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AMERICAN BAR ASSOCIATION

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COHEN, CONG. FRANKS
~~Mr.~~ Chairman and Members of the Committee:

Thank you for calling today's hearing to discuss the essential role of the Legal Services Corporation in closing the "justice gap." ^{now looking more like a justice chasm} The ABA believes that this objective must largely be achieved by strengthening the Legal Services Corporation and urges the 111th Congress to enact bipartisan legislation to reauthorize, strengthen and improve the LSC. At the same time, the ABA and America's lawyers will continue to advocate for private bar involvement and pro bono service.

Long before I became ABA President, I began visiting with my Congressional Delegation, both Republicans and Democrats, to explain how important LSC funding is to Alabama and the most vulnerable citizens in our state. Until recently, the only funding for Alabama legal services was federal funding. Over the years, strong bipartisan support for LSC has energized not just in Alabama but around the country.

In addition to their year-round work at home, ABA members and state and local bar presidents, many on their own dime, travel to DC every year to remind Congress how important LSC is to their states and districts. These past two years the Bar Presidents of all 50 States, plus the District of Columbia, the U.S. Virgin Islands and Puerto Rico, jointly urged Congress to increase funding for LSC. This past year, the four major bars of color (the National Bar Association, the Hispanic National Bar Association, the National Asian Pacific American Bar Association and the National Native American Bar Association) added their voices to this effort.

In addition to the support of the legal community, the American people strongly support a federal legal services program. This past spring, ABA released a newly completed Harris public opinion poll which demonstrated strong national support for providing free legal services to qualified low-income families.

The LSC is the central foundation for the legal aid system/other components – state and local funding and pro bono contributions by private lawyers – are catalyzed by LSC seed funding and serve to supplement the LSC resources. The Corporation is a model private-public partnership. The core federal funding provides for client intake and screening, referral of cases, responding to emergency matters, training *pro bono* lawyers, and handling cases when no private lawyer can

do so. LSC leverages and facilitates the utilization of private resources – both in-kind, pro bono services and private funding.

A comprehensive, national system is necessary to assure that all persons have access to the justice system. Yet every indicator shows that the efforts described above have proven to be inadequate; access to justice is ^{STILL} largely denied to the poor.

One significant problem is that resources that are provided to LSC are not able to be used to maximum effect. The ABA strongly urges the Subcommittee and Congress to address in reauthorization legislation three measures that have been included in appropriations riders since 1995 that have impeded LSC in fulfilling its mission of providing basic legal services to qualified persons.

Specifically, we request that the Subcommittee eliminate (1) the restriction that prevents recipients of LSC funding from freely utilizing – without being subject to federally imposed restrictions – state, local, private and other non-LSC funds to provide needed legal assistance to poor clients; (2) the restriction that prevents LSC recipient programs from obtaining statutorily permitted attorneys' fees, as the House did in its version of the CJS bill; and (3) the restriction on class actions.

Another roadblock to closing the justice gap is that the legal aid systems other funding sources are insufficient or unstable. The good news is that most, but not

all, state governments are now partners in the efforts to provide legal aid to the poor. Forty-eight states provide public funding in varying amounts that supplement federal funding provided through LSC. The bad news is that the amounts contributed by the states vary widely. During the past year to 18 months, several states have sharply reduced state appropriations to support legal aid. A small handful of others have rallied to provide additional funding. States with more limited resources, like my own state of Alabama, can contribute very little. We are able to supplement the LSC grant by only \$200,000 in state funding to support legal aid.

At the same time, there continue to be many positive efforts to supplement the LSC's federal funding and central role in the delivery of legal services.

However, these efforts can in no way supplant LSC. Some examples:

The ABA promotes, as a key professional value, generous contributions of pro bono service and money by private lawyers. The ABA itself seeks to catalyze pro bono contributions through the ABA Center for Pro Bono.

The ABA has also provided support and leadership for charitable giving through the "ABA Resource Center for Access to Justice Initiatives," and through long-time advocacy for Interest on Lawyers' Trust Account (IOLTA) programs as an

effective way to raise additional resources for the legal aid system. All 50 states now have IOLTA programs, but resources are market-driven and therefore are not a stable form of support; they rise and fall quickly with interest rates and the level of deposits to IOLTA accounts.

States are expanding their efforts to improve the legal aid infrastructure by another mechanism – creation of broad-based access to justice commissions. The commissions involve leaders of the bar, the judiciary and other community leaders who are designing and finding resources for more effective civil legal services systems. Approximately 25 states have created such commissions, or similar entities, including my home state of Alabama.

My written testimony includes examples of outstanding pro bono initiatives in several states. I wanted to briefly mention that the North Carolina Bar Association's Justice 4 ALL program won the ABA's annual Harrison Tweed award.

The North Carolina Bar Association in 2008 launched an innovative justice “4ALL” campaign to increase access to legal services for the poor through a five-prong approach: educate, legislate, donate, participate and provide loan repayment

assistance. The “4ALL” campaign has also led to increased pro bono participation through its annual statewide “Service Day.”

And the ABA this week is sponsoring a National Celebration of Pro Bono to draw the bar’s and the public’s attention to the pro bono contributions of lawyers, and to encourage even more lawyers to participate. This consists of over 500 events nationwide recognizing the important contributions lawyers make to communities all over America.

Pro bono remains an important part of the delivery system, and we can and should do more to encourage private lawyers to assist in closing the justice gap. But a strong, efficient, well-funded LSC is the central mechanism for making any headway toward closing the justice chasm.

The ABA strongly supports the Legal Services Corporation as essential in helping secure access to justice for all Americans. The ABA urges the Subcommittee (and Congress) to work together to approve bipartisan reauthorization legislation before the 111th Congress adjourns. The ABA, our members, and state and local bars nationwide stand ready to help get this important job done.