

ABA Day in Washington 2010



14th Annual Program



ABA Day in Washington 2010: Access to Legal Services

- Presenters

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- Counsel, U.S. Senate HELP Committee, Chairman Tom Harkin (D-IA)



ABA LSC Issue Advocacy Resources

- ABA Governmental Affairs Office Webpage:
 - **LSC Legislative Priority webpage** provides up- to- date developments on appropriations, oversight, governance
 - http://www.abanet.org/poladv/priorities/legal_services/
- ABA Day website provides current advocacy material:
 - Funding
<http://new.abanet.org/calendar/ABADay/Pages/LSC.aspx>
 - Reauthorization
<http://new.abanet.org/calendar/ABADay/Pages/Iscreauth.aspx>



Legal Services Corporation

- LSC is a private, nonprofit corporation established by Congress in 1974, formed with bipartisan Congressional support during the Nixon Administration.
- The ABA, led by then-President Lewis Powell, was instrumental in the creation of the program, whose mission is to ensure that low-income persons have access to a lawyer and the justice system for civil legal issues regardless of their ability to pay.



LSC Governance

- LSC is governed by an 11-person, bipartisan Board of Directors nominated by the President and confirmed by the Senate.



LSC Board and Management

- Pending Board Nominees
 - Gloria Valencia-Weber
 - Julie A. Reiskin
 - Expected to be approved by full Senate when the President nominates remaining 2 Republicans
- Management
 - Victor Fortuno, long-time General Counsel is serving as Interim President
 - Jeffrey Schanz, serves as Inspector General



LSC Overview

- LSC receives an annual appropriation from Congress to fund local programs providing basic civil legal services to the poor.
- LSC disburses 94 percent of its appropriation to local legal aid programs. It is an extremely efficient way to meet the legal needs of the poor.



Local Programs, Local Governance

- LSC currently funds 136 local, community-based legal aid programs serving every state, county and Congressional district in the United States.
- Boards made up of leaders in the local bar and business communities set the priorities for and oversee these programs.



LSC Services

LSC-funded local programs handle everyday legal problems for about 1 million Americans each year:

•Family Issues – 38% of cases	•Consumer Issues – 12%
•Housing Issues – 25%	•Health Issues – 3%
•Income Issues – 11%	•Other – 10%

- 74% of the people served by LSC are women; many are mothers struggling to keep their children safe and their families together.
- Clients are of all races, ethnic groups, and ages, including the working poor, veterans, single parents, farmers, people with disabilities, victims of domestic violence, the elderly, and victims of natural disasters.



A Crisis Exists for Low-Income Persons Unable to Access Justice

- Eligible Client Population has Exploded:
 - 54 million Americans, including 18.5 million children, qualified for federally funded legal assistance at the beginning of the recession.
 - According to the LSC, the client-eligible population today may be closer to 65.5 million, a 21 percent increase over 2008.



The Justice “Gap” is now a Justice “Chasm”

- Federal resources to support LSC are grossly inadequate.
 - LSC’s funding still falls about \$150 million short of the \$568 million LSC would have received if its \$415 million FY 1995 funding level merely kept up with inflation.
 - The FY 2010 funding is even farther below the adjusted \$321 million appropriated in FY 1981, which would be about \$765 million in today’s dollars.
 - In comparison, in 1981 there were 43 million eligible clients; today there are closer to 65 million.



The Justice “Gap” is now a Justice “Chasm”

- Non-Federal Funding is Unstable
 - Other major sources of funding for legal aid, including state appropriations, private giving and Interest on Lawyers’ Trust Accounts (IOLTA) revenues are declining or are unstable due to the recession and close-to-zero interest rates.



Legal Services Corporation Advocacy

- ABA supports a strong, federally-funded, community controlled legal aid program.
- ABA urges Congress to:
 - increase annual funding toward closing the “Justice Gap” in America.
 - reauthorize LSC for the first time since 1977.



LSC FY 2010 Funding Recap

- House of Representatives approved \$440 million, \$5 million more than the President's request.
- Senate approved \$400 million.
- For FY 2010, Congress provided a much-needed \$30 million increase, ultimately raising LSC's funding level from \$390 million to \$420 million.



LSC FY 2010 Funding Recap

- In addition to funding increase:
 - House lifted the restriction on LSC-funded programs receiving statutorily authorized attorneys' fees;
 - Senate lifted the restriction on the use of non-LSC funds (state, private, IOLTA, etc.)
 - Conference Result: P.L. 111-117 funded LSC at \$420 million and lifted the restriction on receipt of statutorily authorized attorneys' fees.



LSC FY 2011 Funding Advocacy

- Bipartisan LSC Board requests \$516.5 million in its efforts to close the justice gap over several years.
- President again asks for \$435 million
 - Budget Freezes Most Domestic Programs, but gives LSC a \$15 million increase.



LSC FY 2011 Funding Advocacy

- House Judiciary Subcommittee Chairman Steve Cohen (D-TN) on March 19, 2010 submitted a sign-on letter supporting LSC's \$516.5 million but asking for at least \$435 million.

§ http://new.abanet.org/calendar/ABAday/Documents/lsc/FY11_Cohen_funding_1.pdf

- HELP Committee Chairman Tom Harkin (D-IA) is circulating a Senate Sign-on Letter, supporting at least \$440 million.



Reasons to Increase LSC Funding

- The LSC is the central foundation for the legal aid system -- the federal funding leverages
 - state and local funding,
 - private donations,
 - pro bono contributions by private lawyers.



Reasons to Increase LSC Funding

- Provides assistance to those who suddenly qualify for legal aid, e.g. recession, foreclosures, natural or national disaster
- Helps low-income families, including military families, resolve basic problems and stay together
- Provides primary assistance to women who are victims of domestic violence



Message on LSC FY 2011 Funding

- Discuss the importance of LSC funding to your state/district.
- Discuss how the lack of adequate LSC funding is adversely affecting the local legal aid programs and the Members' constituents.
- Share stories about the clients and how the local programs have helped, and stories about the number of people the programs have been forced to turn away because of inadequate resources.



LSC Funding—The Request

- Urge your Members of Congress to actively support an increase in funding for LSC:
 - Ask Senators to sign Senator Harkin’s “Dear Colleague” letter supporting LSC’s funding increase
 - Ask Representatives who did not sign Cohen letter to send their own letters in support of LSC



LSC FY 2011 Funding Advocacy

- ABA supports *at least* \$440 million (a \$20 million increase), as approved by the House of Representatives last year.
- ABA historically has focused on increasing LSC funding.
- Last year, ABA successfully advocated through the appropriations process to remove the attorneys' fee restriction – an ABA Day success story.
- This year, ABA will again focus on funding and address restrictions through reauthorization legislation.



Reauthorization of the Legal Services Corporation

- LSC has operated without a current authorization since 1981.
- For the first time since 1992, legislation has been introduced to reauthorize the Corporation:
 - Civil Access to Justice Act of 2009
 - S. 718, introduced by Senator Tom Harkin (D-IA)
 - H.R. 3764, introduced by Rep. Bobby Scott (D-VA)
- The ABA has endorsed their efforts and has urged Congress to enact bipartisan legislation this year.



Civil Access to Justice Act of 2009

Key Provisions

- Increases the authorized funding level for LSC to \$750 million
 - which is approximately the amount appropriated in 1981, adjusted for inflation, which was the high-water mark for LSC funding. At the time, this level was seen as sufficient to provide a minimum level of access to legal aid in every county. Adjusted for inflation, this “minimum access” level would need to be about \$750 million today.



Civil Access to Justice Act of 2009 Improves LSC Governance

- Recent GAO reports highlighted the need for better corporate governance and oversight.
- The Act incorporates those provisions to improve governance and accountability.



Civil Access to Justice Act of 2009

Key Provisions

- **Lifts certain restrictions** currently placed on legal tools that LSC-funded attorneys can use to represent their clients:
 - Statutorily authorized attorneys' fees (now allowed per P.L. 111-117);
 - Class actions (S. 718 only permits actions grounded in existing law);
 - permits lobbying with **non-federal** funds.



Civil Access to Justice Act of 2009

Key Provisions

- Lifts all restrictions on the use of non-LSC funds, except related to abortion litigation. The following funds would no longer be subject to these federal restrictions:
 - State funding
 - Private donations
 - IOLTA funding
 - Other



Civil Access to Justice Act of 2009 Retains Certain Restrictions

- In the spirit of compromise, the Act retains the following restrictions:
 - No abortion litigation;
 - No representation of the following persons:
 - Undocumented immigrants (with certain exceptions, including domestic violence, natural disasters);
 - Prisoners challenging prison conditions;
 - People charged with drug possession in public housing.



Civil Access to Justice Act Innovations

- Provides law clinic funding*
 - Authorizes a grant program from the Department of Education to **expand law school clinics**.
 - Not only are law students a significant resource for legal services, but clinics are a bridge to careers in legal services and a professional career involving *pro bono* for young lawyers.

*S. 718 only



Civil Access to Justice Act Status

- Senate HELP Committee to begin focusing on now that health care reform has been enacted.
- House Judiciary Subcommittee on Commercial and Administrative Law:
 - Hearing October 27, 2009
 - Another hearing/mark-up is expected in late April/May.



LSC Reauthorization

The Request

- House: Urge House Members, Judiciary Committee members in particular, to cosponsor H.R. 3764 and actively support passage.
- Senate: Urge Senators, HELP Committee members in particular, to cosponsor S. 718 and actively support passage.



LSC Reauthorization

Your Message

- The LSC is the central foundation for the legal aid system; adequate federal funding is necessary to ensure equal justice for all.
- The authorizing committees (Senate HELP and House Judiciary) should reexamine many of the overreaching restrictions placed on LSC-funded programs through annual appropriations bills.
- There have been many changes in corporate accountability since 1977 and Congress is well-advised to modernize the LSC Act.



Legal Services Corporation Advocacy

- Legal Services Corporation Funding
 - FY 2011 appropriations advocacy
 - Increase funding to at least \$440 million
- Legal Services Corporation Reauthorization
 - Civil Access to Justice Act of 2009
 - Enact modern reauthorization legislation this Congress



Legal Services Corporation Advocacy

Questions?



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