

The Role of the Legal Services Corporation in Improving Access to Justice

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Abstract: The Legal Services Corporation is the United States' largest funder of civil legal aid for low-income Americans. The LSC funds legal-aid programs that serve households with annual incomes at or below 125 percent of the federal poverty guideline. Legal-aid clients face a wide variety of civil legal problems: wrongful evictions, mortgage foreclosures, domestic violence, wage theft, child custody and child support issues, and denial of essential benefits. This vital work is badly underfunded. The shortfall between the civil legal needs of low-income Americans and the resources available to address those needs is daunting. Federal funding is necessary because support for civil legal aid varies widely from state to state. The LSC uses the "justice gap" metaphor to describe the shortfall between legal needs and legal services. Narrowing the gap is central to the LSC's mission.

The Legal Services Corporation is the United States' largest funder of civil legal aid for low-income Americans. The LSC funds legal-aid programs that serve households with annual incomes at or below 125 percent of the federal poverty guideline. Legal-aid clients face a wide variety of civil legal problems: evictions, mortgage foreclosures, domestic violence, wage theft, child custody and child support issues, and denial of essential benefits. Most clients are women. Many are seniors, veterans, or people with disabilities.

This vital work is badly underfunded, and the shortfall between the civil legal needs of low-income Americans and the resources available to address those needs is daunting. Federal funding is necessary because support for civil legal aid varies widely from state to state. Florida and Idaho, for example, provide no state funds of any kind for civil legal aid, while New York appropriated \$100 million in 2018. Local, private, and foundation sources of funding are also uneven and limited. In a dozen

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states and territories, the LSC provides the majority of civil legal aid funding for its grantees.¹ It is the backbone of legal-aid funding across the United States, ensuring that there is at least some support everywhere.

Created by an act of Congress in 1974, the LSC is an independent nonprofit corporation headed by a bipartisan board of directors whose eleven members are appointed by the president and confirmed by the Senate. The LSC is a grant-making organization funded almost entirely by an annual appropriation from Congress. It distributes more than 93 percent of its appropriation to eligible nonprofits delivering direct civil legal aid services. The LSC currently funds 132 independent legal-aid organizations with more than eight hundred offices serving every county in the United States and the American territories.²

The LSC uses the “justice gap” metaphor to describe the shortfall between legal needs and available legal services. Narrowing the gap is central to the organization’s mission. In June of 2017, the LSC issued a report titled *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*. The report, prepared by the LSC and the National Opinion Research Center at the University of Chicago, found a wide justice gap for the almost 20 percent of Americans eligible for LSC-funded assistance. In a given year, this population receives inadequate or no legal help in addressing 86 percent of the civil legal problems it faces.³ The need is widespread: 71 percent of low-income households experience at least one civil legal problem a year, and about one-quarter of this population experience six or more civil legal problems a year.⁴

Another measure of the justice gap is the number of unrepresented litigants in the nation’s courts. The National Center for State Courts estimates that in almost 75 percent of civil cases in state courts,

one or both parties are unrepresented.⁵ The numbers are even higher in some types of high-volume, high-stakes cases. It is common in American courts: for example, more than 90 percent of tenants facing eviction have no lawyer, and more than 90 percent of parents in child support cases go without counsel.⁶

Every day across America, LSC-funded legal-aid providers help victims of domestic violence seeking protection, veterans trying to avoid homelessness, consumers facing wrongful evictions or foreclosures, and others with challenges to their security and well-being.

A disabled veteran named Ronnie Pitcock, for example, was living with his wife of twenty years when his leg required amputation. As he recovered from surgery, Pitcock’s spouse left him and took all of his money. With no other options, he moved into a homeless shelter and was referred to the veterans relief project at Legal Aid of Western Missouri. Living on Social Security Disability benefits, he could not pay his medical and other expenses. With the help of a legal-aid attorney, he was able to discharge his student loans on the basis of his disability, obtain a divorce settlement, and terminate the power of attorney he had previously given his wife so that he could protect his income going forward.

Domestic violence cases are common for LSC grantees and usually require much more than filing for divorce. After an abusive husband in Kansas threatened to shoot his wife, for example, she met with a Kansas Legal Services attorney who devised a safety plan and filed for emergency protective orders. The attorney then litigated a divorce action in which his client obtained fifty-four months of spousal support so she could get back on her feet.

Legal-aid agencies also join forces with health care providers in medical-legal

partnerships to deal with a wide variety of civil legal and health issues. For example, a Los Angeles resident suspected her children's respiratory illnesses were related to broken pipes and mold in her apartment. She was not able to get her landlord to address these problems, so she brought her children to St. John's Well Child and Family Center, a community clinic in South Los Angeles, to treat their respiratory symptoms. When her doctor learned of the conditions at her apartment, he asked an attorney from Neighborhood Legal Services of Los Angeles County, stationed at the clinic as part of a Medical-Legal Community Partnership, to assist the family. As a result of the legal intervention, the landlord brought the premises up to code. The children's visits to the doctor for respiratory problems dropped significantly. The health of the neighbors improved as well.

Legal-aid providers have also broken new legal ground through litigation. For example, Southeast Louisiana Legal Services Corporation won an appeal that allowed a domestic violence victim to litigate child custody in the state she moved to rather than in Louisiana where her abuser sued her. This case established the right of domestic violence victims to litigate custody in a refugee state.⁷

In Maine, a pro bono lawyer handling a foreclosure case for Pine Tree Legal Assistance realized the mortgage company he was suing was mass-producing flawed paperwork to seize homes illegally. He initiated investigations into robo-signing and other practices that helped lead to a \$25 billion settlement and forced the nation's largest banks to halt improper foreclosures based on bad documentation.⁸

Because of the wide disparity between available resources and the civil legal needs of low-income Americans, the LSC has undertaken a number of initiatives to

leverage its federal appropriation, to promote innovation in the delivery of legal services, and to maximize the efficiency and effectiveness of the work it funds.

Technology can stretch limited resources for legal-aid providers in many ways. It allows them to automate functions that lawyers would otherwise handle and provides them with self-help checklists, instructional videos, and document-preparation help for unrepresented people. Technology also aids in preparing legal forms and provides support for private pro bono lawyers taking on cases in unfamiliar areas of law. The LSC has been a leader in promoting the use of technology in legal aid.

Since it was founded in 2000, the LSC's Technology Initiative Grants (TIG) program has played a significant role in promoting technology to address the civil legal needs of low-income people. The TIG has funded more than seven hundred projects totaling more than \$63 million.⁹ They include:

- *Developing a national network of legal-aid websites* that provide information on the locations and services of legal-aid offices, offer pro bono opportunities and subject-matter support for volunteer private lawyers representing legal-aid clients, and present a broad range of self-help resources for low-income people with civil legal problems.
- *Funding the development of LawHelp Interactive*, which uses technology to improve the process for self-represented litigants in preparing legal forms and other documents. Used in more than forty states and U.S. territories, LawHelp Interactive is available through many statewide legal-aid websites.¹⁰
- *Helping legal-aid organizations create and share educational content.* Statewide Legal Services of Connecticut developed LearnTheLaw.org, through which legal-

aid programs from any state can access resources for online classes to train volunteers about a specific legal issue, guide self-represented parties through often confusing legal processes, produce trainings for pro bono lawyers, and meet other training needs.

- *Using text messaging systems to help litigants keep important appointments and to track outcomes in client matters.* Legal Services of Northern Virginia uses text messages in addition to phone calls to remind self-represented litigants of court dates and other important appointments. Since beginning the program in 2014, the organization has reduced client failures to appear in court by 45 percent.¹¹ Montana Legal Services Association sends text reminders to clients about meetings they have scheduled at self-help clinics. These reminders have increased attendance by as much as 40 percent at the clinics since they began in 2017.¹² The Legal Aid Society of Cleveland developed a system in 2016 to text-message clients who received advice or limited service, to learn the outcomes resulting from the help provided. The system collects outcomes data related to housing conditions, eviction, foreclosure, simple divorces, criminal record sealing, and debt problems. More than half of the people who have received a text message asking them to report case outcomes have responded.
- *Developing online intake systems.* The TIG program has funded initiatives to provide online intake for prospective clients, allowing them to apply online for assistance at any time of day from any location. These systems have saved significant staff time and resources: Legal Aid of Western Ohio, for example, determined that online intake saved approximately ten to fifteen minutes of staff time for every application accepted, which amounts to a savings of about one to one and a half of a full-time staff member's time per year. The Michigan Guide to Legal Help, an online triage tool developed through a 2015 TIG, is improving intake through a simple format. After visiting Michigan-LegalHelp.com and filling out a ninety-second questionnaire, users are directed to a customized, comprehensive list of referrals, legal information, and forms tailored to their circumstances. If someone is deemed eligible for legal aid and has a priority case, he or she will be directed to the Michigan statewide online intake system. The Michigan Guide collects no personally identifying information, so users are anonymous until they submit an application for help through the secure online intake system. In the first six months of 2018, an average of 180 people a day accessed the Guide: 70 percent finished it and 60 percent were referred to legal services. Nearly 90 percent said it was easy to use.¹³
- *Enhancing data collection and analysis.* Several grants have supported innovations at Illinois Legal Aid Online. One supported the work of a team of data scientists to model complex sets of website data and better predict how users would interact with the legal aid organization's website.
- *Helping military members, veterans, and their families.* StatesideLegal.org is a free resource for members of the military, veterans, their families, and advocates. Administered by Pine Tree Legal Assistance, the website helps users access benefits, find free legal help, and navigate their legal issues. Users can access an extensive library of original content, including interactive forms and instructional videos.
- *Partnering with Microsoft and Pro Bono Net to develop online, statewide "portals" to*

direct individuals with civil legal needs to the most appropriate civil legal assistance. The portals are being designed to provide easy, statewide access for people seeking help with civil legal matters and will be piloted in Alaska and Hawaii in 2019.

Increasing the role of private lawyers in civil legal aid can help narrow the justice gap. The LSC requires that its grantees spend 12.5 percent of their LSC funding to support legal services by private attorneys. This spending can be used to fund infrastructure to support unpaid, volunteer pro bono lawyers, to compensate private attorneys for taking on cases from legal-aid programs, or both.

At the LSC's request, Congress first funded the LSC's Pro Bono Innovation Fund in 2014 for \$2.5 million. By 2018, Congress increased funding to \$4.5 million. The initiative has invested \$14.5 million in pro bono projects in twenty-eight states.¹⁴ These projects have involved collaborations with nearly one hundred partners, including bar-sponsored volunteer lawyers' programs, health care providers, law firms, corporations, technology providers, and law schools.

Over the first years of the program, the LSC has detected three trends:

- *Pro bono is becoming more efficient.* All grantees are expected to modernize, digitize, and streamline existing systems to support and communicate with volunteers. The initiative has invested hundreds of thousands of dollars in both simple and large-scale technology improvements that save numerous hours of volunteer, legal-aid staff, and client time.
- *Pro bono is becoming more focused on quality and impact over processing and volume.* Nearly 90 percent of Pro Bono Innovation Grant funding has been directed toward personnel, such as substantive experts or dedicated staff with

experience in both legal aid and law firms, who can ensure that volunteers are well trained, supported, and provided with pro bono opportunities that are well-matched to their experience, skill, and available time. James J. Sandman

- *Pro bono programs are developing opportunities that are more substantive and provide helpful legal assistance to clients.* Grantees are encouraged to engage pro bono attorneys in substantive and meaningful legal assistance to clients. Taking advantage of court rules that permit limited as opposed to full representation of a client, and through same-day, on-site, court-based representation projects, many of these pro bono opportunities allow volunteer pro bono lawyers to provide valuable assistance to clients without extensive time commitments.

The LSC has launched multiple initiatives to improve its grantees' effectiveness. The LSC is the repository of more information about the delivery of civil legal aid than any other organization in the United States. Its goal is to use that and other data to promote evidence-based improvements in client services and legal-aid management. In 2016, the LSC began requiring its grantees to track the outcomes of all cases in which clients were provided with extensive services, and then, in 2017, to report to the LSC on how grantees are using the outcomes data they collect to improve client services and program management.

In 2014, the LSC launched an effort to raise private funds to complement its Congressional appropriation to support new initiatives that extend and amplify its work. Examples of privately funded projects include:

- The *Justice Gap* study, mentioned above.
- A Rural Summer Legal Corps, comprising up to thirty law students each

- summer who serve with LSC-funded civil legal aid providers in rural locations.
- A Midwestern disaster-preparedness project to develop coordinated plans between disaster-preparedness organizations and legal-service providers.
 - The LSC's first grant initiative to support leadership training in the field of civil legal aid.
 - The development of a legal-aid curriculum for public librarians, who are often the first people low-income Americans consult when seeking help in finding legal aid.
 - A toolkit and online guide that enable LSC grantees to use client outcomes data to improve client service and internal management.
 - An evaluation of the accessibility and usability of state- and territory-wide legal-aid websites, which currently differ in the quantity and quality of information they provide, and the development of a toolkit to implement recommendations for improvements.
 - National task forces to address the civil legal aid challenges caused by natural disasters and the opioid crisis.

One of the biggest challenges in resolving the crisis in civil legal aid is the invisibility of the issue: the widespread ignorance of the magnitude of the justice gap in the United States.

Among the public, research has shown a common misperception that there is a right to counsel in civil cases. There is not. Even those who understand that representation is not guaranteed in the civil justice system do not understand how many people receive no civil legal aid because of a lack of resources.

Some private funders think this a narrow issue for lawyers to resolve. Others think of civil legal aid as just another

discretionary spending program, or even worse, a form of charity.

Funding civil legal aid is not charity; it is an essential and financially sound investment. A growing body of research demonstrates that investment in civil legal aid stimulates significant economic benefits for communities, state and local governments, and individuals. Studies in several states illustrate that civil legal aid positively affects the housing market, homeless shelter costs, foreclosure and eviction rates, and employment, while reducing domestic abuse costs.

The LSC has worked to raise public awareness of the crisis in civil legal aid and to attract partners beyond the traditional civil legal aid community. The organization initiated this effort at a forum cohosted with the White House in April of 2012. It has held similar forums at LSC board meetings in twenty states and has held a national convening in Washington each year since 2012 to focus attention on the need for expanded civil legal services and to promote innovations in meeting that need.¹⁵ These forums have included leaders from business, government, philanthropy, and the greater legal community.

This broader focus continues with another LSC initiative: the LSC Leaders Council. Comprising leaders in law, business, academia, sports, and other disciplines, the Leaders Council is helping raise awareness of the LSC and its grantees' essential work. These initiatives are intended to engage broader participation in the LSC's mission of promoting access to justice: to expand beyond the traditional legal-aid community and involve American leaders of all kinds.

Funding civil legal aid is an investment in the stability of American democracy. If the United States cannot ensure access to the legal process, the nation cannot expect respect for the rule of law or the

democratic institutions that depend on it. The American justice system belongs to and is meant to serve all Americans, not just lawyers. The United States must educate all Americans about and engage them in the challenges posed by the justice gap.

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ENDNOTES

- ¹ Michelle Oh, Lim Lee, and Sarah John, *By the Numbers: The Data Underlying Legal Aid Programs* (Washington, D.C.: Legal Services Corporation, 2017), 15–21, Table 4.
- ² Legal Services Corporation, “How We Work,” <https://www.lsc.gov/what-legal-aid/how-we-work>.
- ³ Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (Washington, D.C.: Legal Services Corporation, 2017), 30.
- ⁴ *Ibid.*, 21.
- ⁵ National Center for State Courts, *Civil Justice Initiative: The Landscape of Civil Litigation in State Courts* (Williamsburg, Va.: National Center for State Courts, 2015), iv.
- ⁶ Charles Allen, Kenyan R. McDuffie, and Mary M. Cheh, “Low-Income Tenants in D.C. May Soon Get Legal Help,” *The Washington Post*, May 18, 2017, https://www.washingtonpost.com/blogs/all-opinions-are-local/wp/2017/05/18/low-income-tenants-in-d-c-may-soon-get-legal-help/?utm_term=.5105e1cb02dc.
- ⁷ *Kovach v. McKenna*, No. 2011-C-0228 (La. Ct. App. 4th Cir. 2011).
- ⁸ Debra Cassens Weiss, “Pro Bono Lawyer Who Exposed Robo-Signing Wins \$100K ‘Purpose Prize,’” *ABA Journal*, December 6, 2012, http://www.abajournal.com/news/article/pro_bono_lawyer_who_exposed_robosigning_wins_100k_purpose_prize.
- ⁹ Legal Services Corporation, “Technology Initiative Grant Program,” <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig>.
- ¹⁰ Law Help Interactive, <https://lawhelpinteractive.org>.
- ¹¹ Legal Services of Northern Virginia, *TIG Final Evaluation Report* (Fairfax: Legal Services of Northern Virginia, 2015).
- ¹² Montana Legal Services Association, *TIG Final Evaluation Report* (Billings: Montana Legal Services Association, 2017), 5.
- ¹³ Legal Services Corporation, “Online Innovations to Meet the Needs of the 21st Century Legal Aid Client,” Vimeo video, 16:24, April 25, 2018, <https://vimeo.com/266530876>.
- ¹⁴ Legal Services Corporation, “Pro Bono Innovation Fund,” <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/pro-bono-innovation-fund>.
- ¹⁵ Legal Services Corporation, “Board Meetings,” <https://www.lsc.gov/about-lsc/board/board-meetings>.