



## Washington State Office of Civil Legal Aid

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James A. Bamberger, Director  
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To: Chief Justice Madsen  
Supreme Court Budget Committee

From: Jim Bamberger, Director

Re: Office of Civil Legal Aid  
Initial Policy Level Decision Package  
FY 2013-15

Date: April 19, 2012

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Please find attached the Office of Civil Legal Aid's initial policy level decision package. This package has been reviewed and approved by the Civil Legal Aid Oversight Committee and was developed after substantial consultation with the Access to Justice Board and members of the Alliance for Equal Justice.

As developed in more detail in the package, the level of funding that OCLA will seek for the FY 2013-15 biennium is going to be determined by forces well beyond our control. The statewide civil legal aid system is dependent upon federal funding made available through the Legal Services Corporation. Congress has cut LSC funding by 18% over the past two years. Budget marks for FY 2013 vary widely, with the House proposing to cut an additional 5.7% (\$20 million) and the Senate seeking to restore some of the cuts taken in 2012. Informed sources advise that, like the rest of the federal budget, final numbers will not be determined until after the results of the 2012 election are known.

Consequently, this decision package is a space-holder. It assumes continued federal funding at 2012 levels. Using this assumption, it seeks to restore a portion of the capacity lost as a result of cuts in state, federal and IOLTA funding.

As information becomes clearer, OCLA will advise the Budget Committee and revise this proposal accordingly.

C: Thomas A. Brown, Chair  
Civil Legal Aid Oversight Committee

WASHINGTON STATE JUDICIAL BRANCH  
**2013-2015 BIENNIAL BUDGET REQUEST**  
**Preliminary Decision Package**

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**Agency** **Office of Civil Legal Aid**  
*(Please choose one judicial branch agency from the dropdown list.)*

**Decision Package Title:** **Mitigate Client Service Capacity Losses**

**Budget Period:** **2013-2015 Biennial Budget Request**

**Budget Level** **Policy Level**  
*(Please choose policy or maintenance level from the dropdown list.)*

**Agency Recommendation Summary Text**

*(100 words or less)*

Restore minimum levels of client service capacity in rural areas; restore client service capacity to other areas disproportionately underserved; achieve administrative efficiencies and enhance support infrastructure for high quality, standards-based civil legal aid delivery.

**Fiscal Detail**

<b>Operating Expenditures</b>		<b><u>FY 2014</u></b>		<b><u>FY 2015</u></b>		<b><u>Total</u></b>
Estimated sum of all costs		<b>\$ 1,400,000</b>		<b>\$ 1,400,000</b>		<b>\$ 2,800,000</b>
<hr/>						
<b>Staffing</b>		<b><u>FY 2014</u></b>		<b><u>FY 2015</u></b>		<b><u>Total</u></b>
<b>FTEs</b> (estimated number of staff requested)		0		0		0

\* Dollar amounts should not be entered in the row titled "FTEs." Please enter only the percentage of staff time being requested. 1.0 is one full time staff person, 0.5 is one half-time staff person, etc.

**Package Description**

**Organizations supporting this request**

- Office of Civil Legal Aid
- Civil Legal Aid Oversight Committee
- Access to Justice Board
- Legal Foundation of Washington
- Washington State Bar Association
- Alliance for Equal Justice Member Organizations

## **Background**

Civil legal aid is essential for thousands of low income individuals to meaningfully participate in civil legal proceedings. Today, professional staffed legal aid and volunteer attorneys help a relatively small percentage of low income people who need civil legal advice or representation with respect to matters that affect basic human needs (e.g., housing preservation, family safety and security, access to essential governmental benefits for which there is a legal claim of entitlement).

Over the past three years the legal aid system has lost more than \$3 million in combined state and federal funding. This is in addition to the loss of \$5 million per year in average levels of funding from the Supreme Court-established Interest on Lawyer's Trust Account (IOLTA) program.

The state-funded Northwest Justice Project has lost 18% of its basic client service capacity. An additional five FTE positions were protected from being lost as a result of the Legislature's action in the FY 2011-13 supplemental budget. Three of the most rural and remote areas of the state (the Olympic Peninsula, Grays Harbor and Pacific Counties and Walla Walla/Columbia/Garfield/Asotin Counties) now operate with only a single legal aid attorney. This level of staffing falls below the minimum legal aid presence objectives established by the Supreme Court's Access to Justice Board in its 2006 State Plan and is not operationally sustainable over extended periods of time. In addition to the losses experienced in these regions, staffed legal aid delivery capacity has been downgraded elsewhere throughout the state, leaving attorney-to-eligible client ratios at historically low levels in key parts of the state. Staffing reductions at the centralized legal aid education, advice and referral program (CLEAR) resulted in 2,000 fewer state-eligible clients being served in 2011 than had been served in 2010. In total, 18 FTE attorney positions have been lost at NJP.

Funding cuts have also eroded the capacity of state-funded local volunteer legal aid programs to recruit, train, and deploy volunteer attorneys to meet overwhelming client demand, and have reduced the ability of small, specialized legal aid providers to meet crushing demand resulting from the Great Recession and its aftermath. In the face of these cuts, Alliance member organizations recently convened to discuss, among other things, potential new efficiencies that might be achieved by centralizing a number of fiscal and administrative functions, unifying or pooling certain expenses, and enhancing other critical statewide infrastructure that supports the ability of programs and program staff to focus more time on primary client service delivery responsibilities.

Additional information on client demand trends, impacts of federal cuts and statewide staffing is attached.

## **Current situation**

Demand for civil legal aid services continues to grow to unprecedented levels. More than 267,000 individual calls were placed to the statewide legal aid hotline (CLEAR) in 2011. Demand in recession sensitive areas of law -- housing, foreclosure, help with

governmental support programs, domestic violence and family safety -- outpaced growth in all other areas.

NJP's core client service delivery footprint has been reduced by 18% over the past three years. The prospective loss of an additional 5 FTE attorneys due to deep federal cuts has been stayed as a result of recent legislative action.

While state funding appears to have stabilized, cuts to federal support for the Legal Services Corporation in 2011 and 2012 have reduced total funding for the Northwest Justice Project by \$1,300,000/year. These cuts are continuing in nature. Further, unless suspended, additional automatic cuts triggered by the congressional failure to achieve a debt reduction solution last November will result in an additional 9% reduction to LSC in 2013. This will result in the loss of an additional \$756,500 million in LSC funding during the coming biennium.

Should additional federal cuts of this magnitude be enacted, OCLA will bring them to the attention of the Civil Legal Aid Oversight Committee and the Supreme Court and will revise this policy level budget request accordingly. For more on the automatic sequestration, go to <http://www.cbo.gov/taxonomy/term/124/all>

Finally, depending on the election results, there is a very real possibility that efforts will be made to eliminate funding for the Legal Services Corporation altogether. LSC funding now accounts for about 32% of NJP's funding base, and is the resource upon which the foundation of the state-funded legal aid system has been constructed. Uncertainty regarding the future of federal funding for civil legal aid has not been this high since the mid-1990's. Again, should federal funding be substantially reduced for 2013, OCLA will revise its state-based effort and seek funding from the Legislature necessary to protect the core of the statewide legal aid delivery system.

### **Proposed solution**

This policy level request assumes federal funding continues at current appropriated levels and that the JSTA funding is either backfilled or that the JSTA sunset is extended.

The request is designed to restore twelve (12) of the 18 FTE attorney positions that were lost to combined federal and state budget reductions in recent years. This restores two-thirds of the losses sustained in recent years.

A portion of the requested funding will be used to restore minimum 2-FTE staffing levels in field offices in some of the most rural and remote portions of the state which are now operating with a single attorney. Most of the funding will be used to restore client service capacity in King County and other urban and urban/rural regions suffering from a disproportionate lack of legal aid staffing due, in large part, to the protection of client service capacity in the most rural and remote areas of the state. (Note: The ratio of state-funded attorneys to eligible clients at or below 125% of poverty is 1:25,000 in King County and 1:27,000 in Pierce County and compares to 1:7,000 in Ferry, Stevens & Pend Oreille Counties, 1:5,650 in Okanogan County and 1:8,800 in Cowlitz and

Wahkiakum Counties). Additional funds may also be used to restore some of the capacity at the statewide legal aid hotline (CLEAR) lost due to the cuts.

A small portion of the funding (\$200,000 per year) will be used to upgrade critical statewide support infrastructure, achieve new efficiencies through the centralization of key fiscal, administrative and client service support services -- including health care insurance and interpreter services -- and provide other support necessary to ensure the capacity of all state-funded programs to deliver high quality legal aid services consistent with the Access to Justice Board's Performance Standards for Legal Aid while maximizing operational efficiencies.

## **Narrative Justification and Impact Statement**

### **Reason for change**

Recent cuts and corresponding staffing losses have seriously compromised the ability of the civil legal aid system in general, and NJP in particular, to maintain workable presence in both urban and rural parts of the state. Current staffing levels are not sustainable over the long term. Staffing levels must be stabilized and staff-to-client population ratios need to be normalized.

Under the auspices of the Access to Justice Board's Delivery Systems Committee, pro bono and specialty legal aid providers, with the support of NJP, OCLA and the Legal Foundation of Washington, have embarked on new efforts to find efficiencies in organizational operations, reduce administrative redundancies, explore pooled purchasing of services and support, and enhance overall client service relevancy, especially for those clients who experience cultural and linguistic access barriers. These efforts must be supported in order to realize their objectives.

### **Impact on clients and services?**

Funding of this request will protect critical legal aid delivery service infrastructure and capacity, the ability to maintain meaningful presence in key rural and isolated areas, achieve proportionate levels of client service capacity in urban and other regional centers, and stabilize the system at a time when clients continue to experience civil legal problems at unprecedented levels.

### **Impact on other state programs?**

In addition to meeting the critical justice needs of eligible clients, timely and effective civil legal aid – whether provided by a staffed legal aid attorney or a cooperating volunteer -- solves problems that, if left unaddressed, often result in greater demand for state services or the expenditure of other scarce governmental resources. For example, legal assistance to secure protection from a domestically violent relationship can reduce demand on law enforcement and court services; legal assistance that protects a displaced worker's claim for unemployment insurance protects that worker's family security, housing and income stability while the worker seeks new employment; legal assistance that preserves a family's housing reduces demands on local and state homeless assistance; legal assistance that helps a returning veteran secure access to

essential mental health services through the Veteran’s Administration reduces demand on state services; legal assistance that secures appropriate special educational services for a failing student could help avoid that student’s potential involvement in the juvenile justice system; legal help that results in securing a low income individual’s eligibility for federal income and medical assistance programs results in less demand for scarce state-funded services.

**What alternatives were explored and why was this alternative chosen?**

With federal funding in steep decline and IOLTA funding still hovering at historically low levels, and with volunteer attorney programs operating with skeletal staff and support, there is no alternative but to seek a modest increase in state funding to protect the state-funded legal aid system from failing in key parts of the state.

**What are the consequences of not funding this package?**

NJP's present footprint is not sustainable. Absent additional funding, its ability to maintain presence in areas served by one-attorney offices will have to be reconsidered. Urban client service capacity continues to operate at less than 50% of rural capacity based on the ratio of FTE attorneys to the eligible client population. This disproportionately affects low income minority populations which are overrepresented in urban centers like Seattle and Tacoma. Finally, failure to fund incremental efforts to enhance, streamline and unify key delivery system support functions will perpetuate legal aid delivery system redundancies and inefficiencies and systemic problems that compromise the capacity of all state-funded providers to consistently deliver high quality, culturally and linguistically relevant services.

**What is the relationship, if any, to the state’s capital budget?**

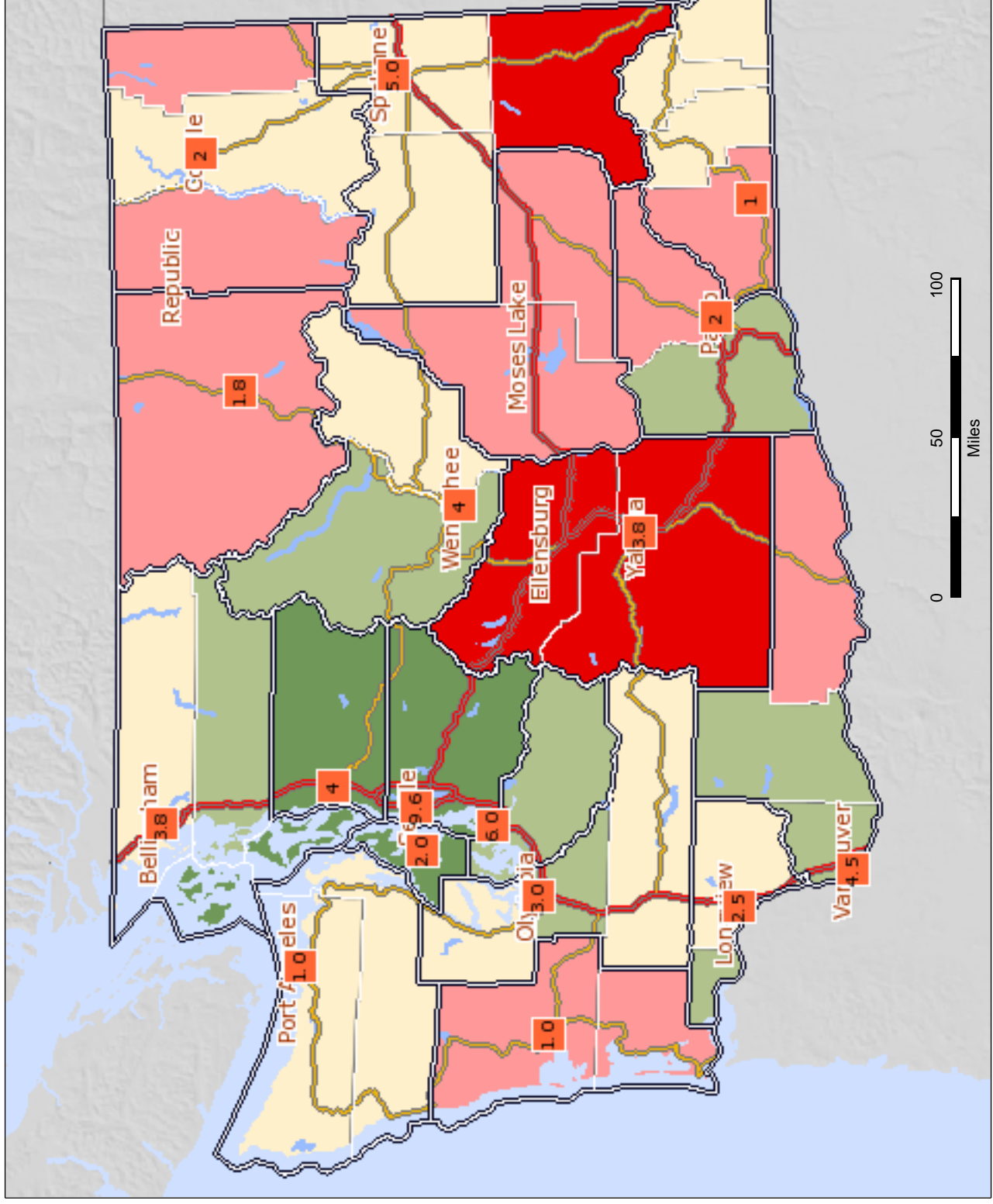
None

**Expenditure Calculations and Assumptions**

(Rationale for costs shown)

<b><u>Object Detail</u></b>	<b><u>FY2014</u></b>	<b><u>FY2015</u></b>	<b><u>Total</u></b>
Staff Costs	\$0	\$0	\$0
Non-Staff Costs	\$1,400,000	\$1,400,000	\$2,800,000
<b>Total Objects</b>	<b>\$1,400,000</b>	<b>\$1,400,000</b>	<b>\$2,800,000</b>

# NORTHWEST JUSTICE PROJECT -- STAFFING DECEMBER 1, 2011



Map date 12-05-2011

Spatial Information System by  
**TERRA GIS**  
[www.terragis.net](http://www.terragis.net)

**NORTHWEST JUSTICE PROJECT (NJP)  
COORDINATED LEGAL EDUCATION, ADVICE AND REFERRAL SYSTEM (CLEAR)  
COMPARATIVE CLIENT DEMAND STATISTICS CALENDAR YEARS 2009:2011**

NJP's CLEAR system is the principal gateway into the statewide legal aid system for low income residents in all counties of the state with the exception of King County. Basic information about CLEAR can be found at <http://www.nwjustice.org/what-clear>.

The basic CLEAR system operates from about 9:10 a.m. to 12:25 p.m. Monday through Friday. Callers into the system are screened for income eligibility, case type, case priority and conflicts. Because of overwhelming demand, case priorities are limited to matters that implicate basic human needs. Eligible clients with priority legal problems speak with a CLEAR advocate who will (a) provide verbal or written advice to help the client solve his or her legal problem; and, as resources are available (b) send written legal information and/or forms to help the client solve his or her legal problem, (c) provide some level of brief service or limited legal representation necessary to solve the problem, (d) refer the client to a local civil legal aid provider for extended legal assistance and/or representation. To the extent possible, services are provided in the primary language of the caller.

In FY 2010, CLEAR attorneys closed 11,700 cases. CLEAR staffing losses (5.0 FTE) not fully compensated by enhanced efficiencies resulted in a reduction of 1,300 cases in FY 2011.

**DIRECT CALLS TO CLEAR**

**2009**

	<b>Ave. Per Day</b>	<b>Ave. Per Month</b>	<b>2009 Annual</b>
Business Days	751	15,584	187,007
All Days	527	16,054	192,642

**2011**

	<b>Avg. Per Day</b>	<b>Avg. Per Month</b>	<b>2011 Annual</b>
Business Days	1,068	22,164	265,968
All Days	745	22,648	271,782

**CALLS ACTUALLY HANDLED**

**2009**

<b>Ave. Per Day</b>	<b>Ave. Per Month</b>	<b>2009 Annual</b>
122	2,521	30,251

**2011**

<b>Avg. Per Day</b>	<b>Avg. Per Month</b>	<b>2011 Annual</b>
115	2,371	28,454

**CATEGORIES OF CALLS BY RELATIVE PERCENTAGE**

**2009**

<b>Family Safety and Security</b>	<b>Housing Protection and Preservation</b>	<b>Health/Consumer, Income Maintenance</b>	<b>Other</b>
58%	26%	12%	8%

**2011**

<b>Family Safety and Security</b>	<b>Housing Protection and Preservation</b>	<b>Health/Consumer, Income Maintenance</b>	<b>Other</b>
42%	26%	26%	6%

Average number of cases closed per full time CLEAR advocate per year: 700 (2009 and 2011)



**CLIENT SERVICE DEMAND STATISTICS  
KING COUNTY 211 LEGAL AID INTAKE**

<b>Legal Problem / Need - Calls for:</b>	<b>Jan-Jun 2008</b>	<b>Jan-Jun 2009</b>	<b>Jan-Jun 2010</b>	<b>% Increase from 08 to 09</b>	<b>% Increase from 09 to 10</b>	<b>% Increase from 08 to 10</b>
<b>CONSUMER, TAX, BUSINESS</b>						
Bankruptcy	93	198	324	113%	64%	248%
Consumer Scam	28	30	34	7%	13%	21%
Contracts & Warranties	8	32	29	300%	-9%	263%
Debt Collection	104	172	362	65%	110%	248%
<b>EMPLOYMENT</b>						
Discrimination	25	32	49	28%	53%	96%
Employment Dispute	48	82	126	71%	54%	163%
L&I (Labor & Industries/Workman's Comp)	16	30	52	88%	73%	225%
Other Employment Legal	44	63	91	43%	44%	107%
Unemployment Benefits	19	110	296	479%	169%	1458%
<b>HOUSING</b>						
Eviction - Private Housing	281	257	498	-9%	94%	77%
Eviction - Public/Subsidized Housing	122	91	133	-25%	46%	9%
Eviction Hearing Scheduled	12	9	13	-25%	44%	8%
Landlord / Tenant Dispute	376	543	658	44%	21%	75%
Mortgage & Tax Foreclosure	38	76	225	100%	196%	492%
Rental Deposits	15	40	59	167%	48%	293%
Section 8 Hsg Voucher Termination	11	28	44	155%	57%	300%
<b>PUBLIC BENEFITS</b>						
Food Stamps	6	26	95	333%	265%	1483%
GAU / GAX Denial	3	7	23	133%	229%	667%
GAU / GAX Termination	4	9	26	125%	189%	550%
Medicaid - Denial	16	21	28	31%	33%	75%
Medicaid - Termination	7	14	23	100%	64%	229%
Other Public Benefits Assistance	32	57	50	78%	-12%	56%
SSDI	19	52	94	174%	81%	395%
SSI - Denial	26	33	60	27%	82%	131%
SSI - Overpayment	4	15	26	275%	73%	550%

SSI - Termination	6	10	16	67%	60%	167%
TANF - Denial	2	15	41	650%	173%	1950%
TANF - Termination	2	6	25	200%	317%	1150%
Veteran	0	3	17	N/A	467%	N/A
<b>FAMILY LAW</b>						
Divorce w/o Children; no DV	111	174	162	57%	-7%	46%
Divorce with Children; no DV	140	190	271	36%	43%	94%
Divorce with Children; with DV	84	90	117	7%	30%	39%
DV Advocacy	33	77	96	133%	25%	191%
Other Family Law	95	114	163	20%	43%	72%
Parenting Plans / Child Custody	384	540	661	41%	22%	72%
Protection Order	36	41	58	14%	41%	61%

# MATERIALS RE: 2012 FEDERAL FUNDING REDUCTIONS TO THE LEGAL SERVICES CORPORATION

## Congress Votes for \$348 Million in LSC Funding

Monday, November 21, 2011

Washington, DC—The House and Senate voted on November 17 to provide the Legal Services Corporation (LSC) with \$348 million in funding for Fiscal Year 2012, a reduction of about \$56 million from current funding. The funding reduction was taken from basic field grants, a cut of 14.8 percent.

The LSC funding was a part of a Fiscal 2012 appropriations bill for several federal departments and programs, including Commerce, Justice, Science and Related Agencies. President Obama signed the appropriations bill on November 18.

LSC was established by the Congress to provide equal access to justice and to ensure the delivery of high-quality civil legal assistance to low-income Americans. The Corporation currently provides funding to 136 independent nonprofit legal aid programs in every state, the District of Columbia and U.S. territories.

LSC grants help address the civil legal needs of the elderly, veterans, victims of domestic violence, disabled individuals and others with pressing civil matters. More than 60 million Americans have incomes at or below 125 percent of the federal poverty line and qualify for civil legal assistance—an income of \$13,613 for an individual and \$27,938 for a family of four.

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## Statement by John G. Levi, Chairman, Board of Directors, November 17, 2011

Thursday, November 17, 2011

Federal funding has long been the cornerstone for legal aid, and essential to fulfilling our nation's promise of equal justice for all. We all understand that the rule of law is in jeopardy when the protections of the law are not available to increasingly large numbers of low-income citizens—especially victims of domestic abuse, the elderly and people facing the loss of their homes. The nation's poverty population has never been this large, and, as a consequence, requests for civil legal assistance are increasing.

As a result of the economy and funding squeezes at state and national levels, 2012 is clearly going to be daunting for the 136 nonprofit legal aid programs funded by the Legal Services Corporation. This week's House-Senate conference agreement, while providing \$322.4 million for LSC grants, nevertheless represents an 18 percent reduction in basic field funding over the last eight months. Many LSC-funded programs will have no choice but to lay off staff and reduce the legal assistance they provide low-income Americans.

LSC is striving to do its part by expanding partnerships and collaborations to promote access to justice. To enhance support for legal services, the Board established a Pro Bono Task Force to identify innovative practices that can help increase pro bono services to low-income Americans and involve more law firms, law schools and others in the work of LSC programs. We are exploring how to more effectively use technology to serve rural areas and provide legal information and court forms online.

We all understand the competing priorities within our government. This is not the time, however, to put at risk the orderly administration of our civil justice system. It is essential that we and the Congress work to restore and enhance funding to LSC.

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