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MEMORANDUM

To: Frank Strickland, LSC Board Chair
Mike McKay, LSC Finance Committee Chair
Helaine Barnett, LSC President
Charles Jeffress, Chief Administrative Officer

From: Lillian Moy, Chair, NLADA Civil Policy Group (CPG)
Allison Thompson, Chair, CPG Resources Committee
Don Saunders, NLADA Director of Civil Legal Services

Date: September 6, 2006

Re: Recommendations for FY 2008 Budget Mark for LSC

This memorandum is presented to you on behalf of the National Legal Aid & Defender Association (NLADA) board of directors and Civil Policy Group in response to your notice seeking input regarding LSC's request to Congress for funding for fiscal year 2008. We appreciate your invitation to the public and the civil legal aid field and welcome the opportunity to engage with you on the critical need of NLADA's civil members for significant increases in federal support for legal services.

NLADA based its recommendation for FY 2007 funding on the important findings contained in LSC's *Documenting the Justice Gap*, a study that has significantly underscored in human terms the extraordinary hardships caused by the lack of resources available for civil legal aid in this country. The report highlights the enormity of the unmet legal needs of people living in poverty in this country and lays out a vision of the federal share of funding necessary to meet our society's promise of equal justice for all Americans. We continue to believe that the *Justice Gap* report should serve as the basis from which a FY 2008 request is developed.

NLADA strongly concurs with the finding of the report that it would take five times our nation's current capacity to provide civil legal assistance to meet the actual need that exists. In terms of the LSC appropriation, the federal commitment necessary to meet that need would amount to **\$1,649,000,000** in FY 2008. We will continue to stress that figure to policymakers and stakeholders with an interest in the justice system in this country as the true test of our ability to provide justice to the financially disadvantaged with serious unmet legal needs.

However, given the current fiscal realities facing Congress and LSC as you fashion your request, we again urge you to formulate an FY 2008 appropriation on the stark finding of the report that your grantees were unable to serve 55 per cent of applicants for service due to insufficient resources. This figure remains a harsh reminder of how far we, as a society, are from our promise of equal justice for all. It also provides a realistic short-term goal for LSC funding that is in touch with the fiscal realities of the day.

We urge you to adopt a budget mark that at least stays the course charted during the development of your FY 2007 request, in which you sought to close the “unable to serve” gap by 20 per cent a year over a five-year period. By NLADA’s calculations, the amount of federal support needed just to respond to the 55 per cent of applicants turned away would be **\$716,215,080** for FY 2008. LSC should remain firm in advocating that the gap be closed by FY 2011. Thus, we strongly recommend, while much more is needed and justified, a request for FY 2008 of at least **\$482,446,032**, a figure that would keep LSC on the five-year strategy adopted by the board last year.

NLADA greatly appreciates the leadership this LSC board demonstrated in adopting a mark and then strongly advocating for \$411 million for FY 2007, a figure that significantly exceeded the administration’s request for the fiscal year. This action, following on the heels of a similar strong statement of support during the FY 2006 process, continues to send an important signal of support to your grantee programs, which struggle every day to address the unmet needs of the thousands of financially disadvantaged families in need of legal assistance. Indeed, the positive congressional response to date regarding the FY 2007 requests underscores the importance of bold action by LSC in emphasizing the struggles poor families often face when access to legal representation is denied them. We think that it is very important that LSC continue to send a strong message to Congress by continuing your history of seeking increased appropriations in each fiscal year.

LSC is the institution in our government recognized by President Bush as “the only resource available to access the justice system . . . for millions of Americans”. We ask you to aggressively meet that challenge in your request for the next fiscal year. Given the critical role LSC funding serves in ensuring that all of our citizens can enjoy access to justice, you must continue to stand, as you have, as the primary federal voice for equal justice in this country.

LSC enjoys the support of significant bipartisan majorities in both the House and the Senate. We understand that federal budgetary decisions must be made against a backdrop of fiscal reality, but NLADA urges LSC to adopt this recommendation, thereby sending the very strongest message you can of the need to close the “justice gap” in this country as soon as possible.

We also ask that LSC continue to seek supplemental funding to address the enormous legal need that still emanates from last year’s disaster on the Gulf Coast. We have recognized through the course of the last year that, as is usually the case in major disasters, many potential clients were not thinking about their legal problems in the immediate aftermath of the storm.

Now, thousands of dispossessed poor people face desperate situations that require legal assistance if they are going to have any chance to lead normal lives. Literally thousands of people are still living in tents or their automobiles across the Gulf. The infamous FEMA trailer cities are rife with legal problems and their residents still have no idea about prospects for permanent housing. Reports everywhere on the Gulf Coast document a huge eviction problem where landlords looking for higher rents in a market facing significant housing shortages are displacing poor people. Legal Services providers are seeing an enormous number of family law and domestic violence cases as a result of the upheavals caused by the storm.

Many African American landowners on the Gulf Coast are experiencing problems qualifying for FEMA and other assistance due to heir property title problems. Predatory contractors have descended en masse to prey upon a captive and desperate population. Immigrants being subjected to significant employment abuses are performing much of the recovery work. The need for bankruptcy relief is growing at a rapid rate. The number of insurance claims and challenges are growing as well.

NLADA greatly appreciates the way in which LSC staff has both responded to the needs of its grantees in the region and worked with NLADA and others at the national level to ensure that programs and clients have access to the legal resources they need. Despite the enormous volunteer efforts directed toward the region, it is starkly clear to us that the most important need is for resources to provide advocates to help the thousands of families with legal needs. It is simply outrageous that, of the many billions of dollars directed toward the relief effort, little, if any, has been allocated to address the legal needs of the poor in the region.

SPECIFICS OF NLADA RECCOMENDATIONS

Because of the overwhelming need for basic field services (including migrant and Native American grants) we believe that the great majority of LSC funding should be granted to programs to provide those basic field services to clients rather than be earmarked for any special projects.

However, we believe that several items are critical to the future vitality of the field, and therefore we recommend funds be set-aside (after a general increase for basic field services) for: 1) continuation of the Loan Repayment Assistance Pilot Program; 2) Training, Publications and Other Assistance for Substantive Advocacy; 3) the Technology Initiative Grant Program; 4) Native American Special Grants; and 5) Disaster Assistance Capacity.

Loan Repayment Assistance Program (LRAP). The staggering debt facing law school graduates remains a huge barrier to recruiting and retaining good young attorneys among your grantees. NLADA has been very supportive of LSC's pilot loan repayment project and we are anxious to review the lessons you learn in its implementation.

Clearly, however, the \$1 million can only begin to meet the need in the field for student debt assistance. Therefore, we ask that LSC seek an additional **\$1 million** from Congress in FY 2008 to allow for continuing and expanding this repayment program and LSC's essential information gathering farther into the future.

Training, Publications and Other Assistance for Substantive Advocacy: NLADA also continues to recommend that LSC request **\$10 million** for training, publications and other types of advocacy support.

As LSC and others pursue a strong agenda of promoting quality in the representation provided by grantees, financial support for training and advocacy are absolutely critical in assisting providers in enhancing the quality of their programs.

Funds for training and publications will help further the goals of LSC's quality agenda throughout the country and will allow experienced advocates to share their knowledge and experience with newer advocates. This function is particularly important in a year in which LSC has initiated a

new set of performance criteria and the ABA has significantly revised its Standards for Providers of Civil Legal Aid.

States that are able to provide training, publications and other support for their staff, in partnership with others in their state justice communities, will be able to build upon the state planning efforts to develop a comprehensive and integrated legal services delivery system that is able to respond to the varied, complex and ever-changing legal needs of low-income families in every community.

Technology Initiative Grants. NLADA has worked in partnership with LSC and its grantees in helping the civil legal assistance community make great strides in using technological innovation to expand the reach and quality of legal services. The LSC Technology Initiative Grants (TIG) have played a vital role in helping states improve their ability to use technology to better serve their clients and to develop a national infrastructure necessary to support state and local efforts. Therefore, we strongly support the continuation of the Technology Initiative Grant program. We recommend that the FY 2008 appropriation contain at least **\$3 million** for TIG, even if the full appropriation we are recommending is not achieved. The FY 2006 appropriation level was insufficient to provide for a workable technology grant program. We support a pro rata increase in the program as the LSC appropriation is increased above current levels, amounting to **\$7 million** if the full amount we are asking you to seek is realized.

Native American Special Grants. NLADA continues to support a dedicated appropriation of **\$1,000,000** to address significant disparities in funding for Native American programs similar to that sought by LSC in its FY 2006 budget request. NLADA seeks the opportunity to discuss how the funding would be distributed upon the receipt of such an appropriation.

Continuing Capacity to Address Disasters. As mentioned above, NLADA believes it is critical that LSC seek a supplemental appropriation on top of its basic request to help meet the enormous need emanating from the disaster on the Gulf Coast.

In addition to seeking supplemental funding for Hurricane Katrina relief, NLADA further suggests that LSC seek additional funding of \$1 million to develop an ongoing fund to provide assistance to grantees in future disasters and to develop an enduring capacity at the national level to respond immediately and effectively through resources developed and lessons learned from Hurricane Katrina.

Summary of NLADA's FY 2008 Budget Mark Recommendations

In considering the FY 2008 mark, it is NLADA's recommendation that LSC adopt the following:

1.	Delivery of Services:	
	- Direct Delivery: (including Basic Field and Native American)	\$446,907,399
	- Native American Special Grants	\$1,000,000*
2.	Management & Administration:	\$13,000,000
	- Technology Initiative Grants	\$7,000,000*
	- Emergency Capacity Building Fund	\$1,000,000*
	- Loan Repayment Assistance	\$1,000,000*
	- Training, Publications and Other Assistance for Substantive Advocacy	\$10,000,000*
3.	OIG:	\$2,538,633
4.	Total:	<u>\$482,446,032</u>

* See Note below

NOTE: Our general view is that the vast bulk of the appropriation should be made available to field programs for direct delivery through basic field, migrant and Native American grants. We also strongly support a reasonable cost of living increase (5%) for direct delivery before other goals of the appropriation are addressed.

Therefore, unless "Direct Delivery" is funded at a level of at least \$324 million, we do not recommend setting aside funds for additional earmarked activities. However, if the appropriation provides funding for direct delivery that does exceed \$324 million, we recommend that LSC provide support for the loan repayment assistance pilot project, for proportional increases to the Technology Initiative Grants program, for substantive advocacy, including training, resource materials, and other similar functions essential for the effective and efficient delivery of services, for assistance to programs serving Native American populations and for building an emergency response capacity.

Thank you again for the opportunity to make this recommendation. We commit the full support of NLADA in advocating for the best possible appropriation from Congress for FY 2008.

We look forward to the opportunity to work with LSC to further develop the budget approach and the strategies suggested herein.