

**STATEMENT OF LINDA KLEIN, PRESIDENT, AMERICAN BAR ASSOCIATION  
for LEGAL SERVICES CORPORATION FUNDING on May 12, 2017  
U.S. SENATE APPROPRIATIONS SUBCOMM. ON COMMERCE, JUSTICE, SCIENCE**

**REQUEST:** Chairman Shelby, Ranking Member Shaheen, and Subcommittee Members, I am Linda Klein, American Bar Association (ABA) President and senior managing shareholder at the law firm Baker Donelson. I submit this statement today on behalf of over 400,000 members of the ABA. We recommend funding the Legal Services Corporation (LSC) at \$450 million.

The ABA has long been committed to the realization of “Equal Justice Under Law” in our country, establishing our Standing Committee on Legal Aid and Indigent Defendants in 1920. U.S. Supreme Court Justice Lewis F. Powell, while serving as ABA President in 1964, called for a major expansion of the nation’s legal services, and the ABA worked closely with many others to achieve this goal, culminating in President Nixon’s signing the LSC Act into law in 1974.

Currently we mobilize lawyers for pro bono events throughout the year, operate an ABA Center for *Pro Bono*, produce an annual award program for *pro bono* work, operate a free legal answers website for low-income individuals, created and operate the Commission on the Future of Legal Services, and host, with our colleagues at the National Legal Aid and Defender Association, the annual Equal Justice Conference. To strengthen legal aid is to strengthen the rule of law.

**THE FEDERAL ROLE IN EQUAL JUSTICE:** The federal government has a definite role in promoting equal justice and justice for all, both known as access to justice. Equal justice is the very reason for the existence of this nation. Though the American colonies repeatedly requested justice for all British subjects, “a long train of abuses and usurpations” ensued, and we revolted. The history of “Equal Justice Under Law,” as engraved in the frieze above the United States Supreme Court, is long and distinguished.

Equal justice underpins our U.S. Constitution’s principal goal to “establish justice”—a goal placed ahead of “domestic tranquility,” “common defense,” “general welfare,” and “the blessings of liberty.” Equal justice also underpins due process and equal protection in our 5th and 14th Amendments. Applying both criminally and civilly, to liberty and to property, to public and to private disputes, the goal is not equality of outcome, but rather equality before the law. In the Pledge of Allegiance, we pledge allegiance to our republic with “justice for all.” The Declaration of Independence declares that “to secure these rights,” governments are instituted.

Legal aid clients secure their rights through federal, state, and local law—not exclusively state and local law. Thus, funding for equal justice under federal law is a federal duty. The federal role in promoting equal civil justice *is* funding the Legal Services Corporation.

**UNFUNDED MANDATE:** Elimination of federal funding for equal justice would necessarily foist unfunded mandates on states, tribes, and localities. The first chart at the end of my statement shows the areas of law in which legal aid attorneys practice. The second chart demonstrates that the federal government has passed hundreds of laws in these areas. Day in and day out, Legal Services Corporation-funded attorneys work with these federal laws to secure the federal rights of individuals unable to secure their rights for themselves.

Nonetheless, the Fiscal Year 2018 White House Budget Blueprint proposes to eliminate federal funding for LSC. Also, the Fiscal Year 2017 House Budget Committee-passed budget report stated: “It is the duty of State and local governments to provide legal services to those individuals unable to provide it for themselves.” That statement assumes that to ensure equal

justice under law, governmental assistance to ensure legal representation is needed, yet it would saddle only states, tribes, and localities with the burden.

The federal government has legislated—has conferred rights and imposed duties—in all areas important to the lives of our citizens. Justice for all certainly requires access to legal representation in these myriad areas of federal law. For example, don't destitute veterans deserve equal justice? Funding for equal justice under federal law cannot be shouldered by state and local governments as an unfunded mandate. The federal government should contribute its fair share. That can only be accomplished through funding the Legal Services Corporation.

**U.S. SUPREME COURT SUPPORT:** The late Supreme Court Justice Antonin Scalia stated, at the 40th anniversary of the Legal Services Corporation:

*I'm here principally...to represent the support of the Supreme Court and I'm sure all of my colleagues for the LSC... The American ideal is not for some justice; it is, as the Pledge of Allegiance says, "Liberty and justice for all" or as the Supreme Court pediment has it, "Equal Justice." I've always thought that's somewhat redundant. Can there be justice if it is not equal? Can there be a just society when some do not have justice? Equality, equal treatment is perhaps the most fundamental element of justice. So, this organization pursues the most fundamental of American ideals, and it pursues equal justice in those areas of life most important to the lives of our citizens. [Emphasis added.]*

U.S. Supreme Court Justice Neil Gorsuch, a former legal clinic volunteer, recently embraced access to justice for all in his confirmation hearing: "It's a fact that too few people can get lawyers to help them with their problem... I do think access to justice in large part means access to a lawyer. Lawyers make a difference. I believe that firmly." In his 2016 law journal article "Access to Affordable Justice," Justice Gorsuch wrote, "Legal services in this country are so expensive that the United States ranks near the bottom of developed nations when it comes to access to counsel in civil cases."

**RANKING:** Dozens of studies show that 50-80 percent of all eligible people seeking legal aid services are turned away due to lack of resources—an impediment seriously hamstringing justice in our legal system. That's why the 2015 the World Justice Project, which Justice Gorsuch cited, ranked the United States 65<sup>th</sup> of 102 countries in its Rule of Law Index for civil justice access, behind Moldova, Zimbabwe, and Venezuela. Funding bolsters accessibility. LSC is the nation's largest civil legal aid provider: 884 LSC-funded legal aid offices serve each county and territory.

**18.8% DOWN SINCE 2010, BUT SLIGHTLY UP RECENTLY:** I want to thank the Senate subcommittee for 5.4%, 2.0%, and 1.9% increases over the previous three years—in inflation-adjusted dollars. The level funding in FY2017 amounts to a 2.98% cut when adjusted for inflation. Ultimately, the FY17 LSC appropriation of \$385,000,000 is 18.8% lower than it was in FY10 (\$474,169,460 in FY17 dollars), while the number of people qualifying for assistance is about 25% higher than in 2007. Compare also the FY17 funding to LSC's average appropriation of \$705,223,611 (in FY17-adjusted dollars) during the 1980s. LSC funding needs restoration.

**NEED:** Furthermore, robust funding for the LSC is desperately needed because other funding sources have diminished since the country's economic downturn. Over 10 years, low interest rates have decreased revenue from Interest on Lawyers' Trust Accounts (IOLTA) by about 80%.

**CONSTITUENT SERVICE:** Legal Aid offices in every corner of the country regularly assist constituents referred by congressional offices and their district staff. Civil legal aid is a

constituent service performed in every state and congressional district in the country, complementary to and often at the request of your own constituent services.

**BENEFICIARIES:** Several groups in particular are beneficiaries of legal aid services: 1. Veterans, 2. Older Americans, 3. Rural Americans, 4. Domestic violence survivors, 5. Women, constituting 70% of clients, and 6. Natural-disaster victims.

**POLLING:** 82% 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>).

**COST-BENEFIT:** On the following webpage, the American Bar Association collects dozens of statewide studies of the cost-benefit impact of legal aid. All studies show a big positive impact: [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_f\\_or\\_access\\_to\\_justice/atj\\_commission\\_self-assessment\\_materials1/studies.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_f_or_access_to_justice/atj_commission_self-assessment_materials1/studies.html).

For example, the Louisiana Bar Foundation published a new report regarding the return on investment of civil legal aid services in the State of Louisiana in Fiscal Year 2016. The report reveals, “For every \$1 invested in Louisiana Legal Aid during the year, the citizens of Louisiana receive \$8.73 of immediate and long-term financial benefits.”

**CONCLUSION:** As the economy revives, LSC funding should also revive. Down 18.8% from 2010 (in FY17 dollars) and with 25% more people qualified for legal aid, LSC seriously needs funding restored.

Given LSC’s excellent benefit/cost ratio and exemplary management and accountability for federal funds, we encourage you, while still considering the fiscal issues the country faces, fund this meritorious program at \$450 million.

With 82% supporting access to civil legal help, legislators would do good and do well to heed constituents’ views. ###

2015 Total Number of Case Closures by Case Type (detail) <sup>2</sup>					
	Total Cases Closed	(%)			
<b>CONSUMER/FINANCE</b>			<b>HOUSING</b>		
Bankruptcy/Debtor Relief	25,669	3.4%	Federally Subsidized Housing	38,799	5.1%
Collection Practices/Creditor Harassment	2,455	0.3%	Homeownership/Real Property (Not Foreclosure)	8,625	1.1%
Collections (Including Repossession/Deficiency/Garnishment)	32,908	4.4%	Housing Discrimination	1,444	0.2%
Contracts/Warranties	6,331	0.8%	Mobile Homes	4,077	0.5%
Loans/Installment Purchase (Not Collections)	788	0.1%	Mortgage Foreclosures (Not Predatory Lending Practices)	15,232	2.0%
Predatory Lending Practices (Not Mortgages)	284	0.0%	Mortgage Predatory Lending Practices	650	0.1%
Public Utilities	3,703	0.5%	Private Landlord/Tenant	123,036	16.3%
Unfair and Deceptive Sales and Practices (Not Real Property)	960	0.1%	Public Housing	11,691	1.6%
Other Consumer/Finance	5,104	0.7%	Other Housing	10,416	1.4%
<b>Total</b>	<b>78,202</b>	<b>10.3%</b>	<b>Total</b>	<b>213,955</b>	<b>28.3%</b>
<b>EDUCATION</b>			<b>INCOME MAINTENANCE</b>		
Access (Including Bilingual, Residency, Testing)	673	0.1%	Food Stamps	16,901	2.2%
Discipline (Including Expulsion & Suspension)	795	0.1%	Social Security (Not SSDI)	2,177	0.3%
Special Education/Learning Disabilities	2,030	0.3%	SSDI	9,213	1.2%
Student Financial Aid	640	0.1%	SSI	23,346	3.1%
Vocational Education	34	0.0%	State and Local Income Maintenance	5,654	0.8%
Other Education	1,588	0.2%	TANF	6,564	0.9%
<b>Total</b>	<b>5,760</b>	<b>0.8%</b>	Unemployment Compensation	11,670	1.5%
<b>EMPLOYMENT</b>			Veterans Benefits	1,519	0.2%
Agricultural Worker Issues (Not Wage Claims/FLSA)	265	0.1%	Other Income Maintenance	2,952	0.4%
EITC (Earned Income Tax Credit)	3,081	0.4%	<b>Total</b>	<b>79,996</b>	<b>10.6%</b>
Employee Rights	2,916	0.4%	<b>INDIVIDUAL RIGHTS</b>		
Employment Discrimination	1,752	0.2%	Civil Rights	533	0.1%
Taxes (Not EITC)	4,384	0.6%	Disability Rights	305	0.0%
Wage Claims and Other FLSA Issues	3,165	0.4%	Human Trafficking	283	0.0%
Other Employment	7,738	1.0%	Immigration/Naturalization	7,060	0.9%
<b>Total</b>	<b>23,331</b>	<b>3.1%</b>	Mental Health	309	0.1%
<b>FAMILY</b>			Other Individual Rights	10,326	1.4%
Adoption	2,271	0.3%	<b>Total</b>	<b>18,816</b>	<b>2.5%</b>
Adult Guardianship	5,707	0.8%	<b>JUVENILE</b>		
Custody/Visitation	67,827	9.0%	Delinquent	954	0.1%
Divorce/Separation/Annulment	86,250	11.4%	Emancipation	702	0.1%
Domestic Abuse	44,627	5.9%	Minor Guardianship/Conservatorship	5,968	0.8%
Name Change	3,161	0.4%	Neglected/Abused/Dependent	6,170	0.8%
Parental Rights Termination	1,638	0.2%	Other Juvenile	672	0.1%
Paternity	5,414	0.7%	<b>Total</b>	<b>14,466</b>	<b>1.9%</b>
Support	17,659	2.4%	<b>MISCELLANEOUS</b>		
Other Family	6,175	0.8%	Advance Directives/Powers of Attorney	14,634	1.9%
<b>Total</b>	<b>240,729</b>	<b>31.9%</b>	Indian/Tribal Law	1,665	0.2%
<b>HEALTH</b>			Legal Assistance to Non-Profit Organization or Group (Including Incorporation/Dissolution)	311	0.0%
Government Children's Health Insurance Program	320	0.0%	Licenses (Drivers, Occupational, and Others)	4,115	0.5%
Home & Community-Based Care	738	0.1%	Municipal Legal Needs	464	0.1%
Long Term Health Care Facilities	536	0.1%	Torts	2,337	0.3%
Medicaid	21,909	2.9%	Wills/Estates	17,870	2.4%
Medicare	2,800	0.4%	Other Miscellaneous	7,333	1.0%
Private Health Insurance	942	0.1%	<b>Total</b>	<b>48,729</b>	<b>6.4%</b>
State & Local Health	1,644	0.2%	<b>Total</b>	<b>755,774</b>	<b>100.0%</b>
Other Health	2,901	0.4%			
<b>Total</b>	<b>31,790</b>	<b>4.2%</b>			

