

# On Legal Services for the Poor

John G. Levi

Forty-five years ago, I spent my very first summer as a Harvard law student working at the Mandel Legal Aid Clinic in Chicago handling various housing and consumer civil legal aid matters for low-income persons. In my early years as an associate at the Chicago office of the Sidley Austin law firm, where I have been fortunate to practice my entire career, I volunteered once a month at a civil legal aid clinic on the near Northwest Side of Chicago helping to handle whatever came through the door.

A few years later, as a board member of a children's care agency, I participated in a court-watching program at the Juvenile Courts of Cook County. This led me to be appointed to the Citizens Committee on the Juvenile Court of Cook County and other related boards. At the same time, I became a founding member of the Advisory Board for Northwestern Law School's Center on Wrongful Convictions.

In these not-for-profit and pro bono endeavors, it became increasingly clear to me that low-income Americans have significant difficulty navigating our country's legal system on their own, and that this is a gravely serious issue facing our country. So when Barack Obama became President of the United States and asked me to chair pro bono the Board of the Legal Services Corporation (LSC)—the country's single largest funder of civil legal aid for low-income Americans, providing federal grants to 134 nonprofit legal aid programs in every state—I jumped at the chance to serve.

Congress created the Legal Services Corporation in 1974 to help “provide equal access to the system of justice in our nation” and to “provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel.” This mission—and, in my view, there is none more important in American law—attracted me to LSC and has sustained me throughout my tenure as board chair.

LSC is charged with honoring and protecting a core American value: equal access to justice. Core values cannot be taken for granted. As my father, Edward Levi, a former President of the American Academy of Arts and Sciences, reminded us nearly forty years ago in his farewell address as the Seventy-First Attorney General of the United States, the values on which the country is founded “can never be won for all time—they must always be won anew.”

Winning anew equal access to justice is the vital work of the eleven-member, presidentially appointed LSC Board of Directors, which has been my great privilege to lead since 2010. But from the beginning, our LSC board faced pressing challenges. LSC needed a new president, and after a national search, appointed Jim Sandman, former managing partner of Arnold & Porter LLP. LSC also needed

a new strategic plan, adopting one in 2012 after a year-long planning process, laying out three foundational goals: maximize the availability, quality, and effectiveness of civil legal services that its grantees provide; become a leading voice for civil legal services for poor Americans; and achieve the highest standards of fiscal responsibility both for itself and its grantees.

We also wanted to make sure that LSC reached the gold standard in grants management and oversight; thus, we formed a blue ribbon task force that issued a 2011 report outlining steps to ensure that LSC reaches this goal.<sup>1</sup> This restructuring has enabled LSC to confront more effectively the enduring challenge to us and the legal aid community: namely, limited resources to address the vast and growing national need.

In 1976—our first year of full congressional funding—when 12 percent of the U.S. population was eligible for LSC-funded legal assistance, the fledgling LSC was allocated (in inflation-adjusted terms) more than \$468 million. Three years later, Congress increased funding to an all-time high of what today would be more than \$880 million.

I wish I could say we were anywhere near that level of funding now, but despite our best efforts, the FY2015 allocation of \$375 million is less than half of that peak, and is only \$10 million more than the previous year. Even ten years ago, LSC's actual funding was \$400 million.

Since 1969, when LSC funding began to decline, the population eligible for LSC-funded assistance has grown to an all-time high. Nearly one in three Americans—96 million people—qualified for LSC-funded services at some time during 2013, the most recent year for which U.S. Census Bureau data are available. According to the data:

- 63.6 million people—one in five Americans—had annual incomes below the threshold for LSC-funded legal assistance of 125 percent of the federal poverty line (\$14,363 for an individual and \$29,438 for a family of four).

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1. Legal Services Corporation, *Fiscal Oversight Task Force Report to the Board of Directors* (Washington, D.C.: Legal Services Corporation, 2011), <http://www.lsc.gov/sites/default/files/LSC/pdfs/FiscalOversightTaskForceFINALReport.PDF>.

- Another 32.4 million people had incomes below the 125-percent level for at least two consecutive months during the year.

To stretch limited resources, LSC has encouraged the expansion of pro bono services from the private bar. In August 2011 at Harvard Law School, LSC convened a national Pro Bono Task Force of more than sixty leaders of the legal community, and later that year released its report and recommendations on how to increase the number of lawyers willing to do pro bono work and how to better match the available talent pool with the large unmet need.<sup>2</sup> With help from others in the profession such as the American Bar Association (ABA), Access to Justice (ATJ) Commissions, and local bars, LSC has implemented many of the recommendations detailed in the report. One of those recommendations, the creation of a Pro Bono Innovation Fund to award competitive grants supporting innovative pro bono projects throughout the country, was funded by Congress for FY2014, and was increased to \$4 million in FY2015.

Developing new technology and better uses of existing technology is another way to stretch limited resources, and LSC continues to be a leader in this effort through its extraordinary Technology Initiative Grants (TIG) program, which this year celebrates its fifteenth anniversary. Through this program, LSC has funded 525 tech projects with a total of more than \$40 million. In its FY2015 budget, Congress increased funding for the TIG program by \$550,000 to \$4 million.

TIG funding supports a broad range of technologies to make the delivery of legal services in the United States more efficient and effective. For example, with our partners, the TIG Program has built a network of websites that delivers a wealth of legal information, self-help videos, and automated forms to assist low-income individuals with their legal needs from coast to coast. Further, TIG funding has supported the creation of a national veterans' legal assistance website ([statesidelegal.org](http://statesidelegal.org)) and new, user-friendly tools designed for women veterans in need of legal help. LSC's second technology summit, held in 2012–2013, also produced a ground-breaking blueprint for using innovative technology to improve the delivery of legal services.<sup>3</sup>

Raising public awareness is crucial to the success of LSC's mission. In response, LSC's board has convened distinguished judicial and expert panels at every one of its national quarterly meetings and

annually at the White House to help call attention to the crisis in civil legal aid and LSC's and its grantees' roles in addressing it. Of the many problems discussed, the challenges presented by the millions of *pro se* litigants ("in one's own behalf"; litigants who represent themselves) in our state courts were among the most distressing.

In September 2015, LSC convened a comprehensive three-day conference in Washington, D.C., to commemorate the nonprofit corporation's fortieth anniversary. More than one hundred distinguished panelists and speakers from the legal community, law schools, the judiciary, government, and the private sector, together with nearly all of the executive directors and many board chairs of LSC's 134 grantees across the country, took part in wide ranging discussions about the crisis in civil legal aid in America.

Across the spectrum, there was agreement about the importance of equal justice and its role in American self-understanding. As Hillary Clinton, LSC's second board chair, stated:

Guaranteeing legal services for all Americans makes us a better country and a fairer country. It helps by empowering people to solve those problems and it helps to level the playing field. It is not just a fair shot at the justice system, but it is a fair shot at the American dream.

Justice Antonin Scalia sounded a similar theme:

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.

The Justice also reminded us of Hamilton and Madison's stirring words in Federalist No. 51:

Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it is obtained or until liberty be lost in the pursuit.

As LSC board chair, it is my professional responsibility to do everything I can to honor and preserve this ideal. As an American, it is my – as it is all of our – civic duty to make sure that the justice system we leave to future generations of Americans remains true to our country's founding values.

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2. Legal Services Corporation, *Report of the Pro Bono Task Force* (Washington, D.C.: Legal Services Corporation, 2012), [http://www.lsc.gov/sites/default/files/LSC/lscgov4/PBTF\\_%20Report\\_FINAL.pdf](http://www.lsc.gov/sites/default/files/LSC/lscgov4/PBTF_%20Report_FINAL.pdf).

3. Legal Services Corporation, *Report of the Summit on the Use of Technology to Expand Access to Justice* (Washington, D.C.: Legal Services Corporation, 2013), [http://www.lsc.gov/sites/lsc.gov/files/LSC\\_Tech%20Summit%20Report\\_2013.pdf](http://www.lsc.gov/sites/lsc.gov/files/LSC_Tech%20Summit%20Report_2013.pdf).