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Good morning, Chairman Cohen, Congressman Franks and other members of the Subcommittee. I am John G. Levi of Chicago, Chairman of the Board of the Legal Services Corporation (LSC), and it is my pleasure to be with you today.

The LSC Board is bipartisan, and I was elected Chairman by my fellow Board members on April 7, 2010. In addition to myself, five other appointees recently joined the Board. We are experienced members of the bar and excited to have this opportunity to serve the nation and ensure equal access to civil legal assistance by low-income Americans. We held our first Board meeting April 16 and 17, in Tucson, where we were briefed by the three LSC programs that serve Arizona. They reported an overwhelming need for legal services.

On behalf of the Corporation, I thank you for holding this important hearing and for providing LSC with an opportunity to comment on H.R. 3764, the Civil Access to Justice Act of 2009.

The Corporation, which celebrated its 35th anniversary last year, has historically supported reauthorization because it represents an expression of ongoing support for the mission of LSC—promoting equal access to justice and ensuring the provision of high-quality legal assistance to low-income Americans. In particular, the proposed funding level in H.R. 3764 reaffirms the support of Congress for equal access to justice and the work of LSC programs. LSC was established by Congress as an independent 501(c)(3) nonprofit corporation and will benefit from the scrutiny that reauthorization brings. We thank you, Congressman Scott, for sponsoring this legislation, and we thank Chairman Cohen, Chairman Conyers and all other cosponsors.

H.R. 3764 would strengthen the LSC budget by authorizing \$750 million as a new, annual funding level. That level is approximately the amount appropriated in 1981, when adjusted for inflation, and reflects a time when LSC programs were recognized as being as close as they ever have been to meeting the demand for civil legal services by the poor.

Over the years, the LSC Board has called for measured strides to expand the capacity of legal services programs to meet the needs of their communities, and H.R. 3764 would accelerate the Board's efforts to ensure equal justice for all. The Board recognizes and applauds the hard work of the sponsors in drafting this legislation to strengthen funding for the delivery of civil legal assistance to low-income Americans.

Congressional appropriations for civil legal assistance are more critical than ever before. The recession that began in 2008 and continuing high unemployment rates have led to increases in requests for help with foreclosures, consumer issues and unemployment benefits. The success of this legislative initiative to increase LSC funding could well mark the difference between a bleak future for many Americans and a bright one.

Currently, at least 54 million Americans are eligible for civil legal assistance under LSC's income guidelines, which establish maximum income eligibility for legal assistance at \$13,538 for individuals and \$27,563 for a family of four. Our legal aid programs offer help to the most vulnerable among us—mothers and children, the elderly, the disabled, veterans and military families.

But legal aid programs also turn away many seeking help. In Arizona, when Board members were being briefed by program officials, we noted that every intake desk was busy and that the waiting room was full, with people standing in a hallway. A 2007 study in the state found that nearly 75 percent of the survey respondents reported being unable to get direct legal assistance.

The number of Medicaid recipients in Arizona has increased by 14 percent from 2009 to 2010 and the number of food-stamp recipients is up 31 percent during that period, according to our local program officials. They also told us that foreclosure actions are on the rise.

In my hometown, the Legal Assistance Foundation of Metropolitan Chicago operates a Home Ownership Preservation Project to handle foreclosure actions, and its intake telephone lines usually shut down in early afternoon on Mondays—for the week. Because of limited staff resources and the complexity of the cases, the foreclosure project staff can only handle 50 such cases per week. With the continuing foreclosure crisis, our challenge is large.

I understand that Harrison D. McIver III, executive director of Memphis Area Legal Services, appeared before the Subcommittee last October and clearly laid out the need in Tennessee. Mr. McIver reported that he has seen an increase in the poverty population served by his program and that requests for legal services are on the increase.

The challenges facing Arizona, Illinois and Tennessee are not unique. Legal services programs across the country, including those in Alabama, California, Florida, Maryland, Michigan, North Carolina, Ohio, Pennsylvania, and Rhode Island, have reported increased requests for help. Legal aid programs need more resources to meet the demand for legal services.

Nationwide in 2009, LSC programs closed more than 920,000 cases, an increase of 3.5 percent from 2008. About 35 percent of those cases involved family law matters, including domestic violence; 25 percent involved housing issues, such as landlord-tenant disputes, and 12.5 percent

were consumer cases, ranging from deceptive sales and loans to bankruptcies. Foreclosure cases doubled from 2008 to 2009 and unemployment-related cases more than doubled.

But numbers alone do not capture the spirit and mission of LSC programs. Each of these numbers represents the life of a family or an individual under stress. Take the case of a child that came to our Cleveland program. She began suffering from a seizure disorder at age 3 and developmental speech delays. In elementary school, the child became despondent because she could not understand what was happening in her classroom and no one could understand her. She would come home from school and cry, saying she did not want to live anymore, her mother said. Although the school provided an hour of special education class each day, her mother hoped to find more comprehensive services. The child was referred to the Community Advocacy Program, a partnership between the Legal Aid Society of Cleveland and the Metro Health System, which serves Cleveland's neediest neighborhoods. After a legal aid attorney participated in lengthy talks with school officials, the child was enrolled in additional special education classes and was provided with transportation to school. The student's grades improved and she began making friends. She is thriving today—a great example of how having a legal aid lawyer to press your concerns can save a life.

The people who come to our programs are in search of fair treatment and solutions to pressing legal problems. Legal aid lawyers not only open the doors to justice, they provide assistance at a crucial moment in the lives of the poor, helping them get back on their feet and helping prevent a downward spiral into costly public support.

Even as the need for LSC program services increases, the funding resources necessary to provide services are dwindling. One major source of funding, Interest on Lawyers' Trust Accounts (IOLTA), is eroding because of the drop in short-term interest rates and the decline in real estate transactions.

LSC programs received \$84.9 million in IOLTA funds last year, which was \$27 million less than in 2008, for a 24 percent reduction. IOLTA funding varies by state and grant cycle, making it difficult to forecast how much support LSC programs will receive, but the outlook is not encouraging. Most programs project declines in 2010 and probably into 2011, in part because IOLTA funders will likely deplete their reserves.

Currently, there are 136 independent nonprofit legal aid programs, which have 918 offices across the nation, that receive funding from LSC. With so much work to be done to meet requests for assistance, the LSC Board encourages these programs to leverage their federal funding.

In an era where every dollar counts, partnerships are vital to leveraging our federal funding in every community. LSC encourages programs to think strategically about partnerships and collaborations with others—such as hospitals, law firms, law schools and community agencies—that hold the promise of stretching limited resources and making our programs more effective and efficient. For example, LSC has almost 40 programs that participate in 43 medical-legal partnerships in more than 25 states, focusing on improving the health outcomes for children, families, the disabled and the elderly.

LSC programs serve as a cornerstone of our nation's *pro bono* efforts, and the Board will continue to encourage and grow the involvement of the private bar. The involvement of private attorneys in LSC work increased significantly—11.4 percent from 2008 to 2009.

From young lawyers seeking experience as they enter the profession, to mid-career lawyers wanting to give back, to retiring lawyers that want to remain active, we need to figure out how to engage and deploy these attorneys, for there is no shortage of work in legal aid offices.

The funding provided by Congress to LSC is more vital than ever and an essential part of our country's effort to provide civil legal aid for the poor. LSC distributes more than 95 percent of its annual appropriation, currently \$420 million, directly to the programs that deliver legal assistance. The proposed \$750 million in annual funding authorized by this legislation would represent a giant step toward fulfilling our nation's pledge of equal justice for all.

In addition to higher funding authorization for LSC, I would like to offer some observations on other sections of the reauthorization legislation.

Governance

As to the sections of the bill that codify the improvements in governance and accountability that were recommended to LSC by the Government Accountability Office (GAO) in 2007, the Corporation supports the intent of these changes. The improvements have already been implemented by LSC and in testimony before this Subcommittee in October 2009, Susan Ragland of GAO acknowledged the good progress that had been made by the Corporation.

Specifically, GAO made a total of 17 recommendations in its two reports issued on LSC in 2007 (*Legal Services Corporation, Governance and Accountability Practices Need to be Modernized and Strengthened* (August 2007) and *Legal Services Corporation, Improved Internal Controls Needed in Grants Management and Oversight* (December 2007)). LSC accepted all the recommendations and continues to work with the GAO to ensure that all the recommendations are completed to their satisfaction.

According to the GAO, LSC has fully implemented 11 recommendations and partially implemented the remaining six. Additional documentation on all six items has been provided to the GAO, where they are under review. These include a comprehensive orientation program for new Board members; risk-based criteria for selecting grantees for internal control and compliance program visits; guidance for performing follow-up on responses from grantee interviews; policies that clearly delineate organizational roles and responsibilities for grantee oversight and monitoring including grantee internal controls and compliance; a periodic self-assessment of the Board's committees, and evaluation of key management processes by the Board's Audit Committee. LSC expects that all the recommendations will be fully implemented and closed out by the GAO by the end of this year.

The only question that my Board would ask is whether it is a best practice to actually name the committee structure in an authorization bill, or could a more general statement suffice that requires the Board to pursue best governance practices. We do not know how long this bill will

be in place and, even if it is only five years, best practices and labels could change in that time period, and it would not seem to be prudent to have to change the law to address these changes. We would be happy to work with the Subcommittee either as part of your markup or in a future conference to address this issue.

Grantee Board Composition

LSC grantees have expressed a desire for greater flexibility in their board composition. At LSC's Executive Directors' conference in 2008, executive directors in a feedback session commented on the advantages of relaxing the current requirement that requires 60 percent of grantee board members to be lawyers. Changing this requirement to a smaller percentage of lawyers, such as 50 percent, would enable grantees to recruit other members of the community with expertise in fundraising, social services and financial issues.

Because of the overwhelming interest by program executive directors in this subject, LSC invited a panel of current and former grantee board chairs to speak on this topic at the LSC Board meeting in January 2009. The panel members discussed the makeup of their respective boards and how they generally operate. The former board chair of Iowa Legal Aid reiterated the importance of having more flexibility to recruit members with non-legal backgrounds, such as persons with audit and financial expertise.

Currently, the LSC Act requires that the grantees are governed by a board that is at least 60 percent attorneys who belong to the state bar and at least one-third members who are "client eligible." H.R. 3764 would alter the board's composition so that half are attorneys and a third are client eligible. The legislation also adds a requirement for a *pro bono* liaison with state bar associations and eliminates the McCollum Amendment requirement that state and local bar associations select members for grantee boards.

LSC supports these revised requirements and believes they will provide greater flexibility to recruit non-legal expertise that is beneficial to grantees.

Funding Restrictions

Since Fiscal Year 1996, Congress has included a number of funding restrictions in our appropriations. Last year, Congress removed the statutory restriction on funding programs that claimed, collected and retained attorneys' fees.

The Board, at its April 16-17 meeting, approved a Final Rule in the Federal Register that confirmed prior action by the Board to repeal LSC's regulatory restriction on claiming, collecting and retaining attorneys' fees. Grant recipients can make claims for attorneys' fees in any case in which the award of fees is permitted by law. LSC grant recipients also will be permitted to collect and retain attorneys' fees whenever such fees are awarded to them. LSC will collect information on this revenue and report it, as we do with other sources of income.

LSC is committed to enforcing the will of Congress and takes actions to ensure that our programs are in compliance. We are currently defending certain 1996 restrictions and the 45

CFR Part 1610 Program Integrity Rule in court. The U.S. Court of Appeals for the Ninth Circuit has ruled in LSC's favor in *Legal Aid Services of Oregon v. LSC* and plaintiffs have asked for a rehearing. The combined cases *Velazquez v. LSC* and *Dobbins v. LSC* are on hold in the Eastern District of New York because of the uncertainty regarding possible Congressional changes to funding restrictions.

The LSC Board and the Corporation are not taking a position on the restrictions because LSC administers and enforces all laws regarding the use of LSC funds.

Student Loan Repayment Assistance

LSC supports efforts to authorize the Corporation's Herbert S. Garten Loan Repayment Assistance Program (LRAP), which has proven successful in helping LSC grantees recruit and retain highly qualified attorneys.

LSC launched the program in Fiscal Year 2006 with Congressional support, and since then 154 legal aid staff attorneys have received loan repayment assistance. LSC expects to award loans to 94 attorneys this year. LRAP recipients are awarded \$5,600 per year for up to three years, provided that the attorneys remain in good standing with their programs.

Surveys conducted by LSC in 2007 and 2008 found that financial pressure was cited by a majority of LRAP participants as a significant or very significant reason for why they would leave their jobs as legal aid lawyers, and that receiving loan repayment assistance increased their willingness to remain with their organizations. The surveys also found that the majority of executive directors of LSC-funded organizations reported that offering loan repayment assistance significantly enhanced their ability to recruit and retain staff.

Ongoing research conducted by the National Association for Law Placement shows that civil legal aid attorneys are consistently the lowest-paid members of the legal profession, earning less than public defenders and state and local prosecutors, and far less than their counterparts in the private sector. According to the surveys, the average law student graduates with more than \$80,000 of debt.

The continuation of LSC's LRAP, in combination with other loan repayment programs, including those created by the Congress, is vital to addressing this need and ensuring the existence of a robust pool of lawyers dedicated to providing help to those who could not otherwise afford it.

Executive Compensation

I am pleased to endorse the compensation change in H.R. 3764, which would permit the LSC President to be paid at Level III of the Executive Schedule.

The LSC Board, at its April 16-17 meeting, took steps to begin a nationwide search for a distinguished new president to lead the Corporation. This is an urgent matter, clearly, and one of the Board's top priorities this year.

One of the hurdles that we will encounter in recruitment is the salary authorized for this position, currently Level V of the Executive Schedule. The rate of pay for this position, which is \$145,700, is less than the pay for most members of the Senior Executive Service (average rate of basic pay before bonuses was \$157,937 in Fiscal Year 2008) in the federal government.

In comparison with other similar organizations, the salary of the president of LSC is set far too low. The Corporation for Public Broadcasting, for instance, has their president's salary set at Executive Level I. The Federal Communications Commission, the International Trade Commission and the Small Business Administration have their chief executives' salaries set at Executive Level III, also higher than the president of LSC. We believe that H.R. 3764, by setting the LSC president's salary at Executive Level III, corrects a glaring inequity in the salary scale.

My predecessor as Board Chairman informed me that the salary schedule for LSC's senior staff had presented issues during searches for talented and experienced corporate officers. As you know, pay that is not competitive in Washington makes it difficult to recruit from outside this region, especially since housing and living costs are typically higher here than in some other parts of the nation. The salary for the LSC president was set 35 years ago—long before chief executives were expected to be leaders in such areas as technology, contingency planning and security systems, organizational performance, performance-based budget decisions, collaborative partnerships and “green” initiatives to reduce energy costs. Our next president must be an innovator who can take the steps to ensure LSC continues to be the leading national voice on legal aid for the poor.

I also ask that you provide for the continuation of the Corporation's locality pay program, which is modeled after the federal government and has been specifically provided for in the annual appropriations act that funds LSC.

Audits of LSC-Funded Programs

The LSC Board of Directors is strongly committed to efficiency, effectiveness and accountability. I have been told that the LSC Inspector General has reservations about some parts of H.R. 3764, and I believe any concerns that he raises deserve study by the Board.

In 1996, Congress gave the LSC Office of Inspector General (OIG) primary responsibility for annual independent public accountant (IPA) audits of grantees and audit oversight. Both the Office of Compliance and Enforcement (OCE), which conducts regular compliance reviews and investigations, and the OIG have direct compliance functions. The OIG refers certain findings and recommendations to OCE for follow-up, and OCE refers fraud and other matters to the OIG. When the GAO reviewed this situation in 2007 they concluded that a lack of clear definition of authority and responsibilities existed between OCE and OIG. LSC has implemented policies and procedures to address this concern and is continuing to take steps in that direction.

The reauthorization bill would eliminate the 1996 provisions regarding the OIG's role and revert to the provisions of the LSC Act and the IG Act. I am very interested in learning how the IG and OCE operate and what is the normal practice for IGs and federal agencies. LSC is committed to

ensuring that management and the OIG will coordinate to maximize the effectiveness of LSC compliance oversight.

The reauthorization bill would also address language in the LSC Act protecting client secrets protected under mandatory state and local attorney rules of professional responsibility. Attorneys are required to zealously guard their clients' secrets, and poor clients are entitled to the same protections. These revisions would clarify some questions as to whether grantees would rely on the American Bar Association's non-mandatory rules or the governing state and local rules. In 1996 Congress allowed LSC to collect non-privileged information such as client names and financial records even if they were otherwise protected secrets. The reauthorization bill would eliminate that provision. The Board expects to learn much more in the coming months about how the current language has worked over the past 14 years. LSC is committed to finding the best balance of respecting the local rules while ensuring that it can continue to maintain effective oversight of recipients and enforcement of restrictions.

The IG has also raised a number of points regarding specific provisions of the 1996 appropriation that would not be continued in this bill. Many of them involve statutory requirements that LSC has implemented by regulation and practice. I believe that the LSC Board and management, with the help of the IG, can ensure that they use their broad oversight discretion to maintain, and improve, existing grant management and competition practices. Other issues involve more technical matters such as the correct accounting standards and the applicable federal laws.

My goal is a fresh and determined review regarding these issues. I look forward to working with the Subcommittee and its highly capable staff on the 1996 provisions.

Conclusion

The programs that LSC funds serve clients as diverse as the nation itself—all races, ethnic groups and ages. Their clients include the working poor, veterans, homeowners and renters, families with children, farmers, and people with disabilities. Three out of four people served by our programs are women, many struggling to keep their children safe and their families together.

The ranks of the poor are growing. Economic data indicate that the number of working poor eligible for civil legal assistance is increasing and will likely continue to do so as the recession recedes. Although the unemployment rate was stable in February and March, the record number of long-term unemployed individuals continued to rise.

LSC programs are doing all that they can to help low-income Americans. Programs in West Tennessee and in Ohio hold open houses to help homeowners who may be nearing, or are in trouble, paying their mortgages. Programs in West Virginia and Arizona are part of community efforts to help victims of domestic violence. LSC programs partner with the American Red Cross and the Young Lawyers Division of the American Bar Association to provide legal aid to victims of hurricanes and other disasters, including the April 4 earthquake in California's Imperial Valley. Programs in Georgia and California have helped create medical-legal partnerships that

transform how legal services are delivered to families and children. These are just a few examples of the critical work undertaken by LSC programs.

We need to expand the use of technology, for internal and external purposes, by building on LSC's existing online services to better serve clients, by assisting and training LSC lawyers through online media, and by better coordinating our own efforts across the country.

We must continue to look toward the community of grant-making organizations and apply the best practices they have developed, to ensure that our funds are accounted for and efficiently spent on those programs that consistently prove their high-quality effectiveness.

Although an increasing number of our cases are handled on a *pro bono* basis, we can do more to reach out to the private bar, law schools and others for volunteers to help families with legal problems.

The Constitution of the United States begins with a call for government to “establish justice.” Thirty-three years ago, my father, Edward H. Levi, in his farewell address as Attorney General to the Department of Justice, reminded us that the values on which our country was founded “can never be won for all time—they always must be won anew.”

Every day, legal aid attorneys across our nation can be counted on to ensure the poor are treated with fairness and dignity in the resolution of their civil legal problems. LSC thanks the Subcommittee for taking up H.R. 3764. It represents a giant step toward fulfilling the national promise of equal justice for all.

Thank you. Mr. Chairman, it is an honor to testify today. I am happy to respond to your questions.