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Subcommittee on Justice, Science, and Related Agencies
Committee on Appropriations
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Chairman Mollohan, Congressman Wolf, and Members of the Subcommittee, thank you for holding this hearing and for giving me the opportunity to testify on the Fiscal Year 2010 Budget Request of the Legal Services Corporation. I also want to thank the Subcommittee for the bipartisan support provided to LSC. Because of the leadership of this Subcommittee, funding for LSC has increased each of the last three years, and your efforts to help close the justice gap are greatly appreciated throughout the legal services community.

The Corporation is the single largest source of funding for civil legal aid for low-income individuals and families. We fund 137 nonprofit programs with more than 920 offices serving every Congressional district. More than 95 percent of LSC appropriations are distributed to these programs. The Corporation provides guidance, training and oversight to ensure that programs provide high-quality legal services and comply with the mandates of Congress, LSC rules and regulations.

As you know, my entire legal career has been devoted to providing legal aid to low-income persons. I am the longest serving President of the Corporation, now in my sixth year. Prior to joining LSC, I served for 37 years at the Legal Aid Society of New York City, the oldest and largest legal aid organization in the country, as an attorney and head of its multi-office Civil Division. I know, firsthand, that civil legal aid programs make a meaningful difference in the lives of our clients.

Our challenge is large. The nation is in a recession, and this downward shift in the economy strongly suggests that millions of Americans for the first time are falling into poverty. Economic downturns affect the poor disproportionately and add to the pressures on the nation's public health and safety, child welfare, housing and job programs. Based on previous economic downturns, we estimate the client eligible population for civil legal assistance will increase by 22 percent from 2007 to 2009.

Many states are confronted by significantly reduced revenues because of the recession and cannot be counted on for additional funding of legal aid. In

particular, a significant source of non-federal funding, Interest on Lawyers' Trust Accounts (IOLTA), is dropping sharply because of the reduction in the federal funds rate. IOLTA follows the federal interest rate, which fell throughout 2008. The Federal Reserve's benchmark federal funds rate was 4.25 percent in mid-December 2007. It was cut seven times during 2008, to 2 percent at the end of April and to zero to 0.25 percent in December. The interest rate will probably stay at this unprecedented low until the nation's economic recovery begins. IOLTA funds to LSC programs last year totaled \$111.8 million.

The decrease in IOLTA revenue is playing out unevenly across the nation, because some states have drawn on reserve funding to maintain legal aid grants, although often at reduced levels. Still, it is clear that legal aid programs will be left with significantly less capacity in 2009 and 2010 because of the IOLTA decline. The reductions in funding in several states will require some LSC-funded programs to reduce services and lay off attorneys and support staff. Charitable organizations also will be unable to contribute as much to legal aid as in the past.

Serving Clients and Communities

Legal aid can facilitate solutions and help clients who have nowhere else to turn in these troubled economic times. Ensuring that the poor are adequately represented in the civil judicial system greatly improves their chances of keeping or securing basic necessities—the keys to stability and self-sufficiency. It also helps keep communities healthy.

Our programs' clients live at or below 125 percent of the federal poverty level—an income of \$27,563 a year for a family of four. Three out of four are women, many of whom are struggling to keep their families together and their children safe, fed and housed.

The clients of LSC-funded programs are of all races and ethnicities, young and old, the working poor, people with disabilities, families with children, military veterans, victims of domestic violence and victims of natural disasters.

Clients come to civil legal aid programs when they need a lawyer to help them escape an abusive relationship; to gain access to health care, food, subsistence income, and disability benefits; and to prevent foreclosure and eviction that may lead to homelessness. LSC-funded programs save lives and save taxpayer dollars by averting more costly interventions by state and local social services and public assistance agencies.

Imagine that you are a mother of two and married to a man who has physically abused you for seven years. You finally seek help from a legal aid program, secure a protective order and begin divorce proceedings. And then it comes to light what you had suspected—your husband has been married several times

and has other wives in four states. Legal Aid of West Virginia helped this woman win freedom from her abusive husband and successfully appealed a Social Security overpayment claim of more than \$20,000 caused by her ex-husband's improper actions. "Legal Aid has given my girls and me our life back! I thank God every day for you," she said.

Imagine traveling from Louisiana to California in search of your 12-year-old daughter, taken by relatives of your former husband. Imagine going to the Los Angeles police department for help and learning that you must obtain a custody order from a California court. Imagine turning to the District Attorney's office for help, and being told that you need more paperwork to enforce a previously granted Louisiana court order. This family law case was resolved through coordination between Southeast Louisiana Legal Services and the Legal Aid Foundation of Los Angeles. Southeast Louisiana pulled together the missing paperwork and sent it to Los Angeles, where a legal aid attorney prepared the necessary court papers to make the Louisiana order enforceable in California. The legal aid attorney escorted the client to the courthouse to file the papers and then to the police station, which sent a squad car to pick up the daughter. The next morning, mother and daughter were headed home to Louisiana.

Imagine returning from the Iraq war and being told you, your wife who suffers from epilepsy and severe depression and three children, one of whom is disabled, are facing foreclosure and eviction after missing mortgage payments because you cannot find a job. In Virginia, Blue Ridge Legal Services helped the family avert foreclosure, which was triggered by a default provision in a financing agreement through which the veteran had invested all \$30,000 of his life savings. A legal aid attorney negotiated a new payment plan for the mortgage so that the family did not become homeless.

Delivering Legal Services

In recent months, many LSC-funded programs have reported an increasing number of requests for help because of foreclosure actions. Many programs did not have the resources available to increase staffing for the foreclosure crisis and often had to first help those in immediate jeopardy and delay assistance for others seeking help.

Foreclosures often force families out of their communities and devastate once thriving neighborhoods. Low-income individuals and families who rent often are the last to know that their landlord is in foreclosure and they are facing eviction.

Foreclosure laws vary by state, and LSC programs are well-suited to help low-income homeowners, especially with foreclosures that can be traced to predatory lending schemes. With legal assistance, low-income Americans can renegotiate the terms of their loans or assert truth-in-lending protections in court.

In response to the crisis, a number of LSC-funded programs have joined with others in statewide efforts to address the subprime mortgage crisis and related housing issues, including partnering with lenders and banks to explore workouts that keep families in their homes, helping the elderly modify or write down loans, and creating or expanding foreclosure assistance projects. LSC has taken a leadership role to ensure coordination among legal services programs and national organizations working on foreclosure issues, and has helped identify gaps and areas for collaboration and the sharing of successful housing and consumer initiatives.

The economic downturn also takes a toll on families in other ways. Studies show that domestic violence is more severe in disadvantaged neighborhoods and occurs more often in households facing economic distress. Legal services help women facing critical matters, such as the need for protective orders, custody and child support.

Programs also are helping low-income families and individuals gain access to health care or resolve eligibility and benefit problems with Medicare and Medicaid. Low-income workers are especially vulnerable to becoming uninsured, since they have typically little savings to pay health insurance premiums when they are unemployed. Without insurance, they are more likely to forgo needed medical care.

In an effort to improve overall health outcomes for low-income children and families, 39 LSC-funded programs are participating in medical-legal partnerships. In these partnerships, our lawyers are trained to work as a part of health-care teams to enforce the laws and regulations that are in place to protect health. Common examples are cases where landlords do not repair leaky pipes that cause mold or fungus to spread and trigger a child's asthma. A lawyer can cite housing and safety codes to get results. Lawyers also can ensure that benefits to the elderly and disabled are provided, that children receive special education, and that environmental cleanups are undertaken.

LSC-funded programs strive to serve all segments of our society. For example, requests from veterans and military personnel, especially those who have recently returned from overseas, for help on housing, debt and employment issues appear to be rising.

One of our California programs has expanded its homeless veterans project to address an increased demand for services. Our Chicago program sponsors a Veterans Rights Project to train pro bono attorneys to help veterans in filing claims for re-employment rights, housing accommodations for the disabled and consumer protections. One of our Tennessee programs collaborates with a local military command to improve coordination of services, including domestic violence prevention, between the military and civilian communities. LSC

continues to provide guidance to the Veterans Consortium Pro Bono Program, which uses pro bono attorneys to represent veterans before the U.S. Court of Appeals for Veterans Claims. With this help, thousands of veterans have prevailed in more than 70 percent of their cases, ensuring that the veterans and their families receive all of their eligible benefits.

Some of our programs were inundated with requests for assistance last year because of natural disasters. Hurricanes Ike, Gustav and Dolly walloped Texas and Louisiana; wildfires destroyed communities in California; tornadoes struck communities in the middle of the nation and in the South; the worst flooding in a century devastated a five-state area in the Midwest.

Long after the initial disruption caused by a natural disaster, persons affected turn to legal aid lawyers for help in rebuilding their lives. In the aftermath of these disasters, legal aid programs find many clients need assistance with:

- Resolution of landlord-tenant disputes, such as challenges to rent-gouging by unscrupulous landlords and faulty rental housing repairs.
- Legal issues related to temporary housing in mobile homes.
- Home repair and contractor disputes.
- Consumer fraud, which runs the gamut from problems with small appliances to major insurance complaints.
- Health problems arising from the cleanup of homes and other environmental issues.
- Increased family law issues, including child abuse and domestic violence from disaster-related stress.

Legal aid lawyers staff legal services desks at disaster recovery centers operated by the Federal Emergency Management Agency and at disaster sites run by the American Red Cross. Programs also coordinate hotlines and services with state bar associations and the Young Lawyers Division of the American Bar Association.

As the Subcommittee has documented in previous hearings, an overwhelming unmet demand already existed for civil legal services before the recession, foreclosure crisis and rash of natural disasters. In 2005, LSC's *Justice Gap Report*, the Corporation's first comprehensive national statistical study, established that for every client who received service, one eligible applicant was turned away. Fifty percent of eligible potential clients requesting assistance from LSC grantees were turned away for lack of adequate program resources. The findings understate the need, because LSC did not count persons who do not contact a program because they are unaware they have a legal problem, do not know that the program can help them, or, in fact, may have heard that legal aid programs are turning away applicants.

Since LSC's FY 2009 Budget Request to Congress last year, groups in three states and the District of Columbia have released reports detailing the unmet legal needs of the poor in their area. All the reports suggest that the actual number of low-income Americans in need of civil legal services, but without access, is far higher than outlined in LSC's *Justice Gap Report*:

- **Arizona**, where 75 percent of people who reported facing a civil legal problem received no assistance from a person or agency.
- **Hawaii**, where 77 percent of the civil legal needs of low- and moderate-income residents are unmet.
- **Alabama**, where a soon-to-be-released study by the Alabama Law Foundation found that 84 percent of the civil legal needs of low-income households are unmet.
- **Washington, D.C.**, where court data shows that 98 percent of parties in domestic violence cases are unrepresented by a lawyer and 97 percent of defendants in Landlord/Tenant Court are unrepresented.

In addition, state legal need studies and reports issued since LSC's *Justice Gap Report* in six other states also demonstrate that LSC's data was understated:

- **Wisconsin**, where 80 percent of poor households facing a legal problem do so without an attorney.
- **California**, where more than 66 percent of the civil legal needs of low-income Californians are unmet.
- **Nebraska**, where 86 percent of eligible clients with a legal problem are unable to receive help from Legal Aid of Nebraska.
- **Utah**, where 87 percent of poor households facing a legal problem do so without an attorney.
- **New Mexico**, where more than 80 percent of the legal needs of low-income New Mexicans are unmet.
- **New Jersey**, where 99 percent of defendants in eviction cases are unrepresented by a lawyer.

LSC is updating its 2005 report on the Justice Gap. New data should be available this summer with analysis completed by early fall. Census Bureau data released last year shows that the number of poor Americans eligible to receive civil legal aid is growing. The Census snapshot from 2007, taken prior to the full force of the recession, found nearly 51 million people in poverty. That represents an

increase of 1.8 million from 2006. This 2007 poverty snapshot includes 17.6 million children—about 24 percent of the nation’s children.

Fiscal 2010 Budget Request

At a time when demand is increasing and major non-federal funding sources are declining, it is more important than ever that Congress recognize the federal government’s responsibility under the LSC Act, reaffirm the nation’s bedrock principle of equal justice for all, and increase appropriations for LSC in Fiscal 2010.

LSC requests a total of \$485,100,000 for FY 2010. As in prior years, at least 95 percent of the request is for basic field grants and for grants to improve efficiency and effectiveness through the use of technology.

The following chart illustrates LSC’s FY 2008 appropriation, FY 2009 appropriation, and LSC’s funding request for FY 2010.

Budget Category	FY 2008 Budget	FY 2009 Budget	FY 2010 Request
Basic Field Grants	\$332,390,000	\$365,800,000	\$460,000,000
Technology Initiative Grants	\$2,100,000	\$3,000,000	\$3,400,000
Loan Repayment Assistance	\$500,000	\$1,000,000	\$1,000,000
Management & Grants Oversight	\$12,500,000	\$16,000,000	\$17,200,000
Office of Inspector General	\$3,000,000	\$4,200,000	\$3,500,000
TOTALS	\$350,490,000	\$390,000,000	\$485,100,000

The FY 2009 appropriation provided \$365,800,000 for basic field grants, and this year’s request would bring basic field grants to \$460,000,000.

Based on the findings of the 2005 Justice Gap Report, federal and non-federal funding would have to at least double from the 2005 level just to serve those who actually sought help and were eligible to receive it—or \$624 million in basic field grants. The Fiscal 2009 appropriation provides \$365.8 million for basic field—still more than \$250 million short of what the Justice Gap Report recommended.

For Fiscal 2010, the LSC Board of Directors voted to request \$460 million for basic field grants and to initiate a plan to reach the \$624 million goal over the course of the next four years. The requested Fiscal 2010 increase will fall well short of what would be needed to address the loss of non-federal dollars and the

projected increase in the client-eligible population. It is crucial for the Congress to fund civil legal services across the country at a time when poor Americans are struggling to keep their jobs, homes and basic necessities for their families and desperately need legal assistance to do so.

In addition to recommending increased funding for basic field grants, LSC also requests:

- \$3,400,000 for Technology Initiative Grants. With this funding, statewide legal services websites will be furnished with more information, forms, document-assembly tools, client-friendly webcasts and searchable databases. The grants also will provide more web-based legal information for families facing foreclosure and for veterans and their families, as well as assistance for low-income workers in filing tax returns and in applying for Earned Income Tax Credits.
- \$1,000,000 for Loan Repayment Assistance Grants. Legal aid salaries have failed to keep pace with other public service salaries, and civil legal aid attorneys continue to be the lowest-paid public service attorneys in the legal profession. The median entry-level salaries according to the National Association of Law Placement are \$40,000 for legal services, \$47,000 for public defenders, and \$50,000 for state prosecuting attorneys. Our programs have found that helping lawyers reduce their student debt substantially increases the likelihood they will stay with their programs and that it also makes it easier to recruit new lawyers.
- \$17,200,000 for Management & Grants Oversight. This proposed increase will expand LSC's oversight of grantee compliance with law and regulations and enhance the quality of services provided by programs. If the funding request is approved, the Office of Program Performance and the Office of Compliance and Enforcement will be able to increase their oversight visits to programs, from 57 in 2009 to 84 in 2010. The Management & Grants Oversight request for 2010 represents a 3.5 percent administrative cost, compared to the total request, and is below the 4 percent average for fiscal years 2005-2007.

The OIG request is included in the LSC total, but made separately by the Inspector General through the LSC Board of Directors.

Conclusion

Through these and other efforts, Mr. Chairman, and with the support of this Subcommittee, we are working to ensure the effective use of grant funds, to provide high-quality civil legal services and are committed to working to ensure equal justice for all low-income Americans. There are some things that only

government can do. Chief among them is administering justice fairly under the law for all people and promoting equal access to justice.

In a time of recession, a time of increasing demand, and a time of decreasing IOLTA and other non-federal funding for LSC, it is even more vital and necessary to avoid further declines in the delivery of civil legal services to the nation's poor. The Chairman and members of the Subcommittee have provided critical support for legal aid in past years, and we thank you for that support. For Fiscal 2010, we urge this Subcommittee to help close the justice gap by approving our budget request for \$485.1 million.