

# 2012 Report on Legal Services Funding



The Washington Council of Lawyers  
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## **INTRODUCTION**

The Washington Council of Lawyers is a non-profit organization of lawyers and legal workers committed to the spirit and practice of law in the public interest. Founded in 1971, the Washington Council of Lawyers is the area's only voluntary bar association dedicated exclusively to promoting *pro bono* and public interest law. Council members represent every sector of the Washington legal community – lawyers and pro bono coordinators from large and small law firms and law schools, lawyers from public interest groups, government agencies and congressional offices, as well as law students and members of law-related professions. We share a common concern for the well-being of our community and the integrity of our civil and constitutional rights.

The Council recently sought to assess the current status of civil legal aid to low-income families in light of the nation's recent economic challenges. The Council's review revealed a dire reality: funding to vital legal aid programs has plummeted, while the demand for the services they provide has climbed to an all-time high. Significant funding cuts threaten the efficacy and even the existence of programs that protect low-income families' access to such basic human needs as safe housing, food, subsistence income, safety, and family stability. To reverse this trend, lawmakers must take immediate action to protect legal aid programs and the constituents they serve. As detailed in this Report, the Council concludes that the most effective way to ensure that low-income families continue to have equal access to justice in the form of quality civil legal aid is to provide adequate support and funding to the Legal Services Corporation.

## **EXECUTIVE SUMMARY**

In November 1983, the Council authored a report on the Status of Legal Services for the Poor. Federal funding for the Legal Services Corporation had just been cut by 25%, and the report sought to assess the impact of the funding cuts on the quality and scope of legal representation for the poor. The report concluded that the cuts in funding translated into a 30% decrease in staff attorneys, office closings, diminished caseloads, and a reduction in the scope and depth of representation.

After reviewing the results of a survey the Legal Services Corporation (“LSC”) conducted among its programs at the end of 2011, the Council decided to issue a renewed report assessing the current state of legal aid and evaluating the impact of the nation’s recent economic challenges on these programs. This Report finds and recommends as follows:

- Unlike criminal defense, civil legal aid is not guaranteed for low-income Americans. Instead, low-income families obtain access to civil legal aid almost entirely through legal service organizations dedicated to providing free or low-cost legal services which, because of limited resources, are able to provide assistance to only a fraction of those who are eligible for services.
- Funding for such civil legal aid programs comes from a variety of sources. By far, the largest source of funds for civil legal aid comes from the Legal Services Corporation (“LSC”), a non-profit corporation established by Congress to help ensure equal access to justice for low-income Americans.
- As a result of the nation’s recent economic challenges, funding for civil legal assistance from all sources, including LSC, has plummeted. At the same time, the

population of Americans eligible for and in need of legal assistance has only increased. The recession has driven millions of Americans below the poverty line and subjected families to new legal obstacles as a result of unemployment, home foreclosure, bankruptcy, and other economic difficulties. These Americans rely on civil legal assistance to protect their families' basic needs.

- In light of these economic realities, legal service providers across the country face budget shortfalls that have forced them to cut staff, reduce services, and eliminate offices and programs. These cuts have, in turn, translated directly into reductions in the amount of legal assistance available to low-income families.
- Increasing funding to LSC is an effective way for Congress to provide widespread support to legal services programs that provide critical services to low-income families.
- LSC represents the largest source of funding to legal service providers. LSC funds 135 legal aid programs and over 900 offices throughout the country. LSC, which has a strong history of bipartisan support, has existing and proven structures for selecting, funding, and overseeing grantees.
- Through LSC, Congress can help to ensure that low-income families have access to the legal assistance they need to protect their families, secure safe housing, navigate complex consumer challenges, and obtain necessary public benefits.
- **To ensure that low-income Americans have equal access to justice and to basic necessities lawmakers must take action to increase funding available to legal aid programs.**

## **I. ECONOMIC REALITIES JEOPARDIZE LEGAL SERVICES TO LOW INCOME FAMILIES**

### **A. Sources Of Funding For Legal Services**

Funding for civil legal assistance in the United States comes from a wide variety of sources. Total revenue from all sources for civil legal aid in the 50 states reached a high of \$1.375 billion in 2009.<sup>1</sup>

By far, the largest source of funds comes from the Legal Services Corporation. Established by Congress in 1974, LSC is an independent corporation governed by federal laws and regulations. Funding for LSC is appropriated on an annual basis and has fluctuated over the years since LSC was established in 1975. Funding from LSC provides the basic infrastructure to support the civil legal assistance system throughout the United States and its territories. LSC provides funding, allocated on a census-based formula, to 135 grantees that serve the low-income population in every county in the nation. Some LSC grantees are funded to provide services statewide. Others serve a specific region of a state, and still others serve a particular urban or rural area within a state. Funding from non-LSC sources varies widely from state to state and

### **The Legal Services Corporation**

Established by Congress in 1974, the Legal Services Corporation is an independent 501(c)(3) nonprofit corporation that promotes equal access to justice, primarily by funding and overseeing civil legal aid programs for low-income Americans. LSC is governed by federal laws and regulations. A bipartisan board of eleven directors appointed by the President and confirmed by the Senate heads the Legal Services Corporation. The board appoints a president, who serves as the Chief Executive Officer of LSC.

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<sup>1</sup> According to data collected and compiled by the American Bar Association's Resource Center for Access to Justice Initiatives, a project of the Standing Committee on Legal Aid and Indigent Defense (SCLAID).

region to region, but in many areas of the country, funding from LSC represents the vast majority of funds that are available to support civil legal assistance.

The second largest source of funding for civil legal assistance is Interest on Lawyers' Trust Account (IOLTA) programs, which were first established in the 1980s and are now in existence in all 50 states, the District of Columbia, and the Virgin Islands. IOLTA funds consist of interest earned on lawyer trust accounts from nominal or short-term client funds that are too small or held too briefly to earn net interest for the clients. The accounts are pooled, and the interest earned is used to provide grants for civil legal aid, as well as administration of justice and other charitable purposes. IOLTA funds are highly dependent on interest rates and levels of business activity. In 2008, IOLTA generated \$233.9 million for legal aid groups nationally.<sup>2</sup> IOLTA funding for programs also funded by LSC reached \$111.8 million in 2008.<sup>3</sup>

States and local jurisdictions also provide

## **LSC: Strong Bipartisan Support**

The Legal Services Corporation has a strong history of bipartisan support. President Nixon proposed the establishment of LSC, and Democratic Senator Walter Mondale and Republican Representative William Steiger introduced legislation in 1971. Throughout the debates, leaders on both side of the aisle acknowledged the need for the creation of LSC. Senator Mondale argued that, "If the poor and the powerless do not have free access to our legal system, government by law is a failure."

Senator Kay Bailey Hutchison noted that "the LSC has had strong bipartisan support" in her opening statement to the Senate Appropriates Subcommittee, which approved a bill that would increase LSC funding in 2013 to \$402 million. Sen. Hutchison's Opening Statement at Senate Appropriations' CJS Subcommittee Fiscal Year 2013 Mark-up, available at [http://hutchison.senate.gov/?p=press\\_release&id=1083](http://hutchison.senate.gov/?p=press_release&id=1083).

<sup>2</sup> According to data collected by and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>3</sup> Legal Services Corporation Budget Request Fiscal Year 2013

<http://www.lsc.gov/sites/default/files/LSC%27s%20FY%202013%20BUDGET%20REQUEST.pdf>

significant funding for civil legal assistance through direct appropriations, court filing fee add-ons, grants and contracts, and a variety of other mechanisms. In 2010, funding for all civil legal aid programs – both LSC grantees and non-LSC funded programs – from state appropriations and court fee filings reached approximately \$254 million.<sup>4</sup> In the same year, state funding for LSC grantees reached \$125.3 million, down from \$154.7 million in 2009.<sup>5</sup>

Numerous federal agencies, including the Department of Justice, the Department of Housing and Urban Development, and the Internal Revenue Service also provide grants for civil legal assistance. In 2009 these various sources of non-LSC federal funding reached \$117 million.<sup>6</sup>

Legal Aid programs also receive funding from a wide range of private funding sources, including bar associations, private foundations, United Way organizations, law firms and private attorneys, attorneys' fees, cy pre awards, and religious institutions. While estimates for the amount of these funds vary widely, in 2009 the ABA estimates that funding from these sources reached almost \$300 million.<sup>7</sup>

## **B. Reductions In Funding**

In recent years, there have been significant cuts to each of these sources of funding to legal services.

**LSC:** Funding for LSC comes entirely from annual Congressional appropriations. After reaching a high-water mark in 2010 of \$420 million, funding for LSC has decreased by more than 17% in just two years.<sup>8</sup> Although the Obama Administration sought an increase in funding

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<sup>4</sup> According to data collected by and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>5</sup> LSC Budget Request 2013.

<sup>6</sup> According to data collected by and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>7</sup> According to data collected by and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>8</sup> These are actual dollars. According to the LSC 2013 Budget Request, if LSC's 1995 appropriation of \$400 million had been increased to keep up with inflation, funding would have reached \$594 million in 2011.

for LSC to \$450 million in 2011, Congress authorized only \$404.1 million. For 2012, Congress cut LSC funding still further to \$348 million, a level equivalent to LSC's funding in 2007. On April 19, 2012, the Senate Appropriations Committee approved a bill that would provide \$402 million to LSC, which would restore funding to slightly below the 2011 level of \$404.1 million. Shortly after, the House Appropriations Committee approved a bill that would provide \$328 million, a cut of \$20 million from the 2012 funding level. The full House and Senate are expected to vote on the matter in early May. For those LSC grantees that look to LSC for the majority of their overall funding, cuts in the LSC appropriation represent a critical decrease in available resources that substantially reduces their ability to provide services to the low-income population.

**IOLTA:** Funding for IOLTA programs is highly dependent on interest rates and the vicissitudes of the business cycle. Since the advent of the recession in late 2008, interest rates have plummeted to record lows, and business activity has slowed significantly. As



a result, between 2008 and 2010, funds available for IOLTA programs decreased dramatically. Nationally, IOLTA funds for all legal services programs dropped to \$122.9 million in 2010.<sup>9</sup> IOLTA funding for LSC recipients in 2010 dropped to \$67.9 million.<sup>10</sup> Decreases in the amounts of IOLTA funding have varied significantly from state to state, depending in large measure on the size of the program at the outset of the economic turndown. Ironically, those states with the largest IOLTA program revenue suffered the greatest reductions in IOLTA funding because the IOLTA programs provided the largest share of the state's overall legal

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<sup>9</sup> According to data collected and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>10</sup> LSC Budget Request 2013.



services resources. For example, the six LSC-funded legal aid providers in New Jersey saw a drop in IOLTA funding from \$40 million in 2007 to \$8 million in 2010.<sup>11</sup> IOLTA revenues in Florida plunged 88 percent in three years and significant additional cuts are likely over the next three years.<sup>12</sup> IOLTA in Washington State fell from a peak of \$9.5 million in 2007 to \$2 million in 2011.<sup>13</sup> Legal Services of Northern Virginia saw its IOLTA funds drop from \$4.7 million in 2007 to less than \$700,000 in 2011.<sup>14</sup> Programs with smaller IOLTA programs suffered proportionately less from the IOLTA cuts, although they began with far fewer resources than those programs with larger IOLTA programs. One example is Iowa Legal Aid, the statewide legal services provider in Iowa, which saw a 79% reduction in IOLTA funding from its 2008 funding level of \$828,572 to \$172,000 in 2011.<sup>15</sup> Another example is Mid-Missouri Legal Services Corporation, which suffered a cut from \$115,000 in 2009 to \$63,000 in 2011.<sup>16</sup> Some of the larger IOLTA programs were able to postpone major grant reductions, because they could fall back on accumulated reserves. Even those states, however, face the prospect of dipping into reserves for 2012 and beyond.<sup>17</sup>

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<sup>11</sup> Karen Sloan, *Perfect Storm Hits Legal Aid*, The National Law Journal (January 3, 2011) [http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202476843961&Perfect\\_storm\\_hits\\_legal\\_aid&slreturn=1&hbxlogin=1](http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202476843961&Perfect_storm_hits_legal_aid&slreturn=1&hbxlogin=1)

<sup>12</sup> Bill Abbuehl, *State Funding Falls as Need for Legal Help Increases*, Florida Voice (March 28, 2012) <http://www.news-journalonline.com/opinion/editorials/guest-columns/2012/03/28/state-funding-falls-as-need-for-legal-help-increases.html>

<sup>13</sup> Keegan Hamilton, *The Unlikely Reason the Recession is Killing Legal Aid for the Poor*, Seattle News-The Daily Weekly Blog (January 25, 2012) [http://blogs.seattleweekly.com/dailyweekly/2012/01/double\\_whammy\\_recessions\\_low\\_interest\\_rates\\_cutbacks\\_legal\\_help\\_poor.php](http://blogs.seattleweekly.com/dailyweekly/2012/01/double_whammy_recessions_low_interest_rates_cutbacks_legal_help_poor.php)

<sup>14</sup> Catherine Ho, *Budget Cut Hits Region's Legal Aid Groups*, The Washington Post (Feb. 12, 2011) [http://www.washingtonpost.com/business/capitalbusiness/budget-cut-hits-regions-legal-aid-groups/2012/02/07/gIQASdyR9Q\\_story.html](http://www.washingtonpost.com/business/capitalbusiness/budget-cut-hits-regions-legal-aid-groups/2012/02/07/gIQASdyR9Q_story.html)

<sup>15</sup> March 6, 2012 email from Dennis Groenenboom, Executive Director of Iowa Legal Aid.

<sup>16</sup> Laura Kebede, *Legal Services Corporation Announces Budget Cuts Despite Increase in Caseload*, Columbia Missourian (January 27, 2012) <http://www.columbiamissourian.com/stories/2012/01/27/legal-services-corporation-announces-budget-cuts-layoffs/>

<sup>17</sup> Andrea F. Siegel, *Legal Services Programs for the Poor Facing Cuts*, Baltimore Sun (Feb. 6, 2012) <http://www.baltimoresun.com/news/breaking/bs-md-legal-cuts-20120206,0,2030471.story>

**State Funding:** Nationally, resources from state sources such as surcharges on state court filing fees and fines have remained relatively constant over the last several years. But a state-by-state analysis depicts a different story. Some states have suffered drastic reductions as a result of economic challenges. For example, the amount of funding for legal aid in Maryland from filing fee surcharges fell more than \$1 million short of the \$6.1 million in projected income for 2011 because of a significant decrease in the number of new civil cases that were filed in the state.<sup>18</sup>

State appropriations for legal services vary widely from state to state, and in many states, appropriations have been cut significantly or even eliminated in the last several years. As of July 1, 2011, state funding for legal services had been entirely eliminated for Wisconsin.<sup>19</sup> In Pennsylvania, the governor proposed a 10% cut in legal aid funding for 2012.<sup>20</sup> In Iowa, state funding dropped from \$1.9 million in 2011 to \$1.8 million in 2012.<sup>21</sup> The governor of Florida recently vetoed a \$2 million appropriation for legal aid in that state.<sup>22</sup>

In other states, the legislatures have increased appropriations to offset large reductions in IOLTA funding. The Texas legislature appropriated a \$20 million emergency allocation to help fill the IOLTA shortfall for 2009 and 2010, and an additional \$17.5 million for 2011-2012.<sup>23</sup> Generally such increases are only temporary and only partially compensate for the IOLTA decreases.

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<sup>18</sup> Andrea F. Siegel, *Legal Services Programs for the Poor Facing Cuts*, Baltimore Sun (Feb. 6, 2012) <http://www.baltimoresun.com/news/breaking/bs-md-legal-cuts-20120206,0,2030471.story>

<sup>19</sup> According to data provided by the Legal Services Corporation.

<sup>20</sup> Amaris Elliott-Engel, *Corbett proposes Flat Judiciary Funding*, The Legal Intelligencer (Feb. 13, 2012) <http://old.post-gazette.com/pg/12044/1209382-499.stm>

<sup>21</sup> March 6, 2012 email from Dennis Groenenboom, Executive Director of Iowa Legal Aid.

<sup>22</sup> <http://www.lawadvice.ws/budget-veto-hits-legal-services-hard-the-news-press/>

<sup>23</sup> *Texas Access to Justice Commission and Foundation Applaud Texas Legislature for Providing Funding for the State's Legal Aid System* (July 21, 2011) <http://www.prnewswire.com/news-releases/texas-access-to-justice-commission-and-foundation-applaud-the-texas-legislature-for-providing-funding-for-the-states-legal-aid-system-125971318.html>

On a national level, state funding reached \$212.2 million in 2008, and rose to \$253.8 million by the beginning of 2010, dropping back to \$249.7 million by the beginning of 2011.<sup>24</sup> More recent national data on state funding is not yet available, but decreases in state appropriations for 2011 and 2012 are expected. State funding for LSC grantees varied from \$145.9 million in 2008, to \$154.7 million in 2009, dropping back to \$125.3 million in 2010.<sup>25</sup>

**Other Funding Sources:** Funding from other sources remained relatively stable between 2008 and 2010. Other public funding, including non-LSC federal funding, rose from \$275 million in 2008 to an estimated \$283.8 million in 2010.<sup>26</sup> Deficit reduction efforts on the federal level are likely to reduce federal funding going forward. Private legal aid funding rose from \$280.7 million in 2008 to an estimated \$299.8 million in 2010.<sup>27</sup> Data is not yet available for more recent funding from private sources.

### **C. Increases In The Demand For Legal Services**

Although funding for legal services programs has experienced a significant decline, the demand for their services has only increased in recent years. In the wake of the 2008 recession, millions of Americans who lost their jobs or suffered some other economic setback



have slipped into poverty. In 2007, there were 50.8 million people in the United States (17% of the total population) with incomes below 125% of the poverty line (\$13,963 for an individual or \$28,813 for a family of 4), the level at which they were eligible for services from LSC-funded programs. According to data from the US Census Bureau, by 2010, 60.4 million people in the

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<sup>24</sup> According to data collected and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>25</sup> LSC Budget Request 2013.

<sup>26</sup> According to data collected and compiled by ABA's Resource Center for Access to Justice Initiatives.

<sup>27</sup> According to data collected and compiled by ABA's Resource Center for Access to Justice Initiatives.

United States (19.8% of the total population) had fallen below 125% of the poverty line. This reflects an increase of 19%. LSC estimates that by 2013 the LSC-eligible population will grow to 66.6 million, or 21.1% of the total population.<sup>28</sup> Among this population are an increasing number of our nation's veterans and military families, including many returning from service in Iraq and Afghanistan. In 2007, 5.4% of all veterans lived in poverty; in 2010 that number had risen to nearly 7%, with more than 1.4 million veterans living in poverty.<sup>29</sup>

This huge increase in the poverty population puts enormous new demands on the diminishing resources of civil legal assistance programs. For example, many more people need assistance as they face foreclosures. According to LSC, its grantees saw a 20% increase in foreclosure cases between 2009 and 2010, and 40 LSC grantees established foreclosure units in response to increased demand for these services.<sup>30</sup> Economic pressure also places additional stress on fragile families, increasing the need for legal assistance to deal with domestic violence, child custody, divorce, and other family law needs. Domestic violence cases handled by LSC grantees rose from 44,719 in 2008 to 48,957 in 2010.<sup>31</sup> Low-income workers and consumers need help as they face legal problems associated with lay-offs, unemployment insurance issues, bankruptcy and debt relief. LSC grantees handled 15,154 unemployment compensation and 31,653 bankruptcy and debt relief cases in 2008. By 2010 those numbers had risen to 27,334 and 39,346 respectively.<sup>32</sup> Those numbers are only expected to rise. Legal services are needed now more than ever.<sup>33</sup>

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<sup>28</sup> LSC Budget Request 2013.

<sup>29</sup> LSC Budget Request 2013.

<sup>30</sup> LSC Budget Request 2013.

<sup>31</sup> LSC Budget Request 2013.

<sup>32</sup> LSC Budget Request 2013.

<sup>33</sup> As an example, the Legal Aid Society, New York City's largest legal aid provider, with an annual caseload of 300,00, saw a 40% increase in people seeking assistance with health care problems, a 21% increase in those seeking help with evictions, and a 6% increase in those seeking help in domestic violence cases, according to attorney-in-chief Steven Banks quoted in Karen Sloan, *Perfect Storm Hits Legal Aid*, The National Law Journal (January 3,

#### **D. Reductions in Staff, Services and Programs**<sup>34</sup>

These harsh economic realities have wreaked havoc on legal aid programs across the country. In late December 2011 and early January 2012, LSC conducted a brief survey among its 135 grantees<sup>35</sup> seeking information on the impact of LSC, IOLTA, and other funding cuts on their staffs, offices, and the legal services they were able to provide to the low-income client population. According to the results of the survey, LSC grantees estimated that, between 2010 and 2012, they would reduce their attorney staffs on a national basis by 13.3% from 4,351 to 3,769; their paralegal staffs by 15.4% from 1,614 to 1,364; and their support staffs by 12.7% from 3,094 to 2,700. Many programs expected to significantly reduce the level of civil legal assistance to the low-income community through downsizing, closing offices, limiting intake,<sup>36</sup> and screening new clients. The survey found that morale is low at many grantee programs, and because of the uncertainty of funding prospects, many programs have serious concerns about their ability to recruit and retain attorneys and other staff in the future.<sup>37</sup>

During 2011, 54 LSC grantees reported that they had laid off staff, including 136 attorneys, 78 paralegals, and 139 support staff, for a total of 353 staff positions cut. Seventy-one grantees reported that they anticipated laying off additional staff during 2012, including 136 additional attorneys, 91 additional paralegals, and 142 additional support staff, for a total of 370 additional staff. Grantees that were successful in avoiding or forestalling layoffs often did so by dipping into financial reserves and deficit spending, freezing or reducing salaries,

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2011)

[http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202476843961&Perfect\\_storm\\_hits\\_legal\\_aid&slreturn=1&hbx\\_login=1](http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202476843961&Perfect_storm_hits_legal_aid&slreturn=1&hbx_login=1)

<sup>34</sup> General data for this section of the report was provided by the Legal Services Corporation. Specific examples came from the sources noted in the footnotes and from comments that accompanied the LSC survey data, the LSC Budget Request for 2013, and articles from newspapers, internet and other media sources.

<sup>35</sup> According to LSC, 131 of the 135 programs responded to the survey for a response rate of 98%.

<sup>36</sup> March 6, 2012 email from Dennis Groenenboom, Executive Director of Iowa Legal Aid.

<sup>37</sup> LSC Budget Request 2013.

cutting employee benefits, furloughs, closing and consolidating offices, not filling vacancies, providing more advice and limited representation services rather than full legal representation, and, in a few instances, successfully raising additional funds from other sources.

Although the numbers vary from program to program, estimates suggest that as many as 200-300 fewer clients will be served for each attorney who is laid off. Because legal assistance provided to one family member affects the entire family unit, on average, the lives of 500-750 low-income individuals are impacted for each staff attorney reduction. Additionally, with fewer staff attorneys available, many clients would receive only limited representation, advice, or legal information rather than full representation to assist them with their legal problems.

The following examples illustrate the impact of economic challenges on legal service programs and their clients. Unless otherwise cited, the examples were provided as part of the 2011 LSC survey data.

- **Iowa Legal Aid (ILA)** closed almost 17% fewer cases in 2011 than it did in 2010, despite the fact that the eligible population climbed by 140,000 in the last decade. As of the beginning of March, 2012, ILA was operating under a hiring freeze and had 12 fewer attorneys and 9 fewer support staff than it did at the beginning of 2010. The program has had to restrict intake in several areas of law. It closes its offices to the public at 4:30 each day and has eliminated one of ten intake sessions. A projected 15,000 families were turned away or underserved in 2011, due to a lack of staff resources. March 6, 2012 email from Dennis Groenenboom, Executive Director of Iowa Legal Aid.
- **Land of Lincoln Legal Assistance**, one of three programs serving the low-income community in Illinois, had a total staff of 80 in 2010. The program lost one member of its support staff in 2011, but anticipated that as of April 2012 it would eliminate 14 additional positions, for a total staff reduction of approximately 20% since 2010. March 16, 2012 email from Linda Zazove, Deputy Director, Land of Lincoln Legal Assistance Foundation.
- **Legal Aid of Arkansas**, serving 31 counties in northern Arkansas, laid off three staff attorneys, three paralegals, and three support staff in 2011 and plans to close an office and lay off eight additional staff in 2012. *Legal Aid of Arkansas to Lay Off Workers* 4029news.com (January 24, 2012) <http://www.4029tv.com/r/30285735/detail.html>

- **South Coastal Counties Legal Services (SCCLS)**, serving Cape Cod and southeastern Massachusetts, went through a substantial reorganization in 2011, merging with another legal services provider in the region. In part, the merger was a response to 2010 program layoffs. In 2011 SCCLS closed one office and combined two offices into one location. As of the beginning of March 2012, the program had been forced to lay off 10 additional staff and close three offices. The remaining employees are trying to handle the work load while accepting a 9 percent pay cut. The situation would have been even worse were it not for a \$140,000 supplemental budget allocation passed by the Massachusetts legislature. “Funding Cuts Force Layoffs, Closings at Legal Services” Steve Urbon, March 12, 2012, South Coast Today.com <http://www.southcoasttoday.com/apps/pbcs.dll/article?AID=/20120312/NEWS/203120317>.
- **Legal Aid of the Bluegrass**, serving low-income families in 33 counties in Kentucky had eliminated 9 of its staff positions, including 5 lawyers, as of March 2012. Jim Hannah, *Legal Aid Lets Go 9 Staff*, Cincinnati.com (Mar. 12, 2012) <http://news.cincinnati.com/article/20120311/NEWS0103/303120009/Legal-Aid-lets-go-9-staff>. These cuts were in addition to the 5 attorneys and 2.5 support staff that the program had laid off in 2011. The program has lost 20% of its legal staff and will be cutting back on its consumer and elder-law services.
- **Legal Services of Eastern Missouri (LSEM)**, serving St. Louis and surrounding counties, lost six of its paralegal and support staff in 2011, froze salaries for 2012, and anticipates losing additional staff, including attorneys, in 2012. LSEM will be able to handle 375 fewer cases, which will affect nearly 1,000 people in its service area. Gregg Jones, *Legal Services Group Hit with Major Funding Cut*, The Missourian: Top Stories (Mar. 21, 2012) [http://emissourian.com/news/top\\_stories/article\\_7bbe9275-713f-5044-8369-2f6f](http://emissourian.com/news/top_stories/article_7bbe9275-713f-5044-8369-2f6f)
- Despite the fact that it had raised nearly \$1 million of new money in each of the previous two years, the statewide program serving the low-income community in North Carolina, **Legal Aid of North Carolina**, was forced to lay-off thirty staff members in 2011, including 12 attorneys, 10 paralegals, and 8 support staff. Additional lay-offs may be necessary in 2012. Three of its offices closed in September 2011, and three others were affected. The 2,000 households served annually by the offices that were closed will have to travel to other offices, pay for their own legal services, or rely on Legal Aid’s toll-free helpline. *Legal Aid of NC to Close Offices, Reduce Staff and Services, Affecting Thousands in NC*, LANC Media Release (Aug. 5, 2011) [http://www.legalaidnc.org/public/learn/media\\_releases/2011\\_MediaReleases/2011\\_MediaRel\\_LANCToCloseOfficesReduceStaffandServicesAffecting100sInNC\\_Aug\\_05\\_11.aspx](http://www.legalaidnc.org/public/learn/media_releases/2011_MediaReleases/2011_MediaRel_LANCToCloseOfficesReduceStaffandServicesAffecting100sInNC_Aug_05_11.aspx)

- **Pine Tree Legal Aid**, the statewide legal services provider for the State of Maine, laid off 7 of its 59 staff members during 2011, including three attorneys. The program estimates that as a result of its loss of \$625,000 in federal, state, and IOLTA funding, 1,500 fewer low income families will be able to access legal services in 2012. This year Pine Tree will celebrate its 45<sup>th</sup> year as a legal aid provider with a lower staffing level than it had in 1972, its 5<sup>th</sup> anniversary. It anticipates further staffing reductions if its voluntary severance package for attorneys with ten or more years of legal experience is not effective. If it is effective, the voluntary severance program would reduce Pine Tree's overall staffing level to 48 employees statewide and would reduce its employee staff from 31 to 25.
- While holding the line on salary freezes and benefit reductions, **Northwest Justice Project**, the statewide legal services provider in the state of Washington, lost 16 attorneys from 2009 to 2011 and anticipates additional layoffs in 2012.
- **Neighborhood Legal Services Program (NLSP)**, serving the District of Columbia, has cut six of its 25 employees, including three attorneys, since the beginning of 2010. In an attempt to keep up with the greater demand for legal services, including mortgage foreclosure cases which have doubled since late 2008, NLSP is actively seeking new sources of financial support. Currently, NLSP plans no more layoffs.
- As of February 2012, **Legal Services of Northern Virginia** was “actively pursuing” closing its office in Fall Church and consolidating two more offices. It has a hiring freeze in place and has lost six positions through attrition, but has managed to avoid layoffs.
- **The Legal Aid Bureau of Maryland**, with 300 employees in 12 offices throughout the state, has not laid off any staff and does not plan any layoffs for 2012. To compensate for the LSC funding cuts, the Bureau is looking to replace retiring staff with lower paid new hires, tighten travel and other expenses, and intensify its fundraising campaigns. It has also benefitted from a new filing fee surcharge on civil cases enacted in 2010 to help fund legal services. Catherine Ho, *Budget Cut Hits Region's Legal Aid Groups*, The Washington Post (Feb. 12, 2011) [http://www.washingtonpost.com/business/capitalbusiness/budget-cut-hits-regions-legal-aid-groups/2012/02/07/gIQASdyR9Q\\_story.html](http://www.washingtonpost.com/business/capitalbusiness/budget-cut-hits-regions-legal-aid-groups/2012/02/07/gIQASdyR9Q_story.html)



## II. INCREASING FUNDING TO THE LEGAL SERVICES CORPORATION WILL PROTECT ACCESS TO VITAL CIVIL LEGAL SERVICES

In light of the dire circumstances facing legal service programs and their clients, it is imperative that lawmakers take immediate steps to increase funding to legal services programs. Although all sources of funding are important and should be protected, it is particularly critical that Congress provide adequate support and funding to the Legal Services Corporation. As mentioned previously, LSC represents the largest source of funding to civil legal aid programs. It funds and oversees 135 grantees that provide a wide spectrum of vital legal services to low income families across the nation and serves as the basic foundation of the civil legal assistance system throughout the United States and its territories. This section provides a more detailed description of LSC and the programs it oversees and supports.

### **LSC: A Noble Mission**

Under the Legal Services Corporation Act's declaration of purpose, Congress found that:

- (1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;
- (2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;
- (3) providing legal assistance to those who face an economic barrier to adequate legal counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this chapter;
- (4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;
- (5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and
- (6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

Legal Services Corporation Act, 42 U.S.C. 2996.

## **A. The Role of LSC**

### **1. The Mission Of LSC**

LSC's mission is "to promote equal access to justice in our Nation and to provide high quality civil legal aid to low-income persons."<sup>38</sup> The Legal Services Corporation Act, which established the Legal Services Corporation, ensures a federal commitment to promote equal justice for all. According to Legal Services Corporation president, Jim Sandman, "LSC is the bedrock on which our national system of access to civil justice stands—and its foundation for the future."<sup>39</sup>

The Legal Services Corporation also has to be independent, to enable the lawyers in the program to have the freedom to protect the best interests of their clients. Because of strong Congressional support over the years, LSC has become a permanent and vital part of the American system of justice. Continued support of the program is necessary to enable LSC to further its important mission and promote access to justice for all Americans.

### **2. Competitive Grants To And Oversight Of Legal Aid Programs**

LSC furthers its mission by operating a competitive grant program for civil legal aid programs that provide high quality civil legal assistance to low-income Americans. These grants represent the single largest source of funding to legal assistance for low-income individuals in the country. Ninety-five percent of LSC's funding goes towards these grants, reaching 135 legal aid programs and over 900 offices throughout the country.<sup>40</sup>

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<sup>38</sup> LSC Mission Statement, <http://www.lsc.gov/mission>

<sup>39</sup> Message from the President of LSC, <http://www.lsc.gov/about/message-president>

<sup>40</sup> In addition to Legal Services Corporation programs in each of the 50 states, there are LSC programs in the US territories such as American Samoa, Guam, and Puerto Rico, as well as Micronesia.

In 2010, LSC spent over \$418 million throughout the country for grants and related support.

Basic field grants for high quality legal assistance programs made up just under \$400 million of that amount.<sup>41</sup>

### **LSC Technology Grants Initiative**

One specific Legal Services Corporation grant program is LSC's Technology Grants Initiative. These grants support using technology to develop self-help forms and online information to help people navigate the legal system, strengthen the efficiency of the courts, and improve pro se assistance. Given that studies show that no more than 20% of low-income people with civil legal problems can get help, the Technology Initiative Grants program broadens the work of legal aid providers through personal computers and the Internet. From 2000, when Congress authorized funding for this initiative, through 2010, LSC has awarded over 450 grants totaling more than \$36 million. <http://tig.lsc.gov/about-us/background>. Through the program, there is now a national network of legal aid websites in all U.S. states and territories. Online help for document preparation, intake solutions for prospective clients, and assistance in claiming the Earned Income Tax Credit and veterans benefits are other examples of the impact from the Technology Initiative Grant program.

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<sup>41</sup> LSC 2010 fact book, [http://www.lsc.gov/sites/default/files/Grants/Fact\\_Book\\_2010.pdf](http://www.lsc.gov/sites/default/files/Grants/Fact_Book_2010.pdf)

### 3. Oversight Of Legal Aid Programs

As part of its competitive grants process, LSC ensures that grantees use the funding effectively, efficiently, and in accordance with federal laws and regulations. Oversight, including compliance reviews and program visits, plays a significant role in the LSC's work. LSC reviews grantees' use of funds and makes sure they comply with federal regulations, instructions, and laws.

#### **B. Legal Service Corporation-Funded Programs Provide Vital Services To Low-Income Families**

LSC grantees provide representation to low-income Americans in a number of substantive legal areas, touching on the most basic human needs: safe housing, food, subsistence income, safety, and family stability. They assist individuals and families who are living day to day, paycheck to paycheck, with very little savings or safety net.

The following section provides a sampling of the types of legal assistance LSC-funded programs provide, and highlights some of the many success stories that have emerged as a result.

### **LSC Oversight**

LSC has its own Office of Compliance and Enforcement, which promotes efficacy, efficiency, and oversight within LSC, and ensures that legal aid programs comply with federal laws, regulations, instructions, and guidelines.

The Office of Inspector General (IG) also helps ensure efficient and effective use of federal funds. The IG is independent of the Legal Services Corporation and completes audits, investigations, and reviews to identify any waste, abuse, or fraud. The IG also helps identify ways to improve efficiency and effectiveness in the LSC program.

Both the Office of Compliance and Enforcement and the IG review and respond to complaints made by either members of Congress or the general public.

## 1. REPRESENTATION OF FAMILIES AND CHILDREN

LSC programs provide legal services in a number of ways that benefit children and families. One important area of representation is family law. LSC funded programs provide legal assistance in cases involving domestic violence, child custody, child support, divorce, spousal support, adoption, paternity, and visitation.

For example, families with children need legal assistance to collect outstanding child support, obtain orders setting forth custody arrangements, and finalize adoption papers to provide security and stability for a child. These legal proceedings can be complex and impact the fabric of the family unit. The support of an experienced attorney is an important asset to any family going through legal proceedings surrounding the welfare of a child.

Legal assistance is critically important in the context of domestic violence. When domestic violence occurs, the person being abused may seek a Civil Protection Order to require that the abuser

### Keeping Families Safe

Lynn came to Iowa Legal Aid for help with a protection order from her husband. He had been abusive for years and recently had battered her in front of their children. He was briefly jailed and ordered to stay away from her. Lynn's Iowa Legal Aid staff attorney secured a civil protection order providing immediate support and possession of the family home. Since the protection order was temporary, the attorney filed for divorce on Lynn's behalf to ensure long-term protections and support for the children.

Once an order was in place in the divorce and Lynn and the children were safe, her attorney was able to help with additional issues. She had a housing problem because her husband had damaged their apartment and the landlord was charging her for the damages and threatening eviction. Her attorney was able to work with the landlord to avoid an eviction by holding her ex-husband accountable for the damages. Finally, Lynn was able to resume working, maintain her housing, and ensure long-term safety for herself and her children.

March 6, 2012 email from Dennis Groenenboom, Executive Director of Iowa Legal Aid.

stay away from the abused, her home, her work, and her children's school. The Civil Protection Order may provide for a temporary custody arrangement for any children involved, and may also require the abuser to provide child support, spousal support, and/or pay for any property damage that resulted from the violence. Violation of the Civil Protection Order may result in incarceration or fines.

### **Clean & Safe Housing**

Jimmy's pediatrician diagnosed him with a parasitic infection attributed to roaches, rats and other pests which made his family's home practically uninhabitable. Legal Services for Greater Miami helped Jimmy's family request the landlord to rid the home of pests and make other necessary repairs. Instead, the landlord released the family from their lease and paid them \$1,000 in damages, which made it possible for the family to relocate to safe and clean housing.

*Client Stories*, Legal Services for Greater Miami,  
<http://www.lsgmi.org/?q=node/21>

## **2. HOUSING**

Another basic need of low income families is safe housing. LSC grantees represent individuals who are facing eviction proceedings, or who are living under deplorable conditions and severe housing code violations, such as roach or rodent infestation, mold, broken windows, lack of heat, and lack of hot water. LSC grantees also assist clients with predatory lending and foreclosure cases, utility bill disputes, Fair Housing Act cases, property tax issues, and other housing matters.



## ***Preserving Access to Housing***

*Shelia was a long-time public housing resident living in a mixed-income development. Shelia's 27-year-old son died suddenly from a severe asthma attack. After the funeral service, in the late afternoon, Shelia held a gathering for mourners at her apartment. A few days later she received a notice from the property manager, stating that she had disturbed her neighbors and that her housing subsidy was being terminated. Shelia went to the Legal Assistance Foundation of Metropolitan Chicago for help. At the administrative hearing, Ms. Peterson conceded that many people had come to pay their respects, but she denied causing any disturbance or damage. The Chicago Housing Authority's attorney argued that the gathering was a narrowly averted disaster that could have rivaled a nightclub fire. The hearing officer rejected the Chicago Housing Authority's hyperbolic argument and ruled in Shelia's favor. Her housing voucher was preserved, and she was able to stay in her apartment. After the hearing, Shelia sent her legal services attorney a note, saying, "If not for people like you, people like me would not stand a chance." Legal Assistance Foundation of Metropolitan Chicago, <http://www.lafchicago.org/content/view/180/165/>*

### **3. CONSUMER ISSUES**



LSC programs assist low-income consumers in small claims, bankruptcy, and civil cases against banks, lenders or creditors. The cases may involve debt collection actions, credit reporting problems, student loan issues, auto purchase and auto loan problems, pay day loans and other lending issues and foreclosures.

## Consumer Assistance: Fraud

Davis, now in his early twenties, was a ward of the State of Illinois when he was sexually assaulted at the age of seven. The assault left Davis with serious emotional and mental problems. The State of Illinois brought a legal action on Davis' behalf, against the hospital where he was attacked by hospital employees. The settlement of that case—ten years ago—resulted in an annuity for Davis: \$600 monthly for the rest of his life plus some periodic lump sum payments.

But shortly after Davis began receiving the payments on his 18th birthday, the payments stopped because Davis' brother stole his identity, sold the annuities, and spent the profits from the sale. The Legal Assistance Foundation of Metropolitan Chicago represented Davis in complex proceedings to restore his payments. After four months of talks, the case was settled in December 2011. Davis, who was homeless in Atlanta, can now afford an apartment. He will keep his \$600 monthly benefit, he will get the \$12,000 that accumulated in the court registry while the litigation pended for 20 months, and he will receive \$45,000 in lump sum payments when they become due. When Davis learned of the settlement, he told his attorney: "You changed my life, you changed my life. Thank you." Legal Assistance Foundation of Metropolitan Chicago, <http://www.lafchicago.org/content/view/115/141/>



## Creditor's Rights

Juana, a single mother supporting two young children, went to Legal Services of Greater Miami after wage garnishment resulting from two credit card judgments left her unable to pay her rent and other expenses. Although Juana was actually exempt from garnishment as the head of household, she was not informed of her rights because her creditors sent the required notice to an outdated address. With LSGMI's help, Juana filed a claim requesting that the garnishment stop. The creditors argued her claim should not be considered by the judge because it was late. LSGMI represented Juana in court, and the judge vacated both final judgments of garnishment, granted her claim to have the garnishment stop, and ordered that all money already taken be returned to her. Legal Services of Greater Miami, Consumer Law Project, [www.lsgmi.org/downloads/Consumer-Law-Project.pdf](http://www.lsgmi.org/downloads/Consumer-Law-Project.pdf)



## **Consumer Issues: Used Car Sales**

Ms. A came to Bay Area Legal Aid as a victim of domestic violence seeking a restraining order against her husband and abuser. Ms. A and her husband had been married for seven years and had one child together. Bay Area Legal Aid represented Ms. A at the Domestic Violence Restraining Order hearing. A Bay Area Legal Aid attorney also represented Ms. A in her dissolution case, where she and her husband were battling over custody and support.

During the investigations into Ms. A's property and assets, the attorney discovered that Ms. A entered into a contract to purchase a used vehicle from a dealership. The agreement obligated her to pay \$470/month until 2014. Ms. A had paid approximately \$6,000.00 in down payment and monthly payments to the dealership. Ms. A stopped making payments, however, when she received word that the dealership she had purchased the car from no longer existed. Ms. A notified us that she had been receiving harassing letters, phone calls, and even visits from minions of the dealership owner, who was demanding monthly payments and threatening to repossess her car.

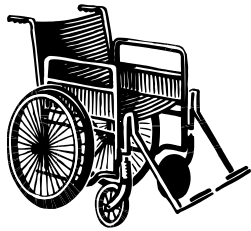
The attorney investigated into the existence of this dealership and learned that it no longer existed. In addition, Ms. A was never given the title nor the registration tags for the vehicle. The dealership owner was widely considered to be a sleazy salesman who was defending several lawsuits and likely to file bankruptcy.

With the assistance of counsel, Ms. A negotiated an agreement with the former dealership owner whereby he agreed to pay Ms. A the entire amount she had paid into the vehicle - \$6,000 - in exchange for the car. The salesman rescinded the original contract and Ms. A's obligation to pay ceased.

Email from Claire Johnson of Bay Area Legal Aid, April 25, 2012.

#### 4. INCOME MAINTENANCE AND PUBLIC BENEFITS

LSC programs help disabled individuals who cannot work and are entitled to seek Supplemental Security Income (SSI). They also assist individuals and families who have disputes regarding public housing, public benefits, food stamps, Medicaid or other health benefits. Federal programs are created to provide assistance to those who qualify, but far too often, without the help of an experienced advocate, benefits may be denied to individuals because they are unable to articulate the circumstances that qualify them for assistance under the applicable program.



##### **Assistance to the Elderly & Disabled**

“Mr. Smith” was being thrown out of the nursing home where he had lived ever since he had his fourth stroke. The stroke left him with no sight or mobility on his left side. He used a wheelchair and needed help getting out of bed in the morning. The nursing home wanted to discharge him - he had been denied Medicaid because he owned an uninhabitable piece of property with a mortgage larger than its value.

A lawyer from the Senior Citizens Law Project of the Atlanta Legal Aid Society helped him to qualify for Medicaid and SSI by providing all the necessary documentation and negotiating with various caseworkers. The lawyer also introduced him to several programs such as Money Follows the Person and SOURCE that he will be applying for in the hopes of receiving needed services at home and living with his wife again.

Email from Steven Gottlieb, Atlanta Legal Aid Society,  
March 6, 2012

## **Protecting Workers' Rights**

J.A. worked as a dishwasher for several years at a local nursing home before the chemicals emitted from an industrial-strength dishwasher caused him to contract pulmonary disease. J.A. brought a doctor's note to his employer and requested that he be transferred to a position where he would no longer be exposed to dangerous chemicals. J.A.'s employer told him that no other position was available, and that he could only come back to work if he could be around the chemicals. When J.A. filed for unemployment, the employer challenged his claim, arguing that J.A. was on a "voluntary leave of absence."

J.A. was unrepresented at his initial hearing and lost his appeal. Legal Services for Greater Miami represented him in his second appeal before the Unemployment Appeals Commission and secured a reversal of the Appeals Referee's decision, successfully arguing that J.A. was on an involuntary leave of absence due to the employer's failure to provide him with work away from the dangerous chemicals that caused and exacerbated his pulmonary disease. As a result, J.A. received the benefits to which he was entitled.

Legal Services for Greater Miami, April 30, 2012  
[www.lsgmi.org/downloads/Unemployment-Advocacy-Project.pdf](http://www.lsgmi.org/downloads/Unemployment-Advocacy-Project.pdf)

### **III. CONCLUSION**

Ensuring that all Americans, regardless of income, have access to justice is of paramount importance. Yet recent economic challenges threaten to make this basic right an insurmountable goal for millions of Americans. Legal service organizations across the country have successfully helped hundreds of thousands of American families obtain basic necessities. But funding cuts jeopardize the continued viability and even survival of these organizations. Lawmakers must

take action to protect legal aid programs and the low-income constituents they serve. This Report urges Congress to support vital legal aid programs by providing adequate funding to LSC. As Rep. Dicks aptly summarized in a recent statement to the House Appropriations Subcommittee, “The recession has drastically increased the need for legal aid for those who can’t afford it, and the LSC helps to ensure that access to justice is not limited to those who can afford an attorney.”<sup>42</sup>

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<sup>42</sup> LSC Press Release, *House Appropriations Subcommittee Approves Bill Providing \$328 Million for LSC* (Apr. 19, 2012) <http://www.lsc.gov/media/press-releases/house-appropriations-subcommittee-approves-bill-providing-328-million-lsc>