



Legal Services Corporation at 50: Ten Lessons from its History

Wisdom and war stories from someone who was present at the creation of LSC and its biggest battles

By Alan Houseman, President,¹ Consortium for the National Equal Justice Library

10 Lessons from LSC History

1. Never forget where you came from.
2. Big ideas inspire big deeds, especially by youth.
3. Be entrepreneurial, then institutionalize.
4. Build a broad coalition: Keep educating the Democrats.
5. Build a broad coalition: Never give up on Republicans.
6. Build a broad coalition: Hug the Bar.
7. Survive: Get the best deal you can and stay alive.
8. Adapt and be flexible.
9. Build a broad coalition: Tell your story.
10. Be effective for your clients.



This year the Legal Services Corporation (LSC) is 50 years old, and I am 80. We are both still kicking. As we celebrate our big birthdays, here are some lessons from one who was present at the creation of LSC and for its biggest battles.

1. Never forget where you came from

You must evolve. But never forget. Otherwise, you may lose through neglect what was won through struggle.

Everyone in the legal aid movement should know the basic history. On July 25, 1974, President Nixon signed the Legal Services Act that created LSC (then resigned August 9, 1974). In the early 1980s, LSC was almost defunded and destroyed by the Reagan Administration. In 1996, LSC was almost defunded, and was subjected to new restrictions on its grantees, which remain today. LSC thrived under Presidents Carter, Clinton, Obama, and Biden.

Beyond the dry history, if you want to hear stories

from legal aid movement leaders from those days, check out legalaidhistory.org. That is the website of the Consortium for the National Equal Justice Library (CNEJL), a nonprofit dedicated to preserving this history. Our website has a treasure trove of 135 oral histories (with full transcripts), narrative histories of civil and defender legal aid, selected case summaries, and much more.

2. Big ideas inspire big deeds, especially by youth

Two big themes set the stage for what became LSC. First, something new was needed. Well-funded traditional legal aid was inadequate. Second, the law could be used as an instrument for orderly and constructive social change. In 1964, these themes were defined and fleshed out in a seminal article in the *Yale Law Journal* by Edgar and Jean Cahn and in a speech by US Attorney General Nicholas deB. Katzenbach.

This vision caught fire with a generation of idealistic young lawyers who were the vanguard of the movement that launched and supported LSC. From the late 1960s to 1985, 2,000 graduating law school students received federally funded Reginald Heber Smith Community Lawyer Fellowships. Known as “Reggies,” these young social justice lawyers were funded to work one or two years in legal services programs around the country. Many Reggies became local and national leaders.

3. Be entrepreneurial, then institutionalize

Before LSC, there was the Office of Economic Opportunity (OEO) Legal Services. Its leaders were entrepreneurs and architects. They leveraged some funding and freedom to create a new federally-funded civil legal aid program. Later, LSC institutionalized this program as an independent entity with a strong

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foundation that could survive the storms of politics.

As part of President Lyndon B. Johnson's War on Poverty, the 1964 Equal Opportunity Act created the OEO in the White House. Legal services was not mentioned in the original Act. Jean and Edgar Cahn convinced Sargent Shriver, the first director of OEO, to include legal services in the package of activities that could be funded by OEO.

The overall design for the legal services program was developed under the first two directors of OEO Legal Services, Clint Bamberger and Earl Johnson. OEO Legal Services created federal funding for civil legal services that previously had never existed. It funded staff attorney legal aid programs, not the Judiciary model. Some of these local programs existed before. Some were new, such as California Rural Legal Assistance (CRLA). Finally, OEO Legal Services funded a support framework comprised of training and technical assistance, a clearinghouse function, and a comprehensive network of national support centers organized around specific substantive areas (such as welfare reform) or client populations.

By 1968, a total of 260 OEO programs were operating in 49 states. The legal services budget grew from \$25 million in 1966 to \$71.5 million in 1972. OEO Legal Services overcame challenges from local Community Action Agencies, California Governor Ronald Reagan, some in the organized bar, and some in the Nixon Administration.

Legal services lawyers funded by OEO Legal Services won court victories and negotiated with administrative agencies to fundamentally reshape how governments treated poor and marginalized Americans.

LSC built on this strong foundation. LSC got a strong start when its board named its first LSC president, Thomas Ehrlich, a prominent lawyer, academic, and public official. By 1981, the LSC budget grew to \$321 million with much of the increase used to serve every county and territory in the US.

It is crucial for legal aid programs to ensure even sympathetic members and their staff understand how civil legal aid serves their constituents.

4. Build a broad coalition: Keep educating the Democrats

Never take the Democrats for granted. LSC has enjoyed strong support from Presidents Carter, Clinton, Obama, and Biden and from Democratic members of Congress. It is crucial for legal aid programs to ensure even sympathetic members and their staff understand how civil legal aid serves their constituents. Staff come and go, so you may need to start over to educate new staff.

5. Build a broad coalition: Never give up on Republicans

LSC will always be viewed politically. Politics is about addition, not subtraction. You will never get support from everyone. But never stop trying to broaden your coalition. When you are counting floor votes or begging a committee chair for funding, you do not have the luxury of dismissing any possible supporter. We who lobbied for LSC never gave up on seeking Republican support, even when least expected. Republican support was often prompted by the effectiveness of civil legal aid in helping constituents. (See Lesson 10: "Be effective.")

The original LSC bill was sponsored by Sen. Walter Mondale (D-MN) and Rep. William Steiger (R-WI). It had broad bipartisan support, not only from liberal Republicans like Sen. Jacob Javitz (R-NY), but also from Sen. Robert Taft, Jr. (R-OH). Republican President Richard Nixon vetoed the bill, partly for unrelated reasons. Nixon then included many of the vetoed bill's ideas in a new LSC bill that he proposed and that became the framework for the 1974 law. After the final conference report cleared Congress, Nixon was facing impeachment and needed political support from conservative Republicans opposed to the LSC bill. Nixon signed it anyway.

In the 1980s, President Reagan tried to defund LSC and appointed an LSC board hostile to its mission. (During this tough time, acting LSC President Clint Lyons and Bucky Askew stabilized LSC.) We would

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have been in serious trouble without Sen. Warren Rudman (R-NH). Fortunately, he had previously served as Attorney General of his state where he respected the legal aid programs. Rudman resented the lies of the Reagan LSC board. In 1987, Rudman said on the floor of the US Senate, “I do not trust the board of the Legal Services Corporation farther than I can throw the Capitol. They have double-crossed [us] at every possible opportunity. Frankly, I am sick of it...” Rudman was the crucial Republican supporter of LSC during the 1980s and early 1990s.

In 1996, when LSC funding was on the chopping block, Sen. Pete Domenici (R-NM) made the difference as a powerful member of the Senate Committee on Appropriations and the Committee on the Budget.

Among many other state supreme court justices, Texas Supreme Court Chief Justice Nathan Hecht played a key role in persuading Texas members of Congress to support LSC funding.

6. Build a broad coalition: Hug the Bar

To expand, civil legal aid must be conjoined to the private bar. Ironically, two new requirements that Congress and LSC imposed on grantee programs during the early 1980s ultimately helped save LSC’s funding and programs from the Reagan Administration.

During the early 1980s, Congress required that a majority of each local program’s board of directors be attorneys appointed by state or local bar associations. In addition, LSC President Dan Bradley, with the support of the American Bar Association (ABA), required each program to devote an amount of funds equal to 10 percent (later 12.5 percent) of its LSC grant award to private attorney involvement (PAI). This PAI money could fund delivery of legal services to the poor on either a pro bono or a low-fee compensated basis. Many in the legal services community feared the loss of both independence and money and opposed these requirements. So, there was a huge debate.

The new requirements helped the private attorneys who participated as board members or PAI attorneys to appreciate the difficulties of serving poor clients with severely limited resources. These private attorneys

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began to respect legal services attorneys as peers. This strengthened the role of the organized bar as a champion of federally funded legal services.

This was crucial during the battles in the 1980s to defend LSC’s funding and programs from the Reagan Administration. Champions of LSC included the ABA, acting through the Standing Committee on Legal Aid and Indigent Defense (SCLAID), and state and local bar associations. The new entity Bar Leaders for Preservation of Legal Services emerged. All of these bar organizations worked with the National Legal Aid and Defender Association (NLADA), the Project Advisory Group (PAG), and my organization, the Center for Law and Social Policy (CLASP). We effectively advocated before Congress to prevent implementation of many of the challenging policies that the LSC Board and staff were seeking to impose.

Today, the bar views legal aid as central to its work. Many legal aid directors are very active in the bar and play prominent roles. For example, my good friend, Jon Asher, is one of the Colorado Bar delegates to the ABA House of Delegates and has been active on numerous other ABA committees.

7. Survive: Get the best deal you can and stay alive

Starting in 1995, the new House majority under Speaker Newt Gingrich (R-GA) sought to replace LSC with a system of limited block grants to the states that would severely restrict the kind of services for which the funds could be used. The House of Representatives adopted a “glide path to elimination” budget plan. It assumed that LSC’s funding would be cut by one-third in FY1996, another third in FY1997, and completely eliminated thereafter.

Ultimately, a bipartisan majority in the Congress, led by Domenici, was able to rescue LSC, but only with new restrictions on all activities of all LSC grantees. I was there and lobbied hard. Some in the legal aid movement who were not active with Congress thought we were selling out. They wanted us to hold out for

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funding without new restrictions. That was a fantasy. There was no negotiation. The only way to prevent LSC funding from being block granted and phased out was to accept new restrictions imposed by our allies.

When the new restrictions became law and regulation, some in the legal aid movement thought the sky was falling. Instead, we calmed down and studied the regulations. In 1997, Linda Perle and I wrote a paper, "What Can and Cannot Be Done." It concluded that the letter of the law and regulations still permitted LSC grantees to do "over 95% of the work done in legal services in 1995" and bring "over 98% of the cases brought to court in 1995." To its credit, MIE, under Patti Pap's leadership, then ran four regional conferences in a massive effort to educate legal aid project directors on what was permissible. Yes, painful changes were necessary. But the world did not end. We survived to fight another day.

8. Adapt and be flexible

We cannot just do what we have done before and assume everything will continue. We must change structures and delivery systems in response to changes in law, technology, court operations, and political climate. Here are two examples.

First, after enactment of the 1990s restrictions, organizations such as Community Legal Services (CLS) of Philadelphia made the agonizing choice to cut themselves in two. CLS lost all LSC funding, but was free to continue its systems change work. Meanwhile, some staff and a new board spun off and became Philadelphia Legal Assistance, the new LSC grantee. For the organizations that surrendered LSC funding, it was scary. Many new executive directors at the time, such as Catherine Carr of CLS, feared they might fail as managers even as they bravely leapt into the unknown. Fortunately, many organizations that lost LSC funding developed new funding sources and developed new social justice programs.

LSC has survived because its grantees have been effective at resolving the legal problems and improving the lives of poor and marginalized people.

Second, LSC's Technology Initiative Grants (TIG) program has spurred enormous innovation. Richard Zorza and others developed ideas for how to apply technology to legal services. Under LSC President John McKay, LSC worked with Congress to create and fund the TIG program starting in 2000. It has endured more than 20 years.

9. Build a broad coalition: Tell your story

Nobody has done this better than Voices for Civil Justice under the leadership of Martha Bergmark, starting in 2013. Voices, the organization, closed its doors in late 2022, but the website remains active: voicesforciviljustice.org. Other national organizations are working to pick up this torch and tell the story of civil legal aid. Meanwhile, state and local organizations must improve their ability to tell their stories though both the traditional media and social media.

10. Be effective for your clients

You and your organization should always remember that it is not about you. It is about your clients. LSC has survived because its grantees have been effective at resolving the legal problems and improving the lives of poor and marginalized people. That effectiveness has included winning major state and US Supreme Court victories. Effectiveness has won the LSC support in the bar, the courts, and Congress.

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