

**National Legal Aid & Defender Association Testimony to the U.S. House Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies**

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**April 4, 2019**

This testimony is submitted on behalf of the National Legal Aid & Defender Association (NLADA), which is America's oldest and largest national nonprofit organization whose resources are exclusively dedicated to promoting excellence in the delivery of legal services in order to advance access to justice for all. We are grateful for the opportunity to provide comments to the committee regarding the Legal Services Corporation, for which we request \$683 million, the Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance grant program, for which we recommend \$2 million, and the John R. Justice student Loan Repayment Assistance program, for which we recommend \$25 million.

**Legal Services Corporation**

LSC is America's investment in its promise of equal justice. LSC distributes 94 percent of its appropriation directly to 133 organizations providing civil legal aid to people in every U.S. state and territory who have legal problems with life-altering potential consequences. Family and housing cases are the most common. Without access to legal help in these matters, victims of domestic violence can be denied safety from an abusive parent or spouse, and families can lose their homes through unnecessary eviction or foreclosure. LSC also enables legal aid programs to respond quickly and effectively to emerging challenges facing low-income and middle-class Americans. The new LSC task forces on the opioid crisis and disaster recovery are helping guide legal aid programs in confronting these complex large-scale issues that have created immeasurable damage to so many communities across our country.

There is a wealth of data that demonstrates how access to civil legal aid creates positive long-term outcomes for clients, such as increased housing stability and income levels, lower incidence of mental health problems in veterans<sup>1</sup>, and improved "safety, psychological well-being, and economic self-sufficiency" for victims of intimate partner violence.<sup>2</sup> Despite this evidence, and despite the current strength of our economy, the need for legal assistance continues to dramatically outweigh the amount we choose to spend on it, which is the reason for our request that this committee significantly expand the appropriation for LSC.

Data published by LSC in 2017 revealed that the \$385 million appropriated for LSC the previous year only enabled grantees to fully address roughly one third of legal problems brought to them, and that 41 percent received no service at all.<sup>3</sup> The vast majority of those who did not receive services were turned away because the program from which they sought help did not have sufficient resources to assist. Based on this data, we developed an approximate average cost of

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<sup>1</sup> Tsai, J., Middleton, M., Villegas, J., Johnson, C., Retkin, R., Seidman, A., Sherman, S., and Rosenheck, R. (2017) "Medical-Legal Partnerships At Veterans Affairs Medical Centers Improved Housing And Psychosocial Outcomes For Vets", Health Affairs 36 (12)

<sup>2</sup> Hartley, C., and Renner, L. (2016) "The Longer-Term Influence of Civil Legal Services on Battered Women", U.S. Department of Justice

<sup>3</sup> Legal Services Corporation (2017) The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans

service per case, and using this estimate, calculated the amount that would have been needed to fully address every eligible legal problem. This number is \$683 million, adjusted for inflation.

However, we emphasize that the appropriation level we request would not meet the real need for civil legal aid. Across the country, only an estimated 20 percent of low-income Americans even seek assistance with their civil legal problems, often because they are unaware that resources exist to help them.<sup>4</sup> In fact, the level we recommend in this testimony is 27 percent *lower* than funding would have been had the LSC appropriation simply kept pace with inflation since 1980,<sup>5</sup> and the FY2019 appropriation is *less than half* of the 1980 level in inflation-adjusted dollars.

This diminished level of funding for LSC is not only harmful to communities that rely on civil legal assistance, but it is economically short-sighted. There is a direct, measurable, and significant return on investment from civil legal aid. In Alabama, for example, analysis demonstrates that for every dollar spent on civil legal aid, communities in the state received \$8.84 in direct and long-term financial benefits.<sup>6</sup> This return includes a reduction in taxpayer spending on community services that results from provision of legal help, such as on housing and other support costs for a family that would have been forced out of their home were it not for access to an attorney.

While there are sources of funding for civil legal aid outside of LSC, these resources are distributed in a highly uneven manner. Rural areas in particular are routinely underserved, but through LSC the federal appropriation can be highly targeted to meet the areas of most extreme need. At the same time, the civil legal aid infrastructure that is built around LSC facilitates the investment of private resources into expanding access to civil legal assistance, multiplying the impact of the federal appropriation. Private attorneys from firms of all sizes contribute more than a week of legal services pro bono on average each year,<sup>7</sup> but they are only able to volunteer in such volume because the existence of LSC grantee organizations that provide needed training, supervision, and access to client communities. LSC also invests directly in expanding private attorney involvement through its Pro Bono Innovation Fund.

Equal justice for all is the foundation of American democracy. By continuing to underfund civil legal aid, we not only fail to preserve this foundation but also cause significant and often severe harm to the people and communities for whom access to a lawyer can be the difference between poverty and opportunity, sickness and health, and even life and death. We ask that you take the first step toward fully meeting our country's most fundamental promise by providing \$683 million for LSC in FY2020.

### **Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance**

We urge this Subcommittee to support the work done on behalf of Native Americans by Indian Legal Services by maintaining funding within the Department of Justice, Office of Justice Programs, State and Local Law Enforcement Assistance account at a level similar to that provided in recent years, which is approximately \$1 to 2 million for the Tribal Civil and Criminal Legal Assistance, Training and Technical Assistance grant program (TCCLA). This

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<sup>4</sup> Ibid.

<sup>5</sup> Houseman, A. & Perle, L. E. (2018) Securing Equal Justice for All: A Brief History of Civil Legal Assistance in the United States

<sup>6</sup> Community Services Analysis, LLC (2015) Alabama Legal Aid Social Return on Investment Analysis

<sup>7</sup> American Bar Association (2018) Supporting Justice: A Report on the Pro Bono Work of America's Lawyers

could be either within a specified line item for “assistance to Indian tribes,” as Congress provided \$37.5 million for in the FY 2019 Consolidated Appropriations Act, or within a tribal set-aside percentage of Office of Justice Programs accounts, as the Administration has proposed in the FY 2020 budget request in section 210.

For the past eight years, through FY 2018, a consortium of 24 Indian Legal Services programs connected with the Legal Services Corporation and operating in 23 states has been awarded funding under the TCCLA grants program. In addition to using TCCLA funds to provide legal representation to thousands of American Indian and Alaska Native individuals in tribal and state courts, Indian Legal Services programs are currently assisting more than 160 tribal governments and/or tribal judicial systems to enhance or develop their justice systems.

Examples of the Indian Legal Services programs’ tribal civil justice assistance work done under TCCLA awards include initial drafting of tribal laws as well as revisions to civil codes, policies and procedures; developing alternative resolution systems, based on tribal customs and traditions; and developing and conducting tribal court advocate training programs. Civil and criminal representation of individuals in tribal and state courts has included family law, probate, employment, disability benefits claims, public housing, property disputes, debt collection, child welfare and juvenile delinquency matters; *guardian ad litem* work in high conflict custody, guardianship, and parental termination cases; representation of families in Indian Child Welfare Act cases in state court; and addressing the impact on individuals and families from substance abuse and correlated incidents of criminal activity by reforming tribal sentencing guidelines.

The Indian Legal Services programs’ tribal criminal work under TCCLA has included assisting tribes with revisions to their criminal codes for compliance with these statutes, as well as drafting and updating codes, policies and procedures, and drafting of civil and criminal codes, including children’s codes, and rules of procedure; tribal court development, restructuring and improvement; training of judicial, law enforcement and justice systems personnel and tribal court lay advocates and guardians *ad litem*; and negotiation or litigation to address jurisdictional issues with state court systems. Lay advocate and peacemaker trainings have been done with tribal colleges and university law schools. Several Indian Legal Services programs have worked with the tribes and their tribal courts to establish “Wellness Courts” in conjunction with the local state courts. In these instances, a defendant appears before a tribal court judge and county district court judge simultaneously. The programs are engaged in helping 18 of the 160 tribes we serve to implement the Tribal Law and Order Act of 2010 (TLOA) and the Violence Against Women Reauthorization Act of 2013 (VAWA). The programs provide the only public defender service available in at least 46 tribal courts.

In FY 2020, whether Congress provides funding to the DOJ for Indian Country tribal justice and law enforcement programs as a tribal set-aside of a percentage of overall DOJ funding, or in an overall sum as the \$37.5 million appropriated in the FY 2019 Consolidated Appropriations Act for “assistance to Indian tribes,” we request that funding, bill and report language be included directing that some funds be allocated for the purpose of the provision of both tribal civil and criminal legal assistance to individual tribal citizens and to tribal judicial systems pursuant to the Indian Tribal Justice Technical and Legal Assistance Act.

### **John R. Justice Student Loan Repayment Assistance Program**

Public defenders fulfill the constitutional right to counsel; they are essential to due process and our concept of liberty. They protect the rights of defendants in criminal cases and work to ensure

that case outcomes are fair and just. A law degree is a requirement of all public defenders, but obtaining such a degree routinely leaves graduates with a six-figure student loan debt. This debt can make it financially impossible to enter low-paying jobs at public defender organizations, or to remain in those jobs for long enough to gain the experience needed to become a highly effective advocate for their clients. The John R. Justice program can provide relief from this debt, and as such support the recruitment and retention needs of public defender and prosecutor offices, by contributing to an individual's monthly student loan payments. However, the FY2019 appropriation for John R. Justice was just \$2 million and this level of funding severely limits the scope and effectiveness of the program. We therefore request that this committee fully fund the John R. Justice program at the authorized amount of \$25 million for FY2020.