TESTIMONY--JUDY PERRY MARTINEZ, PRESIDENT, AMERICAN BAR ASSOCIATION
in support of the
LEGAL SERVICES CORPORATION
MARCH 13, 2020
U.S. SENATE APPROPRIATIONS SUBCOMM. ON COMMERCE, JUSTICE, SCIENCE

REQUEST: Chairman Moran, Ranking Member Shaheen, and Subcommittee Members, I am Judy Perry Martinez, President of the American Bar Association (ABA) and with the New Orleans, Louisiana law firm of Simon, Peragine, Smith & Redfearn. I submit this statement today on behalf of the world’s largest voluntary association of attorneys and legal professionals, the ABA.

The ABA has long been committed to “Equal Justice Under Law” in our country, establishing our Standing Committee on Legal Aid and Indigent Defendants 100 years ago in 1920. United States Supreme Court Justice Lewis F. Powell, while serving as ABA President in 1964, understood the need for equal justice and became a key, early supporter of federal legal aid before President Nixon signed the Legal Services Corporation (LSC) Act into law in 1974.

The LSC has requested $652.6 million for FY 2021 funding, which it intends to allocate almost entirely to basic field grants. If approved, LSC grantees should be able to assist with 60% more civil legal problems than they currently serve. While last year’s appropriation increase for LSC was significant, much more is needed to help LSC meet the civil legal needs of low-income Americans and to bring us closer to fulfilling America’s pledge of “justice for all”.

2019 INTAKE CENSUS: LSC based its FY 2021 request on a 2019 “intake census”—LSC grantees’ intake of individuals who sought civil legal assistance during a four-week period last year. That census showed that 42% of the eligible legal problems presented to LSC grantees received no service of any kind—a one-point increase from the 2017 Justice Gap Study, by the non-partisan, objective, research organization NORC (a top-notch econometrics-analysis group at the University of Chicago), which analyzed unmet civil legal needs of indigent Americans.

REPRESENTATIONAL IMBALANCE: Legal representation is a consideration in essential fairness. Between claimants and respondents, when one has a lawyer and the other does not—as is often the case in landlord-tenant cases, employment cases, and healthcare cases—the scales of justice are imbalanced. In determining its funding request, LSC considered the increased number of unrepresented litigants in state civil courts resulting from both inadequate funding for legal aid and a large poverty population. LSC’s FY2021 Budget Request pointed out: “A national study by the National Center for State Courts (NCSC) found that the representational imbalance among plaintiffs and defendants has dramatically worsened over the last two decades: while plaintiffs represented by attorneys declined only slightly (from 99% to 96%), attorney representation for defendants fell by more than half (from 97% to 46%). The NCSC study found this imbalance is especially acute in financial and housing cases.” Providing LSC more resources can help reduce this imbalance.

LSC: The Legal Services Corporation funds legal aid grantees who provide services benefiting more than 1.8 million low-income Americans across the country. Specifically, legal aid grantees give advice on family law, housing, consumer, employment, and other civil legal issues in both federal and state cases. Recently, LSC has embarked upon specialized studies focused on the
impacts of the opioid crisis, disasters, and veteran homelessness to better serve the legal needs of these vulnerable populations.

**OPIOIDS**: In June 2019, an LSC Opioid Task Force comprised of 26 multidisciplinary leaders released a comprehensive report on the civil legal issues raised by the opioid crisis in areas such as healthcare, family law, domestic violence, child and elder abuse, and housing. That report explains how legal aid plays a critical role in helping individuals and families affected by the opioid epidemic to address these issues.

Opioid Use Disorder (OUD) and overdoses have created a national public health crisis in the United States, with nearly 400,000 people dying from such overdoses between 1999 and 2017. Rural counties have experienced a disproportionately higher number of these deaths than urban communities. West Virginia, Kentucky, and Virginia, for example, were reported to have the highest per capita rates of opioid deaths between 2006-2012. In West Virginia, more than double the number of children are in state care now than in 2008—approximately 80% of which are related to the state opioid crisis. Legal issues flowing from the opioid crisis include kinship issues, housing security, safety and income stability for families raising children, and financial exploitation of vulnerable individuals.

LSC and its grantee legal aid organizations know that the opioid crisis can be better addressed by having attorneys partner with health professionals, first responders, social service workers, and policymakers. The LSC Opioid Task Force Report recommends this multidisciplinary approach.

The first tool for clients to use the multidisciplinary approach has been Medical-Legal Partnerships (MLPs), which integrate attorneys into the healthcare setting. MLPs allow attorneys to work directly with medical professionals to address the often overlapping legal and medical issues that clients face. LSC also reports that, “common legal needs identified in MLPs include pursuing divorce and child custody cases, reinstating driver’s licenses, expunging criminal records, and preventing evictions.”

Currently, there are at least 60 LSC grantees operating 92 MLPs, which work to address the addiction and recovery process for low-income people dealing with OUD. LSC hopes to continue to use MLPs and create more in the future.

The ABA consolidated the best available Centers for Disease Control and Prevention statistics on opioid deaths in each congressional district and in each state in infographics on the ABA website at https://www.americanbar.org/content/dam/aba/uncategorized/GAO/lsc-infographic-house.pdf and at https://www.americanbar.org/content/dam/aba/uncategorized/GAO/lsc-infographic-senate.pdf.

With the opioid crisis continuing to place heavy new burdens on legal aid, a funding increase for LSC is critical.

**DISASTER LEGAL WORK**: As LSC reports, between 2017-2018, 123 federally recognized natural disasters occurred across the United States and its territories. In 2016-2018 alone, the impact from natural disasters included more than $1 billion in damages, and nearly 40 million people were eligible for legal services funded by LSC.
Legal aid organizations receiving grants from LSC helped disaster victims file for Federal Emergency Management Agency (FEMA) benefits and appeal wrongful denials, assisted with housing issues like improper eviction and termination of leases, replaced vital documents like IDs that were destroyed, and assisted with medical, property, or life insurance claims. Disasters have a severe and disproportionate impact on the poor, resulting in a sharp increase in the need for legal help for that population.

The ABA used FEMA statistics on disaster declarations to calculate the number of disasters in each congressional district and state. This congressional district data can be found in the infographics on the ABA website at https://www.americanbar.org/content/dam/aba/uncategorized/GAO/lsc-infographic-house.pdf, and the state data can be found in the infographics on the ABA website at https://www.americanbar.org/content/dam/aba/uncategorized/GAO/lsc-infographic-senate.pdf.

**LSC DISASTER TASK FORCE**: LSC’s Disaster Task Force comprised of LSC grantees, business leaders, emergency management experts and other stakeholders began work in March 2018 to take a more comprehensive approach to its disaster work and to increase its impact nationwide. The task force provided a report (https://www.lsc.gov/media-center/publications/lsc-disaster-task-force-report) with recommendations, a grantee’s guide for continuity of operations planning (COOP), and a toolkit for grantees that builds on the disaster preparedness and response work of LSC’s Midwest Legal Disaster Coordination Project. The toolkit includes: (1) templates for education materials about civil legal aid assisting disaster survivors; (2) training materials specifically for volunteer attorneys that cover the most common legal issues faced by disaster survivors; (3) instructions for creating a disaster relief and response hotline and online application; (4) access to preparedness go-kit checklists for the user to fill out ahead of a disaster; and (5) a guide for developing mobile-optimized disaster websites.

**HOMELESSNESS AMONG VETERANS**: In addition to the specialized work done by LSC’s Opioid Task Force and its Disaster Task Force, LSC announced in November 2019 the launch of a new national Veterans Task Force starting this year to strengthen the role and ability of civil legal aid organizations to assist veterans with their civil legal needs. In a recent report, LSC notes that nearly 1.7 million veterans are eligible for LSC-funded services.

LSC’s 2017 Justice Gap Report notes that 71% of low-income households with veterans or other military personnel reported that they had experienced a civil legal problem within the last year. These civil legal aid services are critical to veterans and their families considering that veterans are more likely to be homeless than non-veterans (8.6% v. 7.1%).

**ADDITIONAL CONSIDERATIONS**: Beyond federal responsibilities regarding the costs that natural disasters and the opioid crisis impose upon LSC grantees, four other points should be considered for LSC funding: (1) the cuts in LSC funding vis-à-vis historic levels; (2) the demonstrated cost-benefit value of legal aid; (3) the role of legal aid referrals from federal constituent services representatives; and (4) the strong belief in the need for legal aid among your constituents.

1. **FUNDING FOR LSC IS DOWN, BUT DEMAND IS UP AND RISING.** This subcommittee partially restored funding for LSC in FY 2020 and the ABA truly appreciates
that. The FY 2020 appropriation of $440 million will permit LSC to serve more needy clients. Nevertheless, the FY 2020 LSC appropriation of $440 million is still 12% lower than the FY 2010 appropriation when adjusted for inflation. The FY 2010 appropriation would be $500,244,780 in 2019 dollars. The FY 2020 funding is down 33% from LSC’s average appropriation of $744,004,964 in 2019 dollars during the 1980s.

At the same time, the number of people qualifying for assistance is more than 10% higher than it was in 2007. We understand the constraints of the budget deal and emergency spending related to COVID-19, yet LSC funding may be all the more needed now by your constituents facing unexpected healthcare, housing, and employment-related problems that will likely flow from the pandemic declared by the World Health Organization.

2. **COST-BENEFIT.** The American Bar Association collects dozens of statewide studies of the cost-benefit impact of legal aid. All studies show that LSC has a big positive impact: [https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/atj-commissions/atj_commission_self-assessment_materials1/studies/](https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/atj-commissions/atj_commission_self-assessment_materials1/studies/). For example, in a 2019 study commissioned by the Vermont Bar Foundation and funded by a grant from the Vermont Supreme Court, the report reveals that, “For every $1 invested in Vermont Low-Income Legal Services, the State and Vermonters see a rate of return of $11, or a social impact return on investment of 1106%.”

The nationwide average of cost-benefit studies shows an average return of over $7 for each dollar invested in the LSC.

3. **CONSTITUENT SERVICE.** Civil legal aid is a constituent service performed in every state and every congressional district in the country, complementary to and often by referral from your own constituent services staff. Key beneficiaries of legal aid services include veterans, older Americans, rural Americans, domestic violence survivors, women (constituting 71.6% of clients in 2018), opioid victims, and natural-disaster victims.

4. **POLLING.** 82% of those surveyed believe it is important to ensure everyone has access to civil legal help or representation, according to polling by Voices for Civil Justice: [https://voicesforciviljustice.org/wp-content/uploads/Lake-Tarrance-Expanding-civil-legal-aid-2013.pptx3.pdf](https://voicesforciviljustice.org/wp-content/uploads/Lake-Tarrance-Expanding-civil-legal-aid-2013.pptx3.pdf).

CONCLUSION: The unmet civil legal needs of your constituents are huge—even with LSC’s FY 2021 funding request of $652.6 million, LSC grantees would only be able to provide assistance with 60% more civil legal problems than at present. There has been a 10% increase in the number of people who qualify for legal aid; we can reasonably expect that number to grow as people across the country continue to experience health, housing, employment and other problems caused by disasters, dips in the economy, opioids, and even the pandemic.

The United States should fulfill 100% of the civil legal needs for low income Americans, but we recognize that fiscal constraints make that challenging at this time. We thank this Committee for its commitment and support to increased funding for LSC on behalf of your constituents. We also urge you to do what is needed to deliver on America’s pledge of access to equal justice under law.