

**Georgia Equal Justice Commission
Committee on Civil Justice**

**Atlanta, Georgia
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President, Legal Services Corporation**

[Thank you, Frank, for that very gracious introduction. As everyone knows in Atlanta, you have a longstanding commitment to legal services for the poor. In addition, you have been a marvelous Chairman of the Board of LSC, always accessible to give guidance and you lead the Board in a most collegial manner.

[I would like to start by thanking Anne Lewis for inviting me here today. Not only is she vice-chair of this committee, she is a partner of the Chairman of our Board, Frank Strickland.

[I would like to acknowledge several members of the committee that I know as well: Rita Sheffey, president of the Atlanta Legal Aid Society ... Charlie Lester, with whom I've worked on private attorney involvement ... Cubbedge Snow, my colleague from the ABA...and Terrance Dicks as head of the Client's Council.

[I would also like to express my deep respect for the executive directors of the two programs LSC funds in this state: Phyllis Holman of the Georgia Legal Services Program and Steven Gottlieb of the Atlanta Legal Aid Society. Throughout our long working relationship, my esteem for you has only deepened.]

It is a pleasure to be here today. I welcome the opportunity to provide a national perspective on the justice gap—the situation today as well as the outlook for the future.

Equal Justice Under Law

Last month, I participated in a conference on the state of the judiciary. It was held at Georgetown University, jointly sponsored with the American Law Institute, and chaired by Supreme Court Justice Stephen Breyer and former Justice Sandra Day O'Connor. I spoke about the need to improve the judicial system by expanding access to it.

You in this room know well the importance of the words "Equal Justice Under Law." They are inscribed on the Supreme Court building in Washington and on courthouses throughout the nation for a good reason: they describe a principle fundamental to the American way of life.

As Supreme Court Justice Lewis Powell said, “Equal justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society ... it is fundamental that justice should be the same, in substance and availability, without regard to economic status.”

Our nation’s founders devised a system of government that is remarkable in many ways. Particularly remarkable is its strong emphasis on an independent judiciary.

An independent judiciary ensures that all Americans—rich and poor alike—must adhere to the rule of law. Our judicial system protects individual rights and makes fundamental determinations relating to life, liberty, and property. But the rights and protections embedded in our laws are not self-enforcing. To secure or defend them, individuals often must seek legal redress and interact with the courts.

Access to Justice

As we all know, our legal system is complex ... the language of our laws is often opaque ... often subject to multiple meanings and interpretations. For these reasons, navigating our legal system almost always requires the specialized skills of a lawyer.

And yet, most low-income Americans when faced with circumstances requiring legal redress for essential human needs such as protection from abusive relationships, access to safe and habitable housing, receipt of necessary health care, obtaining child support, or relief from financial exploitation, have no choice but to face legal proceedings without the assistance of a lawyer.

The lack of lawyers to represent the poor in proceedings that fundamentally affect their lives led Congress to create the Legal Services Corporation in 1974, the organization I have the honor to serve as President. LSC’s mission is to promote equal access to justice and to provide high-quality civil legal assistance to low-income Americans who would otherwise be unable to afford it.

LSC is an independent, non-profit corporation that receives federal funding appropriated each year by Congress. Our appropriation this year is \$326.6 million.

LSC does not provide legal services directly. It gives grants to independent, local legal aid organizations throughout the country that provide civil legal services to low-income individuals. Today, LSC funds 138 programs with more than 900 offices in all 50 states, the District of Columbia, and U.S. territories. They support about 3,600 lawyers and a total staff of about 10,000. Three-fourths of their clients are women—for the most part, mothers with children trying to meet basic human needs.

To be eligible for LSC-funded programs, a person cannot earn more than 125 percent of the official poverty level. The income for a family of four cannot be more than about \$25,000 a year. The population of the United States just passed the 300-million mark. The Census Bureau’s most recent reports indicate that 50 million Americans live in poverty, including 13 million children—one in every five children in America.

Justice Gap Report

The gap between the resources available and the civil legal needs of low-income Americans has been a key issue throughout LSC's history. This past year, it became a primary focus. In October 2005, with the unanimous approval of our Board, LSC issued a groundbreaking report entitled *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*. (Copies have been provided to you; it is also available on our web site at www.lsc.gov.)

The Justice Gap Report was the result of a year-long study that used several different methodologies to examine the issue. All of them demonstrated that there is a significant shortage of civil legal assistance available to low-income Americans.

The main methodology asked all LSC-funded programs—including the Atlanta Legal Aid Society and the Georgia Legal Services Program—to document for two months the number of eligible individuals—potential clients—who came to their offices, sought help, and were turned away due to a lack of resources. Known as the LSC “unable to serve” study, this was the first comprehensive statistical survey ever conducted by LSC. The findings were stark, but not unexpected.

Nationwide, for every client served, one eligible applicant was turned away, indicating that LSC-funded programs are not meeting the needs of 50 percent of those actually seeking help. These people were eligible to receive help from LSC-funded programs and actively sought it. They did not get it because the programs lacked the resources to serve them.

An annual projection based on the data gathered during our two-month study indicated that LSC-funded programs turn away more than one million potential clients. Even this may be an understatement.

If anything, our report understates the dimensions of the justice gap.

Many who are eligible for help don't seek it—they don't know they have a legal problem ... don't know their rights ... don't know where to go for help ... don't believe help is available.

Other studies cited in the Justice Gap Report indicate that the unmet need is even greater. Nine states have conducted studies between 2000 and 2005: Connecticut, Illinois, Massachusetts, Montana, New Jersey, Oregon, Tennessee, Vermont, and Washington. They used different methodologies, but their findings were the same: less than 20 percent of the legal needs of the low-income residents of their state were met.

Moreover, the analysis for the Justice Gap Report was completed before last year's hurricanes—national disasters that simultaneously swelled the need for legal help and the number of people without access to it. Hurricane Katrina alone—a crisis on the scale of the Great Depression—caused an estimated \$75 billion in damages and displaced one-and-a-half million people. Nearly 50,000 of them fled to Georgia. The

report does not reflect the vastly increased need for civil legal assistance caused by last year's storms.

A year has passed and many of these new clients still need assistance with disaster-related issues: resolution of landlord/tenant issues such as challenges to rent-gouging by unscrupulous landlords and disputes about rental housing repairs ... legal issues related to temporary housing in mobile homes and hotels ... home repair and contractor disputes ... consumer fraud issues that run the gamut from individual small appliances to major insurance problems ... health problems arising from the clean-up of homes and other environmental challenges ... and increased family law issues, including child abuse and domestic violence from disaster-related distress.

From my own experience with 9/11 and my work at the Legal Aid Society of the City of New York, I know that we will be dealing with Katrina-related cases for many years to come.

Budget Outlook

Just to meet the needs of those currently turned away, LSC's budget for basic field grants must double. Last year and this year, LSC's Board decided to frame its annual budget request to Congress differently—to take a new approach that stems directly from the Justice Gap Report.

Recognizing political reality, LSC's Board decided to seek a 20 percent annual increase spread over five years. The reaction from Congress has been encouraging. LSC has good reason to hope for a budget increase in 2007—our first in four years.

This summer, by a vote of 237-185, the House of Representatives approved \$338.8 million for LSC—about \$12 million more than we are getting this year. The Senate Appropriations Committee approved \$358.5 million—about \$32 million more than we are getting this year.

The Justice Gap Report was cited during debate on the House floor, in a letter to the House Appropriations Committee signed by 163 representatives, in a letter to the Senate Appropriations Committee signed by 54 Senators, and in the NLADA-organized letter to Congress signed by the general counsels of some 60 corporations.

Congress is in recess and will not return until after next week's elections. When it does, we hope the full Senate will approve the \$32 million increase. Ultimately, a conference committee will determine the final amount.

Meanwhile, we are preparing LSC's budget request for 2008. The Board has voted to request \$429.6 million, which includes a 20 percent increase in the basic field grant approved by the Senate Appropriations Committee for 2007.

As I said earlier, for the first time in four years, we have good reason to hope that LSC's budget will be increased. Even so, LSC will not have the resources to serve all, or even most, of the low-income individuals eligible to receive civil legal assistance—in Georgia or any other state.

Impact on the Judicial System

The growing gap between the need for legal representation among the poor—and its availability—adversely impacts the judicial system.

It undermines the concept of a fair and independent judicial system when large segments of the population do not have the legal representation they need to navigate the courts. Lack of access to the judicial system breeds lack of confidence in it. As the perception that the system is just and equitable erodes, so does confidence in the fairness and impartiality of the courts.

It encourages people to seek other forums for resolution of disputes. We are a civil society that operates within a system of laws that requires judicial resolution of disputes. When access to the judicial system is limited—when courthouse doors are open only for those with resources and closed to the poor—the result is disillusionment. That, in turn, leads to dispute resolution outside of accepted avenues. If people have access to forums where legitimate grievances can be resolved within the law, they will not resort to solving problems outside the law.

Because we are not able to provide legal services to all who need it, more and more poor Americans are forced to go to court unrepresented. Although some individuals may choose to go to court without counsel, most *pro se* litigants have no choice. We need to work with the courts to find ways to support *pro se* litigants where appropriate and provide information and assistance to help them navigate the judicial system without a lawyer at their side.

Partnerships and Collaboration

It is, therefore, imperative that LSC grantees do two things: leverage their federal funding and collaborate with non-LSC-funded entities.

LSC is the largest single provider of civil legal aid for the poor, but it is not the only one. LSC is the federal government's vehicle for the delivery of civil legal aid to the poor. LSC can lead the way to closing the justice gap, but LSC cannot do it alone. It is essential that LSC-funded programs leverage their federal funds. Government must bear the laboring oar, consistent with its role in maintaining the civil justice system. But there must be a partnership with state and local government, other funders, the private bar and private contributions.

It is also essential to underscore the importance of partnerships and collaboration with others as part of integrated statewide networks to ensure access to justice. It is essential to the ability of the legal services community to serve more low-income individuals—to help them resolve pressing civil legal problems.

The key is building a broad base of support—partnerships and collaboration involving the private bar ... the courts ... law schools ... the business community ... state and local government (executive and legislative branches) ... non-LSC funded programs ... other funders ... the faith-based community ... community-based organizations of all kinds.

In Georgia and on the national level, the private bar is traditionally the strongest voice in support of civil legal aid for the poor, providing pro bono services as well as much needed financial support. The courts are another important partner, especially with the enormous growth in the number of pro se litigants. Law schools provide services and, even more important, instill a commitment to pro bono work in their students, which we hope will span their entire careers.

In many ways, the situation in this state is typical of what we see on the national level: a mix of funding sources ... different challenges in rural and urban areas ... collaboration with non-LSC providers.

LSC encourages programs' involvement in state planning. We stress that LSC-funded programs need to participate in integrated legal services delivery systems and engage in efforts to develop them. Programs need to coordinate with a wide range of persons and institutions with a stake in ensuring equal access to justice to ensure that the most critical legal needs of low-income individuals in their service area are met.

The Georgia Legal Services Program, with a rural service area, relies more heavily on federal funding. Its LSC grant is 50 percent of the budget.

The Atlanta Legal Aid Society, which serves an urban population, gets about 30 percent of its funds from LSC.

For both, the second biggest source of funding is the private bar—bar association grants and IOLTA.

Private Attorney Involvement

Earlier this year, at the Board's request, we launched a major initiative on private attorney involvement with LSC-funded programs. The goal is to encourage and enhance innovative and creative partnerships between LSC-funded programs and the private bar. (Our programs must use at least 12.5 percent of their field grants for private attorney involvement.)

The Board has heard three presentations on the subject, each of which provided a different perspective on enhancing private attorney involvement. In January, we heard from large law firms and corporate counsels ... in April, we heard from small law firms and solo practitioners ... in July, we heard from law schools.

Just a few days ago, at the Board's October meeting, we presented our preliminary findings—thoughts on what we learned from the presentations and ideas for future activities to increase private attorney involvement with LSC grantees. Important as that is—and as successful as our initiative may be—we are mindful that the private bar alone cannot close the justice gap.

Quality Agenda

Providing legal services is just part of the challenge. We must also ensure that they are high-quality legal services.

Shortly after assuming the presidency of the Legal Services Corporation, I indicated that my focus would be on quality. I chose that as my focus not because quality was poor—in my opinion, LSC-funded programs deliver high-quality legal services by any professional standard—but because we can aim to do even better. A number of initiatives to encourage and ensure that are now in place. Let me share with you briefly LSC's quality agenda

The centerpiece of our quality agenda is the revised **Performance Criteria** issued last spring, which LSC uses to evaluate programs and grant applications. We updated them to reflect the current environment. To make them even more useful, we are incorporating references to the American Bar Association's "Standards for Providers of Civil Legal Aid"—a process we hope to complete by the end of the year.

To help programs operate efficiently and effectively, LSC provides **Technology Initiative Grants**. We encourage the use of technology in every area: practicing law, managing programs, and delivering services.

Another element of our quality agenda is the **Leadership Mentoring Pilot Program**, an initiative to develop a well-trained diverse group of future leaders in the legal services community. The pilot was developed by LSC, the National Legal Aid & Defender Association, and the Management Information Exchange. Two of our 20 participants are from Georgia. Guy Lescault, who has just joined LSC as a Program Counsel in our Office of Program Performance, is a mentor and Rebecca Crowley, an attorney with the Georgia Legal Services Program, is a protégé.

LSC also has a pilot **Loan Repayment Assistance Program**. We hope to demonstrate that help with educational loans also helps LSC-funded programs recruit and retain high quality legal aid attorneys—and to spur development of loan repayment programs like those of the Atlanta Legal Aid Society and the Georgia Legal Services Program.

I regularly hold **conversations on quality** with leaders of the legal services community. I have had four and will soon have a fifth with a group of emerging leaders who are the protégés from our Leadership Mentoring Pilot Program.

We are also updating the **Case Service Report Handbook** that provides guidance on what LSC programs may count as a “case.” Our goal is to help programs capture their work even better—and to count it more accurately.

Access to Justice Commissions

The challenge for this Committee and other Access to Justice Commissions—there are now 26—is to narrow the gap between supply and demand—the availability of resources and the need for civil legal aid for the poor. Resources remain limited even as the low-income population and the need for civil legal aid continue to grow. If we are to close—or at least narrow—the justice gap, we must think outside the box.

This Committee can encourage more members of the private bar to embrace their professional responsibility to engage in significant pro bono activities ... lead efforts to secure additional sources of funding for civil legal aid programs ... encourage a state-wide study that accurately documents the unmet legal needs of the poor ... support efforts at the state legislative level to secure adequate resources ... work to ensure an integrated and coordinated system for the delivery of civil legal aid to the poor throughout the state of Georgia—in both rural and urban areas...work with the courts and *pro se* litigants to harness the power of technology to help *pro se* litigants help themselves...and increase the public’s understanding of the need for civil legal assistance to low-income individuals and how it benefits the individual and society as a whole.

In addition, you are the cornerstone of our support in Washington. You have access to your Senators and Congressmen as colleagues and friends. You know them and they care about what you think. The feedback you get in the local offices is invaluable. You can help supplement our funding and help LSC get more.

In August of this year, the American Bar Association’s House of Delegates adopted “Principles for a State System for the Delivery of Civil Legal Aid.” They were adopted by a diverse national body. Designed for use by Access to Justice Commissions, these 10 principles are the basis for a national strategy. They include a self-assessment, which is a tool you can use to evaluate your state delivery system.

The Road Ahead

We are making progress, but much still remains to be done, especially with regard to the unmet need—a problem not just here in Georgia, but nationwide.

We know the root of the problem: lack of resources. The question is: What is our strategy for dealing with the problem beyond this year?

Earlier this year, LSC’s Board of Directors adopted a five-year plan with a strategic goal: to increase public awareness of—and support for—programs that provide civil legal aid to low-income individuals in order that more of their needs can be appropriately addressed.

From public opinion research, we know that Americans strongly support civil legal aid for the poor—in concept. A poll commissioned by the State Bar of Georgia found that 84 percent of the people of this state believe that our court system should provide access to justice for all, without regard to income, race or political affiliation.

Americans support the provision of civil legal aid to poor individuals and families because it is grounded in fairness and equality, principles fundamental to the American way of life ... because it makes a meaningful difference in individual lives ... because those who need it most are the most vulnerable among us—children, victims of domestic violence, persons with disabilities, veterans, and elderly, infirm people in need.

Unfortunately, as I have learned from the questions and comments I receive, many people do not know what the Legal Services Corporation is, what it does, or where it gets its money.

The challenge is clear. To build public support, the legal services community must become better at telling its own story.

- We must put a human face on our client population—heighten awareness of the kind of people our programs help: women ... children ... victims of domestic violence ... elderly people in need ... disabled individuals.
- We must demonstrate how our work makes meaningful differences in the lives of individual clients—resolving an issue with a landlord, for example, can enable a family to keep its home and stay together and avert homelessness.
- We must demonstrate how our work benefits society as a whole—removing a barrier to employment, for example, can enable an individual to become self-sufficient.
- We must demonstrate how our work is cost-effective—show, for example, how provision of civil legal aid to low-income individuals can reduce government spending overall.

America is the richest nation on earth, yet poverty persists—and with it, the civil legal problems associated with poverty.

Most of those who live in poverty do not have access to lawyers who can help resolve the problems associated with their poverty—problems that may determine whether they have food to eat ... a roof over their head ... needed medical care ... protection from violent and abusive relationships ... personal safety.

This clearly does not comport with the fundamental American principle that justice must be available to all, not just to those who can afford to pay for it.

We cannot do it alone. The problem requires all of us—the legal services community, attorneys in private practice, the judiciary, the business community, law schools, faith-based communities, state and local governments (both the executive and

legislative branches), non-LSC programs, other funders, and our society as a whole—to work together to address the unmet civil legal needs of the poor.

Equal access to justice cannot remain an aspiration. It must become a reality. For ultimately, how we respond to the needs of the most vulnerable among us—at their time of greatest need—is clearly one of the ways in which we will be judged to be a civilized society.

The work of leaders, such as those on this Committee, brings us closer to the ideal.

On behalf of the Legal Services Corporation, I thank you for all that you are doing and will do. I look forward to continuing to work with you as we together strive to ensure that justice is not just for some, but truly for all.