Rapid Re-Housing Program (HPRP), NLS-LA added 7 new staff to help the newly unemployed avoid homelessness.

- "Rhonda" had lived with her husband Samuel in Shelby County **Iowa** for almost ten years with their three children. In their rural home, he controlled what she wore, who she spoke to, and where she went. There was always emotional abuse, but as the years passed, Richard became physically abusive. She didn't know where to turn and felt like she could not reach out or he would find out. She lived through many assaults, many injuries-- even while she was pregnant with his children. Richard has even raped her.

At the end of 2008, Richard strangled Rhonda until she blacked out then he held her hostage behind locked doors for two days. When he left the home, she escaped and was able to get to help. She made contact with Iowa Legal Aid to discuss what options were available to protect her and the children from his violence. Legal Aid attorney staff helped her get a protection order that restrained him from further abuse. Rhonda and her children were able to live without the daily fear and isolation that Richard imposed, though not entirely. Richard violated the order many times, and Iowa Legal Aid was there to help her with holding him in contempt of the protection order, and helping her contact law enforcement. Richard eventually spent time in jail for his many violations and Rhonda and the children are working toward healing.

- The Miller family of Central **Massachusetts** thought they had exhausted all of their options in trying to save their home. Then they called legal aid. Marine specialist Philip Miller, his wife Morgan, and their two young children were close to being evicted after the mortgage company foreclosed on their home. Philip had returned injured after an 18-month tour of duty in Iraq and was unable to work due to injuries. At the same time, the couple's adjustable rate mortgage jumped to almost 11 percent.

The Millers were unable to afford the inflated payments, and the mortgage company was unwilling to negotiate. Then, their legal aid attorney stepped in and got the mortgage company to dismiss the eviction. Now, more than a year later, the Millers are working with their attorney to renegotiate the terms of their loan, with the goal of buying back their home. Spc. Miller is healthy again and preparing to leave for his second tour of duty in Iraq.

- When Congress bailed out Fannie Mae, one provision included in the legislation instructed Fannie Mae not to evict tenants from foreclosed buildings, if the tenants were in good standing (paying their rent). The provision makes good sense -- in an economy in which foreclosed buildings sit empty, why should people be made homeless to create streets lined with empty buildings, when the current tenants want to stay and keep paying their rent? Fannie Mae was not complying with this requirement, however -- until lawyers at New Haven Legal

Assistance (not an LSC grantee) representing families threatened with illegal eviction threatened to file a national class action to force Fannie Mae to comply. Officials at Fannie Mae reached a settlement instructing their national network to follow the law. Since then, legal aid programs **across the country** have been working on behalf of paying tenants to enforce individual compliance with the corrected national Fannie Mae policy.

Along with the growth in those low-income populations that have traditionally been served by legal aid programs and the newly poor suffering from the recession, other new legal needs are also arising with respect to returning veterans from Iraq and Afghanistan, many with limited income and severe physical and mental disabilities, including post traumatic stress disorder and traumatic brain injuries, have begun to further swell the ranks of the low-income population and strain existing legal aid resources. Nationally, 5.6% of all veterans live below the poverty line, and a disproportionately high number are among America's homeless population. Many of these veterans have unique legal needs associated with their military service as well as the more typical legal problems experienced by low-income populations.

## **Reauthorization of the Legal Services Corporation Act**

For many years LSC has enjoyed the support of a strong bi-partisan majority in Congress. Both the House of Representatives and the Obama Administration have sought a significant increase in funding for LSC for FY 2010. Nevertheless, the last time that Congress reauthorized LSC was 1977, and that reauthorization expired in 1980. Since 1980, LSC has been funded through annual appropriations that have often been encumbered by a series of riders that have been imposed, at least in part, because the LSC Act has not been revisited and thoughtfully revised through the reauthorizations process to take into account changing needs and circumstances.

Earlier this month, Representative Scott introduced the Civil Access to Justice Act of 2009 (H.R. 3764).<sup>2</sup> The House Bill represents a thoughtful reevaluation of and a significant improvement over the current LSC Act. The House Bill authorizes a significant increase in funding for LSC; it updates or eliminates numerous outdated LSC Act provisions; and eliminates or incorporates and improves upon a wide variety of provisions from the current appropriations act.

NLADA strongly supports the passage of the Civil Access to Justice Act of 2009.

## **The House Bill Responds to the Needs of the Low-Income Client Community**

The House Bill includes numerous provisions that would, if enacted, assist LSC grantees to better respond to the legal needs of the low-income client community. The bill would authorize Congress to appropriate up to \$750 million, which represents the inflation-adjusted amount that was appropriated for LSC in 1981, which was the high-

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<sup>2</sup> In March of 2009, Senator Harkin introduced the Senate version of the Civil Access to Justice Act of 2009 (S. 718) ("Senate Bill") which is, in most respects very similar to the House version. However, the House Bill differs from its Senate counterpart in several aspects, and the House version improves upon the Senate Bill in a variety of ways.

water mark for LSC funding. That amount would go a long way toward filling the justice gap that exists.

The House bill would also eliminate the provision in the current appropriations act that restricts non-LSC funds to the same degree as LSC funds. The bill would permit grantees to use their non-LSC funds to serve categories of low-income clients who are not now permitted to be served by LSC grantees with any funds, including certain aliens and prisoners. The House Bill would still prohibit LSC funds from being used to represent these ineligible aliens and prisoners.

The House Bill also would eliminate the current restriction on attorneys' fees and class actions and would permit grantees to engage in legislative and administrative representation under a wider range of circumstances than is currently allowed, so that LSC funded advocates would be able to utilize the advocacy tools to represent their low-income clients that other lawyers are permitted to use on behalf of their paying clients.

While there are numerous restrictions and requirements that are included in the current appropriations act that NLADA has long opposed, since 1996 the appropriations acts have also added numerous positive improvements to the LSC system that have been incorporated into the House Bill which we support. The House Bill incorporates a system of competition for grants and census-based funding to help insure that LSC grantees provide high quality legal assistance and that limited LSC resources are fairly and appropriately distributed. The House Bill requires grantees' advocates to maintain timekeeping records to ensure the correct allocation of resources among funders and to improve accountability. And the House Bill continues to authorize funding for technology grants which have been crucial in grantees' efforts to improve the delivery of legal assistance.

The House Bill also includes a number of additional provisions to strengthen and improve LSC and its grantees. It contains a series of new LSC governance requirements recommended by the Government Accountability Office, including new requirements for LSC to improve its internal control structure and to protect against the impact of disasters. The bill also includes new restrictions on LSC's private fundraising and new requirements on LSC's use of funds for certain representational and other activities.

The House Bill requires LSC to develop new training standards on compliance and encourages training on domestic violence or other areas where grantee training is needed. In addition, the bill contains provisions that are intended to increase the participation of private attorneys in the delivery of legal assistance by encouraging pro bono services by private lawyers and requiring grantee boards to include pro bono liaisons to the State Bar. To promote the recruitment and retention of high quality recipient staff, the bill authorizes the continuation of LSC's pilot loan repayment assistance or initiation of other programs. To give grantees flexibility to include on their governing boards individuals who are able to assist in fundraising, development of relationships with the business community, and support from the public, the bill lowers the number of board members who are required to be lawyers.

In order to better protect the client privacy and confidentiality of client records, the House Bill limits LSC's access to client records that are confidential under applicable rules of professional responsibility. The bill eliminates the current appropriations act



provision that undermines the authority of State courts and bar associations to enforce the rules of professional responsibility dealing with client confidentiality that apply to the lawyers practicing within their jurisdictions, and restores the original LSC Act provision that respects that authority. Despite arguments that have long been made by LSC's Inspector General, LSC does not need to have access to client names in order to ensure compliance with Congressional mandates and other requirements. LSC's Office of Compliance and Enforcement ("OCE") and numerous other grant making agencies have successfully used unique client identifiers to check grantee records for compliance with restrictions and requirements and to ensure that clients are appropriately served.

## **The House Bill's Approach to Restrictions**

Since 1996, LSC grantees have been encumbered in their efforts to represent their clients by a significant number of restrictions and requirements that apply to a grantee's LSC funds as well as to funds received from other federal, state, local and private funds. The House Bill would eliminate most of these restrictions and requirements that have hampered LSC grantees in their ability to provide a full range of legal assistance to the low-income client community.

As noted above, the House Bill would eliminate the restriction on the use of non-LSC funds, as well as the attorneys' fee and class action restriction. In addition, the bill retains but modifies several of the appropriations act restrictions on use of LSC funds. The House Bill would expand the categories of aliens who could be represented with LSC funds to include most aliens who are in the US legally and several limited categories of undocumented aliens including disaster victims, certain groups of children, and some victims of torture. The bill would limit the restriction on representation of prisoners to litigation involving prison conditions, and specifically permit prisoner re-entry litigation. The bill would limit the restriction on eviction defense for public housing residents to those who have been convicted of certain drug related charges.

The original LSC Act, as it was amended in 1977, included a number of limitations on LSC recipients. The House Bill leaves in place most of these LSC Act restrictions and requirements including the restrictions on: legislative and administrative advocacy; public policy advocacy training; organizing; priorities; financial eligibility; outside practice of law; political activity; fee-generating cases; criminal representation; habeas corpus representation; desegregation; and representation in Selective Service cases. The House Bill also leaves in place the appropriations act restriction on the use of both LSC and non-LSC funds for representation in abortion litigation.

## **Additional Needed Improvements**

While we are very supportive of the House Bill as it is currently drafted, we think there may be areas where there could be additional improvements. For example, we believe it would be helpful if the bill made it clear that LSC grantees are subject to the OMB Circular A-133 ("A-133") and that grantee audits should be done using Government Auditing Standards ("GAS"). We also think that the bill should make it clear that LSC funds are to be considered Federal funds for purposes of Federal statutes relating to the proper expenditure of Federal funds.

We also believe that the bill should limit the authority of the LSC Office of Inspector General ("OIG") to impose additional auditing requirements on grantees

beyond those required by OMB A-133 and GAS. Although the OIG should have the authority to audit grantees to respond to complaints and to audit to ensure against instances of waste, fraud and abuse, the bill should clarify that regular monitoring for compliance with substantive statutory and regulatory restrictions is the role of OCE, not OIG or grantee auditors (“IPAs”). NLADA is willing to work with the Subcommittee staff as well as with LSC Management and the OIG to address these or any other concerns that they may have about the bill’s treatment of grantee audits, ensuring compliance, and any other issues.

## **Need for Increased Funding**

The \$750,000,000 authorized by the House Bill is essential to ensure the ability of LSC grantees to close the widening justice gap in America.

Since its inception in 1975, the Legal Services Corporation has been the principle source of financial support for legal aid programs across the country. In its early days, LSC set a “minimum access” goal for federal funding of its grantees that would have provided enough federal dollars to support two LSC-funded lawyers for every 10,000 eligible poor people. Congress responded to LSC’s effort, and by 1980 LSC funding had reached \$300 million, the “minimum access” goal. By 1981, funding for LSC was \$321,300,000, but that success was short lived. In 1982, in response to efforts by the Reagan Administration to eliminate the program in its entirety, Congress cut LSC funding by 25 percent, to \$241 million.

Although the program survived, it was not until 1990 that LSC funding again surpassed, in actual dollars, the level it had reached in 1980, with an appropriation of \$316,525,000. However, when adjusted for inflation, that amount still represented a cut of one-third from LSC’s 1980 funding level. During the early 1990s, funding for LSC rebounded slowly, reaching its all-time high of \$400 million in 1995. However, when adjusted for inflation, even that amount still represented a 28 percent cut from its 1980 funding level.

In 1996, Congress again decided to slash LSC funding, this time by 30 percent, to \$278 million. When adjusted for inflation, this amount represented more than a 50 percent cut from LSC’s 1980 funding level. Since 1996, LSC funding has remained relatively static with small cuts or modest increases in most years. In 2007, Congress provided LSC with \$348 million, an increase of \$22 million over the 2006 appropriation, its first significant increase in more than a decade. But each year, inflation has continued to eat away at the buying power of LSC grant funds. In 2008 Congress appropriated only \$350,490,000, despite bills in both the House and the Senate that would have provided substantial increases over the amount appropriated for 2007. In 2009, Congress increased LSC funding to \$390 million, but after taking account of inflation, the 2009 appropriation still represented a 48.2 percent cut from LSC’s 1980 funding level. To keep up with inflation, 2009 LSC funding would have to have reached \$752,938,299.

## **Non-LSC Funding**

In part in response to the reductions in LSC funding in the early 1980s and mid 1990s, numerous legal aid programs have aggressively sought resources from non-LSC funding sources. Even though LSC remains the largest single source of legal aid funding, in many states around the country, the legal aid program today is primarily supported by funds from other sources. As a result, over the last twenty years, there has been a radical shift in funding from LSC and other federal programs to a more diversified funding base, including substantial increases from state sources, and the percentage of total legal aid funding provided by the federal government through LSC has shrunk significantly.

Since 1982, legal aid funding from state and local governments has increased from a few million dollars to over \$370 million.<sup>3</sup> Most of this increase can be attributed to proceeds from Interest on Lawyer Trust Account (“IOLTA”) programs, which have now been implemented in every state. A number of new initiatives resulted in expansions in IOLTA revenue in many states. These initiatives included changes from voluntary to mandatory IOLTA, or from opt-in to opt-out programs, changes in legislation or court rules regarding interest rates that must be paid on IOLTA accounts, and, in some states, aggressive and successful negotiations with financial institutions. In 2007, IOLTA resources rose to \$123,924,000. However, because of significant drops in interest rates, increases in bank fees and substantial slowdowns in real estate transactions and general business activity, IOLTA revenues have dropped significantly in the last year from what programs had expected to earn. In addition, because IOLTA programs still vary significantly from state to state, available IOLTA funding for legal aid programs differ greatly, depending on the location. In 2008, IOLTA income was down 23% nationwide, reflecting both dwindling IOLTA fund balances and the miniscule federal funds interest rate. In some states, IOLTA income was down over 60%. While cumulative data is not yet readily available regarding the overall perspective on state and local public appropriations, many states report the potential for significant cuts in these areas as well.

Within the last several years, substantial new state funding for legal aid has come from general state or local governmental appropriations, filing fee surcharges and other state governmental initiatives. Until the recent economic downturn, it appeared that significant state funds would likely continue to be available for legal aid programs because state revenue growth seemed to be strong enough to support spending demands. However, in the last year, states have begun to experience extremely tight fiscal conditions, and these conditions are having a substantial impact on the amount of funds appropriated for civil legal assistance programs. It is impossible to predict future state spending on civil legal aid, as well as on other areas that will have an impact on the demand for legal assistance, because state fiscal conditions may change and the federal government may continue to shift more costs to state governments. With prospects for continued increases in state funding dimming, expanded federal funding becomes even more important.

## **Significant Geographic Funding Disparities**

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<sup>3</sup> The exact amount of state funding for civil legal assistance has not been fully documented, because much of this funding has gone to non-LSC funded programs, which, unlike LSC-funded programs, do not have to report to any central funding source.

While LSC funds are distributed according to the 2000 census data on individuals living below the Federal Poverty Line, non-LSC funding sources are not distributed equally among states, and there are enormous disparities in the legal aid resources that are available in different parts of the country. The lowest-funded states are in the South and Rocky Mountain states, and the highest-funded states are in the Northeast, Mid-Atlantic, Midwest, and West.

LSC funding provides the critical foundation for legal aid programs across the country. Those LSC grantees in areas of the country where it is difficult to raise substantial amounts of non-LSC resources are almost wholly dependent on LSC funds for their continued existence. In other states, LSC funding provides the essential foundation to leverage and raise other resources. Regardless of where on the spectrum of non-LSC funding a program lies, increased federal funding is absolutely critical to expanding their ability to provide access to legal assistance for the low-income community and to close the justice gap.

But federal funding has not kept pace, and today the money programs receive from LSC purchases only half of what it did in 1980, when LSC appropriations provided “minimum access,” an amount that could support two lawyers for every 10,000 poor people in a geographic area. In order to secure the foundation of the civil legal aid program, federal funding must be increased and secured into the future.

## **Conclusion**

We believe that, if adopted, the House bill will significantly improve the ability of LSC grantees to effectively serve the low-income community. The bill includes a framework to provide additional resources that are sorely needed to help fill the enormous justice gap that exists today. The bill eliminates numerous restrictions that have impeded the ability of LSC grantees to fully serve many financially eligible members of the low-income community and to utilize the tools that attorneys with paying clients can now use to represent their clients. The bill respects the historical role of States to establish and enforce rules of professional responsibility for the attorneys who practice in their jurisdictions

In conclusion, I would like to thank you for holding this hearing and for your support for LSC and the civil legal services community. Providing civil legal aid is an integral part of constructing the foundation for ensuring that the least advantaged among us receive the help they need to build healthy, happy families and live constructive, fulfilling lives. A 48.2 percent reduction in funding for LSC and turning away 50 percent of those who seek legal aid is NOT living up to the constitutional promise of “establish[ing] justice” that we all embrace. The federal government can and should do more. The House Bill will enhance the goal of “justice for all,” not erode it with unreasonable restrictions. Our clients and your constituents deserve no less.