



NLADA
National Legal Aid &
Defender Association



CIVIL UPDATE

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Congress Prepares Continuing Resolution in Wake of House Leadership Shakeup

As the end of the federal fiscal year rapidly approaches, both the House and Senate are scurrying to complete a continuing resolution (CR) aimed at keeping the government funded through December 11. Speaker John Boehner's surprise announcement of his retirement on October 30 not only opened a path for a short-term CR to pass over the staunch opposition of conservative House members but also added to the uncertainty over the long-range outlook for the final FY 2016 spending bills.

As legal aid programs across the country begin planning their budgets for 2016, the federal outlook for appropriations for the Legal Services Corporation will again be unclear well into the next federal fiscal year. The House and Senate are far apart in the level of LSC funding in their respective Commerce, Justice and Science appropriations bills - the Senate coming in at a figure of \$385 million, the House at \$300 million (a cut of 20 percent from FY 2015 levels). The Obama Administration and Senate Democrats have both balked at moving any appropriations bills, which were funded under the joint budget resolution's spending caps that applied a sequestration to discretionary domestic spending under the Budget Control Act of 2011.



[NLADA Annual Conference](#)

November 4-7, 2015
New Orleans, LA

Theme: Advancing Justice Together



Discussions between Democrat and Republican congressional leaders have continued through the summer to find a "small bargain" budget deal that would raise the fiscal caps on domestic programs to a more acceptable level. Those negotiations stalled under intense pressure from conservative House members, who were adamantly opposed to raising the spending caps and insistent upon including a rider on any appropriations bill to eliminate all federal funding to Planned Parenthood.

Speaker Boehner's stunning announcement (he will also resign his seat in Congress) helped avoid a government shutdown and a potentially destructive leadership battle in the House, where conservatives were planning a "no confidence" vote on the speaker if he attempted to push through any bill that did not cut off spending for Planned Parenthood. The resignation led to an agreement that a "clean" short-term CR, without the Planned Parenthood rider, would be accepted in the House. The dispute over Planned Parenthood funding would be shifted to the discussion around budget reconciliation, a process that requires only a majority of votes in the Senate.

The Senate intends to pass a 10-week CR today, with last-minute passage in the House likely on Wednesday. The CR will continue government spending at current levels until a final resolution of FY 2016 spending bills can be reached.

Fiscal negotiations are likely to be significantly affected by the timing of Speaker Boehner's announcement. On the one hand, his resignation enabled the Congress to move from the brink of a government shutdown, which would have begun Thursday. However, by resigning on October 30 rather than at the close of the congressional session, Boehner added another layer of uncertainty to the process. While he can continue to lead negotiations in the House on an overall fiscal agreement, questions arise as to how much attention will be given to that process. Many observers anticipate that the next few months will be chaotic in the House, as members' attention is drawn to a series of leadership battles that stem from the Boehner resignation.

So, the next ten weeks will go a long way toward determining whether an overall spending agreement is possible for FY 2016. It now appears significantly more likely that budget negotiations will not prove fruitful, and a year-long CR is clearly on the table. Such an outcome, if spending is maintained at current levels, could actually be a positive result for LSC funding, given the significant chance of a cut if the proposed FY 16 House and Senate

figures were to be reconciled.

NLADA will keep you updated as events develop this fall. If you have questions about the status of appropriations in the meantime, please contact Don Saunders (d.saunders@nlada.org).

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NLADA's Corporate Advisory Committee Sends Letter to Congressional Leaders in Support of LSC Funding for FY 2016

On September 24, John Schultz, Executive Vice President, General Counsel & Corporate Secretary of the Hewlett-Packard Company, and the chair of NLADA's Corporate Advisory Committee (CAC), sent a letter on behalf of the CAC to appropriations leaders in both the Senate and House in support of an FY 2016 appropriation of \$452 million to the Legal Services Corporation. That figure represents the Obama Administration request for the next fiscal year. John was joined by 45 general counsels from some of the largest corporations in the United States.

The [strong statement of support](#) for equal justice from America's business community provides further evidence of the broad, bi-partisan support that exists for LSC and legal aid providers throughout the nation. We are confident that the message will be heard by congressional leaders as budget negotiations go forward.

NLADA would like to express its deep gratitude for the efforts of those general counsels who joined the letter, and particularly to John Schultz for his continuing support and leadership for the Association and the entire equal justice community.

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LSC Board Meeting and 40th Anniversary Events

The Legal Services Corporation (LSC) Board will be meeting in San Francisco starting on

Sunday, October 4. In addition to a full agenda of committee meetings and the board meeting, two prestigious panels will be presenting at Supreme Court of California. A panel on "The Importance of Access to Justice to the Judiciary" includes the Chief Justices from the Arizona, California, Hawai'i, and Oregon Supreme Courts; a panel on "How Business and Technology Can Help Expand Access to Justice" includes the general counsel from Pebble, LegalZoom.com, Inc., and Rocket Lawyer Incorporated. LSC grantees participating on panels include Dorothy Alther, executive director, California Indian Legal Services; Alex Gulotta, executive director, Bay Area Legal Aid; Jose R. Padilla, executive director, California Rural Legal Assistance; Gary Smith, executive director, Legal Services of Northern California; Greg E. Knoll; executive director and chief counsel, Legal Aid Society of San Diego, Inc.; and Mohammad Sheikh, director of finance, Bay Area Legal Aid. A full day of panels is slated to conclude LSC's year-long 40th anniversary celebration. More details on the substance of the committee meetings and presentations can be found in the [board book](#).

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Webinar Gives Insight to VOCA Victim Assistance Funding

On Friday, September 18, more than 270 members of the legal aid community joined NLADA's webinar to learn about funding opportunities through the Victims of Crime Act (VOCA). The webinar -- *VOCA Victim Assistance Funding: Growing Civil Legal Aid's Capacity to Serve Victims of Crime* -- assembled a panel of experts to discuss how to best leverage this funding in light of two significant changes. First, due to Congressional action, the amount of VOCA funds allocated to states and territories increased by more than \$1 billion in Fiscal Year 2015, thereby tripling the amount available in previous years. Secondly, the Office for Victims of Crime (OVC) is in the final stages of publishing a detailed rule for the VOCA program to encompass holistic legal services to victims of crime. These changes present new and exciting opportunities for civil legal aid organizations to become new VOCA sub-grantees, and to expand current VOCA work using innovative approaches.

The webinar brought together a panel of experts who gave insight to a wealth of knowledge on the subject. The presenters included:

- Helam Gebremariam: *Counsel, U.S. Department of Justice, Office for Access to Justice*

- Kathrina Peterson: *Attorney Advisor Detailee, U.S. Department of Justice, Office for Victims of Crime*
- Meg Garvin: *Executive Director & Clinical Professor of Law, National Crime Victim Law Institute (NCVLI)*
- Reenie Terjak: *Attorney & Advocacy Director, Colorado Legal Services*
- Laura Tuggle: *Executive Director, Southeast Louisiana Legal Services*
- Kelli Evans: *Senior Director Administration of Justice, Office of Legal Services, The State Bar of California*

From the OVC, Kathrina Peterson provided clarity around the detailed rule and its intent for VOCA funding to build capacity to meet the holistic legal needs of crime victims, including victims of elder abuse, as set forth in OVC's *Vision 21 Transforming Victim Services Final Report*. She also addressed some common inquiries among the field and spoke about what to expect when the final rule is published, stating that victims are not required to participate in the criminal justice process in order to receive legal assistance services supported by VOCA funding, and that VOCA funds can support legal clinics that have a victim focus. VOCA funds can also be used to purchase equipment, which OVC interprets to include technology that can improve a sub-grantee's ability to broaden its reach in serving victims of crime. Additionally, Peterson shared that the OVC recently emphasized to state VOCA funding administrators that providing legal services is a priority. Helam Gebremariam spoke about DOJ ATJ's work to amplify the great work of the OVC to incorporate legal aid as a critical partner in its work, and resources it has developed to support the field as we build partnerships with our states and community. Overall, the key message about VOCA funds to the legal aid community was clear: Go for it!

As Executive Director of NCVLI, OVC's national technical assistance provider for its Victim Legal Assistance Networks which provide wraparound services to victims, Meg Garvin shed light on common barriers and promising practices emerging from her work with the networks, which can be expanded into new areas with VOCA funds. Three of the other panelists-Kelli Evans, Reenie Terjak and Laura Tuggle-gave a different perspective as legal service providers with varying levels of experience applying for and receiving VOCA funds as sub-grantees. In sharing their respective successes and challenges, the presenters recommended best practices for advocating to become a sub-grantee, navigating OVC guidelines, utilizing awarded VOCA funds, and partnering with the state to improve legal aid's ability to serve victims of crime. NLADA looks forward to exploring this topic further at our [2015 Annual Conference](#) in November.

NLADA would like to thank the presenters for sharing their expertise with the legal aid community, the U.S. Department Office for Access to Justice for all of its work to support legal services, and the Public Welfare and Kresge Foundations for their generous support of NLADA's Civil Legal Aid Initiative.

For more details on the webinar's content, you may view the [PowerPoint presentation](#) and the [OVC Allowable Use](#) document. Please note that slide 46 of the presentation provides contact information for the panelists to whom you may direct follow-up questions, and slides 47 and 48 include additional resources referenced during the webinar. For all other questions, please contact Arielle Altman at a.altman@nlada.org or Radhika Singh Miller at r.singhmillier@nlada.org.

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Presidential Memorandum: Establishing the White House Legal Aid Interagency Roundtable

On September 24, 2015, President Obama signed a presidential memorandum formally establishing the White House Legal Aid Interagency Roundtable (LAIR), which, in his own words, will serve "to increase the availability of meaningful access to justice for individuals and families". The memorandum was announced at an event that evening, the eve of the United Nations' Sustainable Development Summit, by Roy Austin, Jr., deputy assistant to the president for Urban Affairs, Justice and Opportunity, and Ambassador Samantha Power, U.S. permanent representative to the United Nations.

An essential part of LAIR's five-point mission is to specifically work to implement Goal 16 of the United Nations' 2030 Agenda for Sustainable Development. Goal 16 represents the international community's recognition that access to justice is critical to promoting sustainable development and ending poverty. It calls not only for access to justice, but the promotion of inclusive societies for sustainable development and for the building of effective institutions at all levels.

The memorandum adds significant permanency to the tremendous work at the

Department of Justice Office for Access to Justice. [LAIR](#) was a priority of the DOJ's Access to Justice (ATJ) initiative. It is comprised of 20 federal agencies collaborating to help serve the most vulnerable populations in the country. [Per the memorandum](#), LAIR is responsible for reporting annually to the President on its success, as well as holding meetings at least three times a year and engaging with organizations on the federal, state, local, tribal, and international levels in order to carry out its mission.

In addition to formally recognizing LAIR, the presidential memorandum acknowledges the significance of its work and the goal of equal access to justice:

"Equal access to justice helps individuals and families receive health services, housing, education, and employment; enhances family stability and public safety; and secures the public's faith in the American justice system. Equal access to justice also advances the missions of an array of Federal programs, particularly those designed to lift Americans out of poverty or to keep them securely in the middle class. But gaps in the availability of legal aid -- including legal representation, advice, community education, and self-help and technology tools -- for America's poor and middle class threaten to undermine the promise of justice for all and constitute a crisis worthy of action by the Federal Government."

NLADA's Civil Legal Aid Initiative, with support from the Public Welfare Foundation and the Kresge Foundation has worked closely with ATJ since the conception of LAIR. In 2014, the NLADA presented LAIR with the Government Service Award for its admirable work in strengthening access to justice for all Americans.

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Congratulations to Recipients of LSC's 2015 Pro Bono Innovation Fund Awards

On September 18 the Legal Services Corporation (LSC) announced the award of grants to 15 legal organizations to support innovations in pro bono legal services for low-income clients. Grants range in amounts from \$160,000 to \$362,500 to cover time periods from 18 to 24 months. The scope and focus of the projects vary with many using technology and others community partnerships to enhance services for low-income populations; a number

of the projects will address issues affecting specific populations such as seniors, veterans, and low-income students.

Recipients include:

Alaska Legal Services Corporation
Bay Area Legal Aid
Blue Ridge Legal Services
Community Legal Aid, Inc. in Worcester
Georgia Legal Services Program
Idaho Legal Aid Services, Inc.
LAF (formerly Legal Assistance Foundation of Metropolitan Chicago)
Legal Aid of Western Missouri
Legal Aid Society, Inc. in Louisville
Legal Aid Society of Cleveland
Legal Aid Society of Northeastern New York
Legal Services of Eastern Missouri
Legal Services of NYC
New Mexico Legal Aid
Southeast Louisiana Legal Services Corporation

[Learn more](#) about award recipients, details of their projects, and quotes from LSC and congressional representatives from the recipients' states.

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PBS Newshour: Why Doctors Are Prescribing Legal Aid for Patients in Need

The legal aid community is at the forefront of innovation designed to increase access to civil legal assistance in the United States. The development of collaborations known as *medical-legal partnerships* (MLPs) are a prime example of how partnerships with other professions can greatly expand legal aid programs' capacity to serve their client populations. MLPs are a creative way of bringing legal services into the healthcare setting

to address health disparities among vulnerable populations.

PBS News Hour correspondent Jackie Judd recently reported on two stories from Omaha, Nebraska, where Legal Aid of Nebraska partners with Nebraska Medicine to resolve the dual medical and legal issues that often arise when medical professionals serve low-income patients. [These stories](#) highlight the importance of investing in and exploring MLPs as a means of insuring that patients are able to benefit from the medical care they receive by providing legal interventions that will insure that circumstances that may have created or exacerbated the patient's condition or prevented the patient from benefitting from medical treatment are ameliorated. Judd reports on a five-year-old leukemia patient unable to return to his family's apartment due to a cockroach infestation, and a breast cancer survivor in need of a critical CAT scan that her Medicaid refused to approve.

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Last Week Tonight With John Oliver: Public Defenders

A criminal defendant's right to an attorney has been a critical facet of American jurisprudence since the inception of the Constitution, as clarified in the landmark 1963 Supreme Court ruling in *Gideon v. Wainwright*, which stated that any defendant who could not afford an attorney would have one appointed.

On September 13, comedic political commentator John Oliver dedicated [a segment](#) to public defenders, some of the most dedicated, yet overworked and underpaid people in the country. In his classic style, Oliver conveyed his obvious disdain with humor and satire to throw one of the most serious downfalls of the criminal justice system into sharp relief. He discussed a study in New Orleans that suggested that any given public defender is so overburdened that he or she has an average of seven minutes per case to prepare a defense. He stated with incredulity that, in 43 states, a defendant can actually be billed for his public defender if he pleads guilty, even in the context of a plea deal. This is hugely significant, considering that 90 to 95 percent of criminal cases end with a plea deal. The fifteen-minute clip is rife with even more facts, figures, and anecdotes, which exemplify the poor state that many public defense systems are in.

Only John Oliver could elicit laughter about a dire situation in which vulnerable people are

being denied access to systems that are critical to justice, yet hideously broken.

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GAO Reports That Loan Repayment Options May Be Unknown to Borrowers

College students and recent grads are no strangers to the burden of student loans, or how fast they can accumulate. Programs such as Income Based Repayment, Pay As You Earn, and Public Service Loan Forgiveness have been implemented to help borrowers avoid default. These programs have made it possible for thousands of civil legal aid lawyers and public defenders- whose starting salaries average below \$50,000-to serve their communities and still manage the debts they acquired attending law school.

A recent Government Accountability Office (GAO) report noted that, while it is unknown exactly how many borrowers are eligible, nearly 4 million workers would qualify if the rate of borrowers bears any correlation to public workers in the U.S. Workforce. The GAO reports that currently less than 150,000 borrowers have certified their loans and employment for forgiveness, set to begin in 2017. Read the [full GAO report](#).

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