# Public Service Loan Forgiveness and the Justice System

How eliminating PSLF would harm American communities



### Acknowledgements

NLADA is grateful to the 3,369 individuals from across the justice system who took the time to respond to this survey, and to our partner organizations who assisted in its distribution. The responses and many personal stories received make clear how important PSLF has been in expanding access to quality representation and improving the American justice system.

# Public Service Loan Forgiveness and the Justice System

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### **Executive Summary**

America relies on a host of dedicated public servants to ensure that people in our country have access to essential services like health care, education, and fairness in our justice system. This is made possible in many areas by the Public Service Loan Forgiveness (PSLF) program, which makes it possible for graduates to devote their careers to addressing the most pressing needs of their communities.

In 2007, a bipartisan Congress created PSLF and President George W. Bush signed the program into law to ensure that talented and committed individuals are not prevented from entering public service because of the debt associated with their degree. PSLF is a promise of basic financial security, allowing talented professionals to enter many essential but often low-paying careers such as teaching, nursing, veterinary services, and legal services.

Often these professions require graduate degrees, which require many students to take on significant debt. Recognizing the need to overcome the barrier of high student debt in order to build cadres of public servants in these fields<sup>1</sup>, PSLF allows individuals to earn forgiveness after at least 10 years of service at a qualifying employer and 120 monthly payments on an income-driven repayment (IDR) plan. After repaying at least 10 percent of their income for at least 10 years, public servants can apply to have the balance of their federal loans forgiven.

When individuals earn forgiveness, it is our communities that benefit. Public defenders, prosecutors, civil legal aid attorneys and court personnel are indispensable components of the administration of justice in our country. Their work helps protect Americans from injustice and strengthens the rule of law in our democracy; it is an integral part of our constitutional system.

This report is based on survey responses from more than 3,000 individuals. It helps explain the impact of PSLF on civil legal aid and public defender programs and the communities they serve. **Civil legal aid** ensures that regardless of how much money a person has, they have the same level of access to a fair adjudication of their civil legal problems as anyone else. They provide legal help that enables people to protect their livelihoods, their health, and their families. **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.

**<sup>1</sup>** 34 CFR § 685.219 (a) ("The Public Service Loan Forgiveness Program is intended to encourage individuals to enter and continue in full-time public service employment by forgiving the remaining balance of their Direct loans after they satisfy the public service and loan payment requirements of this session.").

PSLF makes it possible for civil legal aid and public defender programs with limited budgets to recruit and retain these committed professionals, who are able to accept lower salaries even when the comparatively high cost of obtaining a law degree means many are graduating law school with significant debt. It also makes these jobs more accessible to students who otherwise may not have the means to afford the required education and training to enter the legal field, work in public service and provide stability for their families.

Opponents of PSLF are critical of its cost, but limited available data makes current estimates speculative and unreliable<sup>2</sup>. What is clear, however, is that the investment in PSLF drives stronger economies, safer communities, and the fulfillment of the fundamental American promise of justice for all.

Survey responses from borrowers currently working toward earning forgiveness, and from top executives at legal aid and public defender programs, suggest that PSLF has expanded access to justice by improving both the quality and availability of legal representation for low-income Americans. It enables these programs to attract talented lawyers from a range of backgrounds and to prevent those lawyers from leaving because of the debts they face. The survey revealed that:

• **81 percent** of respondents who were aware of PSLF at the time they took their current job reported having been significantly influenced by the program's promise, with 51 percent indicating they were not likely or certain not to have taken their positions had PSLF not existed, and an additional 30 percent indicating they were only somewhat likely to have taken their positions.

• **71 percent** of respondents who are top executives at their program (Executive Director, Chief Public Defender, etc.) consider PSLF to be a highly important tool for retaining experienced staff, and almost two thirds believe it is important for attracting new hires.

• **87 percent** of respondents indicated that qualification for PSLF would make them much more likely to accept a particular opportunity in the future, and **more than half** would be very likely or certain to leave their jobs if PSLF did not exist.

**<sup>2</sup>** See GAO-17-22, "FEDERAL STUDENT LOANS, Education Needs to Improve Its Income-Driven Repayment Plan Budget Estimates," United States Government Accountability Office Report to the Chairman, Committee on the Budget, U.S. Senate, Nov. 2016 at 48 (Stressing the importance for the U.S. Department of Education to conduct sensitivity analyses on major assumptions, monitor assumptions carefully, and adjust assumptions as necessary to ensure reliability, and concluding that without doing so, estimates could result in costs being vastly over or understated).

• A typical respondent on an income-driven plan **would accrue more interest than their payments would cover**. As a result, much of what they would end up owing after years of payments is not the principal that was borrowed. This means that income-driven repayment plans help keep monthly payments affordable but they are insufficient without an attached promise of loan forgiveness for individuals earning public sector salaries.

The survey included an opportunity for respondents to provide supplemental written information about their experience with PSLF. These qualitative responses explain the impact of the program on borrowers, the programs at which they work, and the people and communities they serve. Key themes reported by respondents include:

• Student loan obligations can make basic life milestones unattainable without PSLF. Many respondents reported that PSLF is the only reason they can afford to remain in public service and also look forward to home ownership, starting a family, or saving for retirement.

• **PSLF improves the quality of legal assistance.** It enables lawyers to remain in public service long enough to gain the knowledge and experience they need to be more effective advocates for their clients. It has expanded access to legal education for talented individuals of limited means, and incentivized top performing law students to select a role in public service.

• **PSLF expands the availability of legal assistance** by allowing more attorneys to seek public service jobs. This is particularly critical in severely underserved communities, where a single individual can be the only available legal resource for vulnerable clients. It also enables programs to serve more people in total, because when lawyers can afford to accept lower salaries, their organizations can invest in additional staff.

Access to quality representation in the American justice system can be the difference between opportunity and poverty, liberty and incarceration, and even life and death. The impact of eliminating PSLF would be devastating for communities across America who rely on dedicated public servants at civil legal aid and public defender programs.

This report is divided into two parts. Part one includes only responses from individuals who are currently in repayment and expecting to earn forgiveness at some point in the future, and part two includes only responses from top executives at civil legal aid and public defender programs. Both parts report aggregate responses to multiple choice questions, with interpretation supplemented by explanatory comments that were provided in response to an open ended question asking for more details about their experience with PSLF.

### Methodology

A link to the web-based survey was distributed via email to NLADA members and other individuals affiliated with the organization. The survey was open from November 9, 2017 to December 14, 2017. A total of 3,369 individuals from 46 states, the District of Columbia, and three U.S. territories responded to the survey, of whom 2,866 had federal student loans and 2,302 were enrolled working for an employer that would qualify them for public service loan forgiveness at some point in the future. It is not possible to report a response rate because recipients were encouraged to further distribute the survey to their colleagues. The survey contained questions related to demographics, financial circumstances, and the impact of PSLF on their career choices. It also contained a small number of questions directed only at the top executives at civil legal aid and public defender programs, and 91 of these individuals responded. 885 respondents provided written comments, in response to the open ended question that provided unlimited space for respondents to provide any additional information about their experience with PSLF.

### **About NLADA**

The National Legal Aid & Defender Association (NLADA), founded in 1911, is America's oldest and largest nonprofit association devoted to excellence in the delivery of legal services to those who cannot afford counsel. NLADA provides leadership, information, training, and technical assistance to members of the equal justice community to support their work to meet the needs of low-income clients and communities. NLADA provides guidance and advice to employers and employees at civil legal aid and public defender offices about programs designed to increase access to public service careers, and NLADA has advocated about the creation of such programs including Public Service Loan Forgiveness, the Civil Legal Assistance Attorney Student Loan Repayment Program, and the John R. Justice Student Loan Repayment Program.

# Part One: Current Borrowers

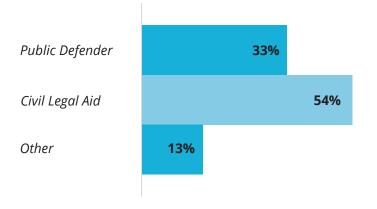
Responses from Individuals Currently in Repayment and Expecting to Earn Forgiveness

### **Respondent Profile**

#### **TYPE OF ORGANIZATION**

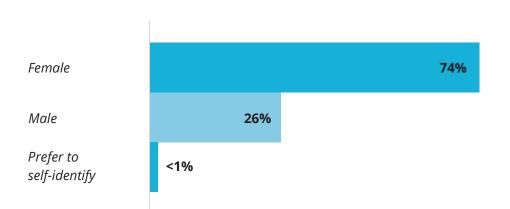
n = 2,188

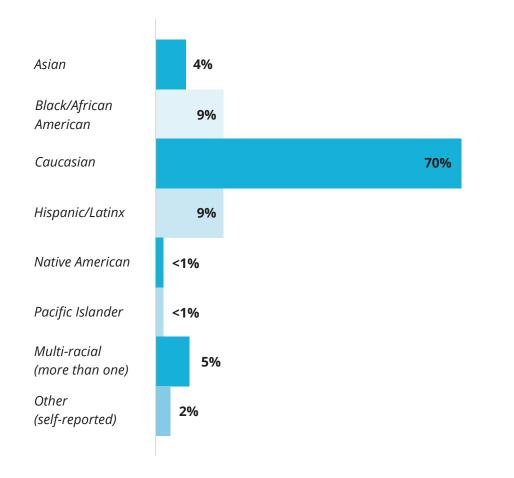
NLADA's members consist primarily of attorneys and staff at civil legal aid and public defender programs, but a small number of related individuals in the broader justice community also responded to the survey. The "other" category includes court employees, government workers, and staff at other nonprofits providing services to individual clients or particular types of clients.



#### What is your gender?

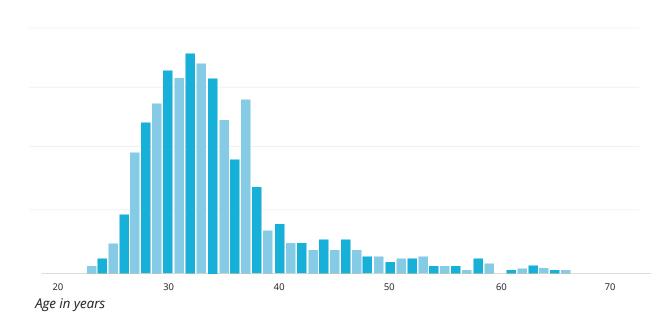
n = 2,089





Age

n = 2,061



#### **TALENT PIPELINE**

The relative youth of respondents mirrors the objective of PSLF to cultivate a new generation of career public servants by encouraging young attorneys to take entry-level legal services jobs and deepen their expertise and commitment over time. Older borrowers who took out loans prior to the enactment of PSLF may have already exited public service in search of positions paying higher salaries or chosen not to change repayment plan.

#### DIVERSITY IN THE LEGAL PROFESSION

In 2017, just 35 percent of lawyers in the U.S. were women and only 15 percent were an ethnicity other than Caucasian<sup>3</sup>. The lack of diversity in gender and ethnicity in the legal profession reflects the exclusion of talented lawyers with a different range of perspectives. This disparity adversely impacts the quality of legal services available. Not only should the profession be accessible to people from different backgrounds, but when public servants are representative of their communities, they are better able to understand the unique issues affecting their clients and to advocate for realistic and effective solutions. Respondents working toward earning forgiveness were significantly more diverse than the legal profession overall: 74 percent were women and 30 percent were not singularly Caucasian.

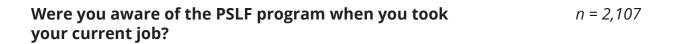
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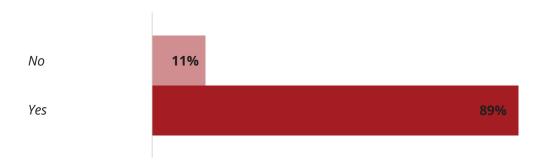
I am a woman of color who grew up poor in [my area] and was determined to become a lawyer and return to the community I'm from to provide legal assistance. The difficulty and expense that the poor must endure to achieve the goal of becoming lawyers not only ensures that the shortage of diversity continues in the legal profession, but it also ensures that poor people of color continue to have few representatives who understand firsthand the issues and concerns that these communities need assistance addressing.

– Civil legal aid lawyer who serves homeless clients and low-income people with disabilities in California

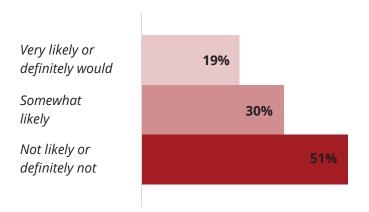
3 ABA National Lawyer Population Survey: 10-Year Trend in Lawyer Demographics, (2017) American Bar Association; Chicago, IL

### **Impact on Career Decisions**

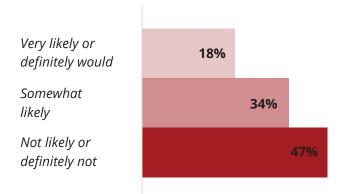




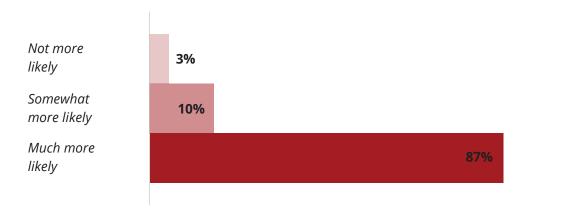
If PSLF did not exist, what is the likelihood that youn = 1,881would have taken your current job? 4



If PSLF did not exist, what is the likelihood that you n = 1,881 would have taken ANY job in public service?

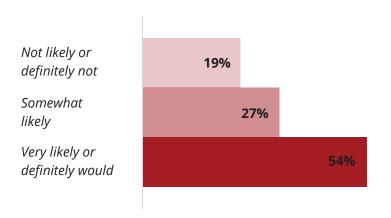


# Would qualification for PSLF make you more likely to accept a particular job opportunity in the future?



### If PSLF did not exist, what is the likelihood that you would leave your current job?

*n* = *2*,107



The data reveals how effectively PSLF incentivized respondents to enter public service. More than half of those who were aware of the program when they took their current job indicated they were not likely or certain not to have taken their current job without it. Only slightly fewer said the same about the likelihood they would have taken ANY job in public service. On both questions, less than one in five respondents believed it was very likely or certain. Significantly, 87 percent of respondents revealed that qualification for PSLF would make them <u>much</u> more likely to accept a job in the future.

**<sup>4</sup>** Only respondents who reported being aware of PSLF at the time they took their current job were included in the analysis of questions about how PSLF influenced their past decisions.

Respondents explained the reasons why PSLF has been effective at enabling them to accept and remain in their jobs. Some of these responses referred to the income-driven repayment (IDR) plans associated with the PSLF program that cap monthly payments at a rate of 10-15 percent of all income above 150% of the federal poverty level.

PSLF is the difference between burning out and maintaining a sustainable work/life balance. Without PSLF I would be living paycheck-to-paycheck with no margin for simple self-care (i.e. a day off, healthier food, reliable transportation). The stress of living paycheck-to-paycheck compounded by the stress of working with underserved and under-resourced populations would not be sustainable. PSLF allows me to make a long-term (i.e. 30 year) commitment to serving vulnerable populations.

– Civil legal aid lawyer providing services to children in North Carolina

IDR is a vital component of the public service incentive, but it is also available to borrowers of federal loans regardless of type of employment (or whether they are earning a public sector salary). The unique long-term impact of PSLF is that it provides a realistic expectation that the borrower will see a day in which they no longer have to make payments and can begin working toward attaining basic life milestones. Eighty-one percent of respondents revealed they would be at least somewhat likely to leave their job if PSLF did not exist, with more than half very likely or certain to leave. Many of these respondents explained PSLF would enable them to eventually start a family, purchase their first home, or start saving for retirement but that without the program, they would need to leave public service to do so.

I was considering moving out of public service when the PSLF program was initiated 10 years ago. With this benefit in mind I stayed with public service and have helped hundreds, if not over a thousand, disadvantaged clients with a multitude of legal problems. I have assisted clients to avoid losing their homes, their children, their benefits and even their life. I have relied on and anticipated the forgiveness of my student loans for 8 years now. The \$950 per month payment has limited my ability to save for retirement so it is my plan once the loan is forgiven to apply all the savings to try and build a retirement fund in the less than 10 years I have left to work.

– Civil legal aid lawyer who serves elderly Americans and people with disabilities at risk of abuse in Missouri

**Characterization** The PSLF program made it possible for me to work in public service. I served 22 years in the military and by the time I went to law school, my education benefits from the military timed out. Thankfully, I was able to qualify for a huge scholarship. But I still ended up with student loans -- and the PSLF program made it possible for me to continue to serve -- and I am serving my fellow veterans who are less fortunate than me. We all appreciate this opportunity.

– Civil legal aid lawyer serving veterans in Indiana

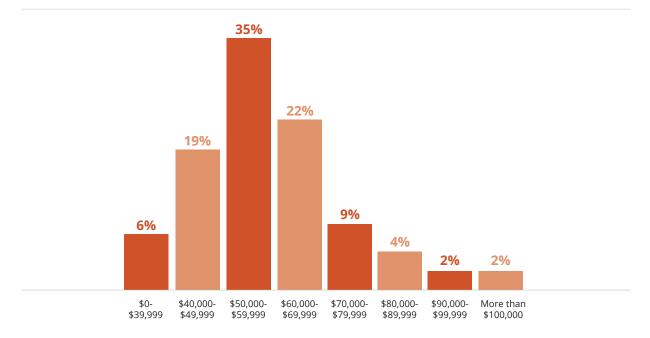
As I grow older, plan to start a family, and take on greater financial responsibility, my ability to stay in public service depends on the continuing existence of PSLF. At my current salary (which increases each year at a rate lower than inflation), I can only afford to pay the interest on my loans and have made no progress towards reducing the principal. Without PSLF, if I want to be able to support a family I will eventually be forced to move to the private sector. In that sense, PSLF serves the vital role of enabling non-profit legal organizations to retain experienced attorneys (even though they cannot compete with law firm salaries) and therefore provide higher quality legal services to their communities.

– Public defender who serves low income and indigent immigrants, trauma survivors, and mentally ill individuals in New York

### Salary & Loans

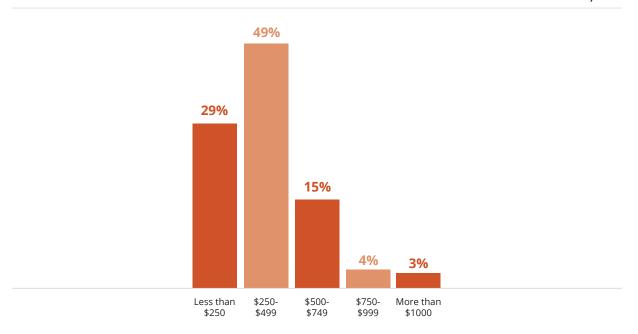
#### What is your salary?

n = 2,049

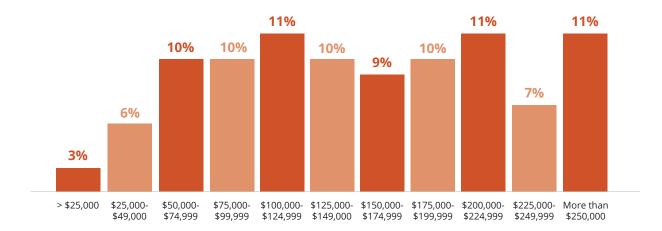


# What is your monthly repayment amount on your federal student loan?

n = 2,107



#### What is the balance of your federal student loan?n = 2,107



The responses received in this section demonstrate why public service careers can be unaffordable for many law school graduates and young lawyers. A "typical" respondent at the median makes between \$50,000 and \$59,999<sup>5</sup> per year, whereas even entry-level salaries in the private sector can reach more than three times that. This salary disparity between the private and public sectors widens further as attorneys gain seniority and experience.

This "typical" respondent is likely to be enrolled in an income-driven repayment plan, which keeps monthly payments high, but generally affordable at between \$250 and \$499 per month. However, their level of debt is between \$175,000 and \$199,999, and this is highly disproportionate to their ability to repay on a typical salary. In the case of this "typical" borrower, the total amount they owe would actually grow significantly over time even if they make all payments on time and in full because the interest rate on federal graduate student loans offsets some or all of their monthly payment. Consequently, legal services lawyers on IDR alone, without the potential for earning forgiveness through PSLF, would face an uphill battle to become free from debt should they remain in the public sector.

# "

My interest has compounded so much in the time that I have been working as a public defender that I have an extra \$50,000 in loans due to the interest than when I began this job. I have a husband and children and cannot sustain this work without the PSLF program, and I know that most if not all of my colleagues who have 0 to 10 years of experience in my office and the local DA's office are in exactly the same situation. Our fairly small, mostly rural community would lose a lot if the PSLF program were to disappear because it brought many people from other places to this town. Public safety and the quality and competence of our justice system would be seriously at risk.

– Public Defender in North Carolina

5 The median for respondents from civil legal aid programs was \$40,000-\$49,000. Slightly higher salaries at public defender programs and an even higher median within the "other" category account for the overall median reaching the \$50,000-\$59,999 range.

### Impact on Clients and Communities

This section reports on additional themes that appeared frequently within written comments but that did not correspond directly to the multiple choice questions<sup>6</sup>.

In their comments, many respondents explained how PSLF has improved both the quality and amount of legal representation available for lowincome communities. This section discusses these themes using illustrative examples.

#### PSLF IMPROVES **AVAILABILITY** OF LEGAL SERVICES.

The results of this survey suggest that without PSLF, far fewer people would choose to enter legal services careers, which would reduce the total number of lawyers available to represent low income Americans. In some locations, single individuals with unique expertise are the only resource for a particular population, and PSLF is enabling those individuals to work in areas otherwise entirely devoid of service. In other locations, PSLF is helping legal services programs do more with less by enabling staff to accept lower salaries, enabling programs to invest in additional employees.

# "

**PSLF allows me to bring** top-notch legal skills to coal miners and their families in **Appalachian Kentucky. PSLF** was part of why I considered it feasible to attend an Ivy League law school even though I knew I wanted to do public interest work in Appalachia. I have spent the past five years doing such work, but if PSLF were taken away, then I would have to change jobs to be able to make my student loan payments. This would harm my clients and the economy of the coalfields because I provide help [to] people [to] obtain federal black lung benefits through a complex federal system that few private sector attorneys want to be involved in. Without PSLF, many of these coal miners and widows would not have an attorney and would be at risk of being denied the benefits that they deserve and depend on.

– Civil legal aid lawyer who serves coal miners and black lung widows in Kentucky

**6** Few individuals expressed concern about the future of their own loans. This is likely to be because during the period in which the survey was open, legislation that would eliminate PSLF for future borrowers only was passed by the U.S. House Committee on Education and the Workforce. This followed a similar recommendation by the White House Office of Management and Budget (OMB) that was widely covered by the national media in May 2017.



Without PSLF it would be very difficult to attract qualified and competent attorneys to do this work. I know I am not even making the interest payments on my federal loans right now, since I am on an income based repayment plan. Either our organization would be forced to pay more, meaning we could help fewer people, or face higher turnover with a less qualified staff.

– Civil legal aid lawyer who represents survivors of domestic violence and child abuse in Wisconsin



I am the only recourse in my area for victims of domestic violence who are seeking protection from their abusive spouses or partners and who cannot afford an attorney. It is frightening to think how different their legal outcomes on things like protective orders and custody orders would be if they could not obtain counsel. I tailored my legal education and internships on the premise that I wanted to serve the public good, and that it would be financially feasible (not luxurious, just feasible) to do so thanks to PSLF.

– Domestic violence advocate in Connecticut

#### PSLF IMPROVES THE **QUALITY** OF LEGAL SERVICES.

The impact of PSLF on the quality of legal services is evident at every stage of an attorney's career. The promise of financial security promotes competition for public service jobs by attracting a greater number of high quality candidates. Once employed, the ability to rely on forgiveness enables attorneys to focus fully on their service rather than become distracted by financial anxiety or take an additional job to supplement their income, as some respondents to NLADA's 2015 survey revealed they had done<sup>7</sup>.

<sup>7</sup> The Critical Role of Public Service Loan Forgiveness in Access To Counsel and Equal Justice (2015) National Legal Aid & Defender Association, Washington, DC



PSLF has enabled me to follow my dream of serving the less privileged. I did not need to choose between living a life of minimum comforts (a reliable car, owning a home) and serving the greater good. Had it not been for PSLF, I would have to work 2 jobs and probably not have the energy I need to serve my clients. I do not anticipate leaving public service once my loans have ended - I will use my years of experience to be even more valuable to my employer.

– Public defender representing defendants in capital cases in Kentucky

As these lawyers work toward earning forgiveness, they build experience and institutional knowledge that enables them to provide higher quality services to the communities in which they work. At the point they earn forgiveness, they have become established advocates for low-income people having further developed their commitment and expertise, which will enable them to continue to serve their communities effectively for years to come.



I consider myself a good attorney. I've been awarded for my work, helped make major changes to state systems, and served thousands of people who would not have any other options for help if my organization did not exist. I enjoy my work very much and feel that it is very valuable for my community, but I would have left years ago and gone into private practice if it were not for PSLF.

- Civil legal aid lawyer in Georgia



Clients greatly benefit when lawyers stay in public interest. They don't have to change lawyers as often and organizations don't lose the institutional knowledge gained by their attorneys. Without this program, I could not afford to live in the city or do public interest. Any time I look at changing jobs, I make sure I would still qualify for the program.

– Civil legal aid lawyer in the District of Columbia

### **Cultivating Future Generations** of Public Service Lawyers

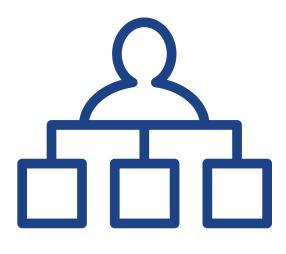
Despite the fact that none of the multiple choice questions addressed how PSLF affected academic choices such as whether to even attend law school, many respondents used the open-ended question to address this issue. Some indicated that they would not have gone to law school without PSLF, with many explaining this is because their career intention was only ever to work in public service, but that they never could have afforded to do so without PSLF. A smaller number explained that they would not have been able to go to as high a quality law school without it. This suggests that PSLF is having a significant impact in expanding the pool of highly qualified and dedicated advocates from which legal aid and public defender programs across the country can recruit. The following comments are indicative examples:

**C** The question you forgot to ask is whether I would have gone to law school in the first place. The answer to that question is no. Absolutely not. I went to law school because I knew I wanted to work in public service... And PSLF made me confident that I could afford to get a law degree so I could make an even bigger impact. I grew up in poverty. My mother struggled to put food on the table and keep the lights on after we fled from my abusive step father. But I am the American dream. I worked very hard in school, and put myself through college working 40+ hours a week as a waitress. I knew from the start I wanted to help others like me to achieve the same heights.

- Civil legal aid lawyer serving low-income families in Pennsylvania

I went to law school specifically with the intention of going into public service and took out student loans based on a calculation that public service loan forgiveness would be available. I know that I am not alone in that position and if it weren't for the availability of PSLF I may not have gone to law school at all because the debt proposition would not have made sense to me otherwise. PSLF is a key element in my ability to work in an economically depressed rural area for a wage much lower than I would make in private practice in an urban area. I believe that other rural legal aid providers are mostly in a similar situation.

– Civil legal aid lawyer serving victims of crime in Washington



# Part Two: Program Executives

Responses from top executives at civil legal aid and public defender programs

### **Recruitment & Retention**

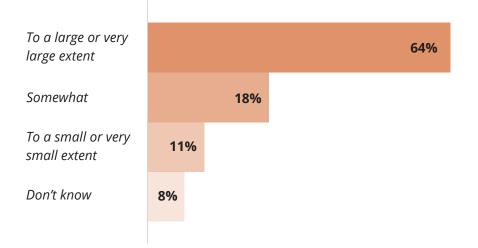
This portion of the survey was open only to top executives at public defender and civil legal aid programs, specifically chief public defenders, executive directors, and equivalent individuals. Their perspectives help explain the impact of PSLF at the organizational level, and provide insight into the potential consequences for the effective functioning of programs if PSLF were eliminated. Their responses mirror the data provided by borrowers. Program leaders indicated awareness that PSLF provides their employees with a promise of financial security that they could not offer without imposing a significant strain on their already limited budgets.

Our lawyers can't afford to work at legal aid, pay their student loans, and buy a home. Loan forgiveness allows them the hope of home ownership some day.

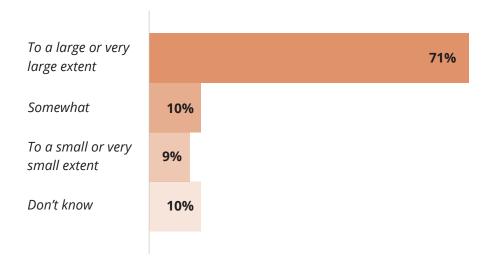
– Civil legal aid program executive

# To what extent does PSLF improve your ability to recruit qualified employees?

n = 91



# To what extent does PSLF improve your ability to retain your current employees?



Written comments reveal concern that if there were changes to PSLF, programs would experience greater difficulty hiring new attorneys, including in rural areas where certain skills are in short supply and where recruiting new staff can be particularly challenging. Further, without PSLF, executives anticipate investing time and resources training and supporting the professional development of newer attorneys, only to see them quickly leave for the private sector, which would deprive clients of the benefits of their expertise and require the program to invest additional resources in training a replacement.

> Without PSLF agencies will revert to training PD's and prosecutors as "baby lawyers" and then seeing them grow up and do something else. PSLF has caused a sea change of lawyers interested in staying in public service as a career instead of for 1-3 years for training before moving onto a higher level firm position. The clients served in this area deserve quality representation - both prosecution and defense - and we can't eliminate a huge factor in encouraging quality lawyers to stay.

– Chief public defender



Our state is mostly rural with two metropolitan areas. Without the ability to look forward to possible loan forgiveness, we would not be able to recruit as many attorneys to work in the rural parts of our state. They would need to stay in the cities with the larger firms or government agency offices.

– Chief public defender

## 66

Legal aid salaries are low, so keeping attorneys on board with us after they've gotten experience under their belts is a constant challenge.

– Civil legal aid program executive

### **Impact on Program Resources**

Executives foresee significant negative consequences for their organizations if PSLF is eliminated, as programs could be forced to alter their salary structures in order to compensate for the withdrawal of the forgiveness incentive. This would either reduce the resources available to invest in additional staff, decreasing the number of people the program is able to serve or leading to salary compression, making it more difficult to retain more experienced staff.

"

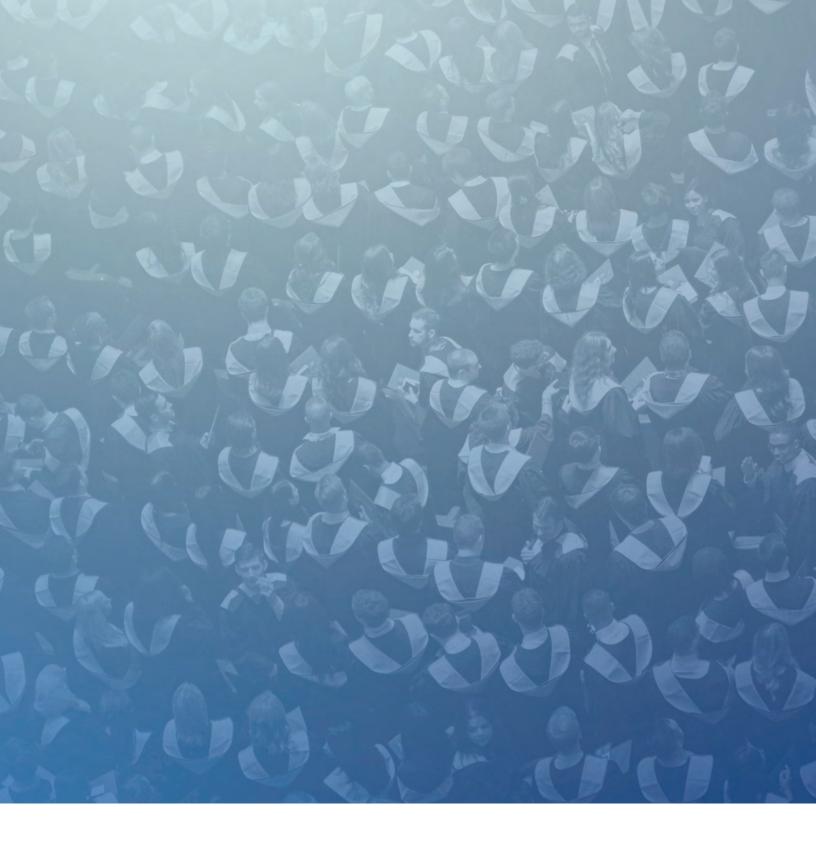
Just the threat of elimination is forcing us to consider increasing salaries and other compensation immediately, because new grads are assuming the program will be eliminated and are planning accordingly.

- Civil legal aid program executive



Our salaries are at the bottom of government/ NPO organizations. We cannot increase the bottom end without dealing with salary compression and deficit spending, especially in light of the federal budget situation. The PSLF program is the most important economic recruiting tool we have. If it goes away, then we are placed in very difficult straits.

– Civil legal aid program executive





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