Thank you very much for having me here. I come on behalf of the Legal Services Corporation and want to spend a few minutes this morning. I want to spend a few minutes talking about what LSC is doing and how we’re thinking about this and the formation of this new opioid taskforce.

Obviously, the ABA is an incredibly close and important partner for the Legal Services Corporation in all issues important to civil legal aid, and so we appreciate everything to do with the ABA and its partnership, and thanks to the Senior Lawyers Division for the invitation today.

I am a partner at Sidley and I’ve been involved with the Legal Services Corporation for about seven or eight years. I served on a fiscal oversight taskforce that did work about seven years ago. I’ve served in the audit committee for the LSC for the last seven years. And I’m now pleased to be co-chairing this newly formed taskforce.

I want to say a few words about the Legal Services Corporation. I think most people here know what it is, but I want to give a little bit more detail about the challenges that Legal Services Corporation has been facing, what civil legal aid generally has been facing, and then moving to the opioid issue.

LSC was founded in 1974 by Congress to help provide equal access to the system of justice in our nation. Perhaps no goal is more important for all of us as lawyers, equal access to justice, and to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel. LSC is headed by a bipartisan board of directors from all around the country, 11 members who were appointed by the president and confirmed by the Senate, and it is funded almost completely by Congress. LSC itself is a private 501(c)(3) entity, but it is mostly funded by Congress. It distributes its federal dollars to 133 independent legal aid grantees around the country that have 800 offices in every state and territory in United States. LSC funding is on average about 37 percent of the grantees funding. So if there’s a civil legal aid clinic in your state, odds are it gets funding and sometimes a lot of or most of its funding from LSC.

Who is eligible for civil legal aid funded by LSC? Anyone who is living in a household where the annual income is at or below 125 percent of the federal poverty level. What are the problems that legal aid organizations provide? Again, these are all familiar to most of us in the room. But just to talk about them because they are highly relevant to talking about the opioid epidemic: enforcing
workplace rights and ensuring that people are legally able to work, preventing housing evictions and mortgage forecloses, addressing substandard housing conditions such as mold for instance in an asthmatic patients department, eligibility for employment or disability benefits, domestic violence to provide physical safety for adults and children, establishing guardianships for children or other custody issues.

So, these cut across a wide variety of areas of law and our great legal aid lawyers around the country who provide those services do so very, very well and at a high-level. However, this work is drastically underfunded. Something, I think, we all know as well. Let me just give you some a few statistics about this.

First of all, what is the need? As I said, LSC was founded in 1974 and if you compare where we are today funding-wise with where we were a couple years after LSC started in 1976, the number of people in the United States who were eligible for civil legal aid is two and a half times higher than it was in 1976. Part of that is because of our population increase. But part of it is because those living at that line of a 125 percent of the poverty, have gone from 12 percent of the population to 20 percent of the population today. The need is two and a half times greater.

So how’s our funding going? In real dollars, the funding for LSC in 2017 was 44 percent of what it was in 1976. So the need has gone up and the dollars have gone down. And every year – every year – this is a huge fight with Congress about whether to provide enough dollars, and in general, it’s been going down. With this low funding, it results in lack of resources of lawyers in our legal aid clinics around the country. Many qualified individuals are turned away when they show up – they actually gather the information and energy to show up at a legal aid clinic – and many are turned away.

There is truly a “justice gap.” LSC came out with a report last year called the “Justice Gap.” Let’s talk about that and just three quick findings: Seventy-one percent of low-income households around the country experienced, at least, one civil legal problem in the past year, the kind of thing I was describing. Eighty-six percent of the civil legal problems faced by low income Americans in a given year receive inadequate or no legal help. In 2017, low income Americans will seek legal aid from LSC funded organizations for an estimated 1.7 million problems. And depending on where they live, they will receive only limited or no help for more than half of these problems because of scarce resources.

We all know that when those statistics become real, if we think about any individual examples of the way in which any one of those, much less a combination of those legal problems that someone might face who is low income and has been low income, or suddenly becomes low income, and now, life has collapsed, we’re starting to collapse. And we all know the difference a good lawyer can make in changing things from an absolute definite collapse to maybe a collapse to not a collapse. It can be life changing and lifesaving. We know that. And into this justice gap, comes the opioid epidemic. This had been really a silent invisible problem until relatively recently.

The board for LSC has three of its four quarterly meetings in different states around the country. And it won’t go back to the same state until it’s done that state in one of its quarterly meetings. So it’s really going all around the country. About two years ago, it started consistently hearing about the opioid problem. It heard about it in Vermont, Mexico, Massachusetts, Ohio, Tennessee, West Virginia, Indiana, Kentucky. And this focused everyone’s attention in LSC on the extent of the opioid epidemic.

A few stats that you’ve probably heard this morning and will hear. But just to be clear, this meeting and all the press about the extent of the epidemic are not exaggerated. I mean the extent of this – this is a new problem – this is a new thing.

In 2016, there were over 63,600 drug overdose deaths in the U.S. Of those two-thirds involved an opioid. It’s incredible, two-thirds. In 2016 the number of opioid related overdose deaths were five times what they were in 1999. Just think about how much is increased in the last year alone. Emergency room visits for suspected opioid overdoses increased 30 percent from the third quarter 2016 to the third quarter 2017. In one year, it increased by 30 percent.
And here in the Midwest, there was a 70 percent increase in opioid overdoses from July 2016 to September 2017. I love hearing – and I mean, the increased visibility is good news, right, because it’s not invisible and silent anymore. But we should not be thinking that this is a problem of two or three or four years ago. This is a current problem where the severity of it has been increasing.

And then the stats don’t sufficiently capture the extent of the problem because of the breadth of the problem. And this is not just breadth, it’s across all demographic categories which is its own challenge. But in addition, just to be a little more specific about it, there’s really been the way the CDC (the Centers for Disease Control), for instance, talks about this. There’s been three different waves that have combined and come together of types of drug addiction and overdose. In about 2002, the charts started to see a trend in an increase in prescription opioid overdose death and that has continued to rise. Now, maybe it’s leveling off. But as you look at the historical chart, 2002 up forward, it started to rise. In 2011, you started to see a significant rise in heroin overdose deaths. So now you have a second one that’s going up. And the beginning at about 2014, you started to see a rise in synthetic opioid overdose death. This is Fentanyl. Fentanyl is sometimes legal. It’s an extremely powerful drug. It’s sometimes used for severe pain in relation to cancer and other diseases, but there’s a huge amount of a legal Fentanyl that’s produced.

So this likely opioid problem crosses over between legal use of drugs – prescription drugs – and in rare small number of cases of Fentanyl and a lot of illegal uses, and sometimes they’re connected. Someone gets addicted to legally prescribed prescription drugs and in order to feed that habit moves to illicit drugs. So the extent of this problem, both in terms of quantity and the breadth across different categories of drugs and different types of problems is enormous.

In the legal aid community, most legal aid clinics, not all, but most have some experience with addiction problems. It’s not like addiction is a new problem. But this is different. This feels different to most civil legal aid clinics around the country because of the extent of the problem and the breadth that makes the nature of the problem more complicated.

So, how do civil legal aid clinics define the problem as it relates to opioid epidemics? It’s going to vary, and this is part of the reason to have a national taskforce. Some of it is we feel very sophisticated enough and up to speed on this, but we are swamped, we are just overloaded and can’t handle it because of the quantity of problem that the epidemic has created. For some, they’re just not as familiar with or experienced with the suite of problems that I laid out earlier, that arise from addiction and overdose issues. Some of these are familiar civil legal aid problems, but some are addiction-related problems, and some legal aid clinics are just not experienced in those. And some of it is a combination of this, the breadth and scope of the epidemic that means that’s what walking in the door of legal aid clinics is unfamiliar to them.

Last, let me get to the taskforce. Last month in D.C., in Congress with the help of the Congressional Access to Civil Legal Aid Services Caucus, which is a fantastically long D.C. name for a group that is a bipartisan group of members of Congress, that was formed by Joe Kennedy a congressman from Massachusetts (he’s a Democrat), and Susan Brooks, a Republican congressman for Indiana. And the caucus is now a really nice robust group of members of Congress, who care about legal aid clinics and are very supportive of LSC and all other efforts by lawyers to support these issues.

With them, LSC announced the formation of this taskforce. I'm honored to be one of the three co-chairs. The other two are Vick Maddox who’s a distinguished Kentucky lawyer who’s on the board of LSC, and Robert Grey who’s a distinguished Virginia lawyer who’s on the board of LSC. So we got two distinguished lawyers and me. So I'm going to try to hang around with them.

The taskforce will, of course, focus on the many significant civil legal aid issues raised by the crisis, healthcare, family law, domestic violence, child and elder abuse, housing issues, employment issues. We will have approximately 25 members on the taskforce, leaders from the legal and medical communities, federal and state governments,
veterans and social services organization, so it will be a diverse group. We're having our first meeting next month in Washington, and we will meet several times. Some of our meetings will be around the country and we expect to have a report in about – our goal is April 2019. We’re going to study this for a while and then report.

What are the goals of the taskforce? There really are two. The first is to raise awareness, and that in and of itself is a very significant goal. To raise awareness of the severe challenges that the opioid epidemic creates for civil legal aid providers. And if you think about this point, about silent and invisible problem, this for civil legal aid folks really pairs up two problems that historically have been invisible and silent. One is the opioid epidemic which, as we heard – I think the last speaker said, “It’s finally caught the attention of the country.” Exactly. But that is a recent thing. And you could imagine that if attention does not continue to be paid to it, if a spotlight does not continue to be shined on it, that it could easily go back into the shadows. And the second is the justice gap. The justice gap is not something that’s on everyone’s lips around the country. The issue of folks who are living in or near poverty and their civil legal aid needs is a very serious problem that often is invisible to most people. So, shining a light on that with a high powered diverse group of leaders in our community is one of the goals of the taskforce.

The second goal is to study the nature of the challenges for legal aid providers that result from this epidemic to study and promulgate best practices and to make some recommendations for the future. A fairly standard goal for a taskforce, but something that’s important.

We do not go into the endeavor with answers or with vision of what the product will be. The point is to bring people together and study this and come out with some best practices. We go into the taskforce to listen, to learn, to help identify some good existing solutions that may not be used broadly enough, and then also to pick up on something that Link said, “To stimulate innovation and creative discussions that may yield ideas about additional solutions.” You just don’t know what kind of potential solutions you're going to have until you get everyone together.

To end here, I just want to say something very briefly about a few thoughts that arise in this area. One of which is, it seems like a good idea for this area that's used in some places around the country, and that the ABA has really been at the forefront of, and that's medical-legal partnerships.

Medical-legal partnerships are actual formal partnerships between legal aid providers and medical providers, like hospitals in which lawyers are embedded onsite, in clinical settings, and receive referrals from healthcare providers to address patient's health harming legal problems. It’s so interesting, I mean, as you can tell from my reading this, I'm reading this from the way that others have summarized this. Just to pair those words together is often not something that doctors and lawyers do, but it’s so wise.

And, while there's a lot of formality to this, there are medical-legal partnership associations. The ABA issued a resolution about this 11 years ago. So there's some formality, but this is not comprehensive or widespread. One of the great legal aid clinics here in Chicago, Legal Assistance Foundation (LAF) has a medical-legal aid partnership, but if you look around the country, it’s not like it's everywhere.

What do they do? They work on some of the exact same problems that I described. You'll have lawyers there onsite who are helping to establish guardianships, who are helping to prevent housing evictions, who are helping to address substandard housing conditions, who are helping to deal with employment and disability benefits, who are helping on domestic violence. These problems arise sometimes first in conversations with the doctor in the hospital. And then, rather than saying, OK, here's a pamphlet that said you should go a mile down the road to this legal aid organization – the person is right there, so it can make such a difference.

That's one idea that this taskforce is going to discuss. Does that work here? Are they widely used enough? Are they used in exactly the right way? Are there other creative ways of enhancing their effectiveness?

The ABA Resolution in 2007 said – I mean, 2007, right? Nothing to do with the opioid epidemic,
but a resolution saying, “We encourage close and more frequent collaboration between the legal and medical professional community in a truly holistic approach to health and well-being.” That's exactly right.

A second out of three thoughts: Second, medication-assisted treatments for opioid use disorder. This is also something that Link talked about. This is a healthcare thought about it, but it may be something that lawyers need to play an important role in. One question for the taskforce, are there unfair or improper barriers to that kind of treatment, that a legal aid lawyer can help an addicted individual overcome? Maybe if it's available. It's available in a broad nondiscriminatory even fashion, maybe not. That's a question we'd like to ask.

Third thought then I'll close. There's a great civil legal aid lawyer at a medical-legal partnership foundation named Ellen Lawton who wrote an article a couple years ago. Who looked at the ACA (the Affordable Care Act) and said, should we apply the same kind of preventive care thinking to lawyers in legal aid lawyers. She wrote, that “What civil legal aid lawyers do is – they have a set of powerhouse skills that could be a secret weapon in promoting, not only justice, but health in vulnerable communities. It's time for the civil legal aid community to think about prevention strategies for the people in communities it serves. The civil legal aid office that allocates the overwhelming majority of its scarce sacred resources to the hearty individuals and families who make it through the intake process, is missing the opportunity to align its service provision upstream in a community setting, using public health data to identify and reach more vulnerable people before their civil legal problems turn into legal crisis.” This will be an interesting question for the taskforce: Is there a way to have civil legal aid groups think more proactively and in a preventive fashion that may be, especially, helpful and important in relation to the opioid epidemic?

I really appreciate everyone's time. Thank you very much and good luck.