

# History of the civil legal aid support system

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# Introduction

The Legal Services Corporation (LSC) originally funded both direct providers of civil legal aid and a “support” infrastructure that backed up the providers. LSC has not funded this support infrastructure since FY 1995, but much of it continues with other funding. This special topic history focuses on the development, growth and demise of federal funding for civil legal aid support.

The federally funded support infrastructure included:

- national support centers
- state support
- training
- technical assistance, and
- information sharing and dissemination.

## Support: An Overview

To a certain extent, the elevation of support was to be expected. As the delivery system matured in any given place, it became clear that there were many desirable roles between national advocates and local office staff and that the support centers had only scratched the surface of needed national activities. Training was an obvious way to improve quality of service and it made sense to initially develop much of the training at the national level. State support addressed the inability of local county- or city-based programs to address state policy issues and to coordinate advocacy within a state.

It was also predictable that support would come under criticism from within. Leadership by support centers would be perceived to be less necessary as local programs built experienced staff and law developed in most of the poverty law areas.

Finally, it was predictable that support policy should be a bellwether of the maturing of the overall delivery system. In the beginning, aggressive and imaginative legal services lawyers had freedom to take on new problems, develop new theories, and establish new rights. By the time of the Legal Services Corporation, much of that freedom had disappeared. Large and intricate bodies of law had developed. Except for national advocacy (and some state advocacy), there was an expectation that field programs could handle all problems in these areas. Clients had come to expect this performance. However, only with extensive training, specialization and support were the expectations reachable. As the Corporation settled legal services into a service delivery bureaucracy, support became a central and growing part of the system. It undertook critical advocacy at the national and state level that local programs could not provide to their clients. It created and maintained networks of advocates in states and nationally to assure effective coordination and communication. It provided essential background materials and manuals. It participated in training. If support was no longer the engine of reform, it was a major source of quality and competency.

# 1967-72: OEO legal services develops support infrastructure

Federal funding for civil legal aid began under the Office of Economic Opportunity (OEO) through its Office of Legal Services (OLS). Earl Johnson was the second director of OEO legal services, serving during 1967-68. Johnson focused on "law reform" for the poor as the chief goal of OEO legal services.

Johnson chose atypical implementation methods, such as creating the the Reginald Heber Smith Fellowship Program. Under his leadership, OEO legal services also created a unique national structure of advocacy, support, training, technical assistance and information sharing. No other legal aid system had such a structure.

## The back-up centers

OEO invested significant funding in what were called the "back-up centers". These were national programs, initially housed in law schools, organized around substantive areas or a particular part of the eligible population. These centers engaged in national litigation and legislative and administrative representation to eligible clients while providing support, assistance and training to local programs. These centers provided specialized representation and specialized knowledge that was essential to the development of new areas of poverty law. They also provided leadership on key substantive issues and worked closely with the national poor people's movements of the early legal services years (e.g., the National Welfare Rights Movement and the National Tenants Organization).

At the end of the OEO era in YEAR?, the following national centers were fully functioning:

- Center for Law & Education--Cambridge, MA
- Center on Social Welfare Policy & Law—New York, NY
- Indian Law Support Center--Boulder, CO (part of the Native American Rights Fund)
- Migrant Legal Action Program--Washington, DC
- National Consumer Law Center--Boston, MA
- National Economic Development & Law Center—Berkeley, CA
- National Employment Law Project—New York, NY
- National Health Law Program--Los Angeles, CA
- National Housing Law Project--Berkeley, CA
- National Juvenile Law Center--St. Louis, MO
- National Senior Citizens Law Center--Los Angeles, CA
- National Social Science & Law Project--Washington, DC
- Youth Law Center--San Francisco, CA

## Strengths of the back-up centers

Johnson, in his first history of the OEO legal services program (Justice and Reform: The Formative Years of the OEO Legal Services Program, New York: Russell Sage Foundation, 1974 at 180-82), emphasized the major strengths of the back-up centers as follows:

- They were funded solely to bring test cases and advocate for legislative change.
- They would not be accountable to local boards of directors.
- They were responsible for an "inordinate proportion" of the program's impact on economic and social problems.

- They were experts.
- They could provide training and research materials.

## **Publications**

OEO also funded several national publications:

- Clearinghouse Review was produced by the National Clearinghouse and described poverty law developments.
- Poverty Law Reporter reported on cases. The Poverty Law Reporter, a Commerce Clearinghouse loose-leaf service, was discontinued by LSC in 1980.
- Law in Action, published by OEO for a brief period, publicized legal services victories.
- Welfare Law Bulletin was published by NYU Law School.

## **National training and technical assistance programs**

OEO also funded national training and technical assistance programs first at Northwestern University Law School and later at Catholic University Law School. The national training events played a key role in assuring effective coordination among programs over newly emerging issues and linked key substantive advocates within local programs to each other and to the national experts in the support centers or elsewhere.

Technical Assistance on management issues was provided by the National Legal Aid and Defender Association.

A National Paralegal Institute provided support to paralegals.

## **State support programs**

A few state support programs were also developed. They provided state level advocacy (major litigation, administrative and legislative policy advocacy) and coordination in states with a larger number of local programs. They increased training and facilitated a more direct link between local advocates and national experts. The following state support centers were created:

- Massachusetts Law Reform Institute
- Western Center on Law and Poverty (California)
- Michigan Legal Services
- Ohio State Legal Services
- Greater Upstate Law Project (New York)
- Legal Services of New Jersey

## **1973-74: Attacks on the support structure and back-up centers.**

By the early 1970s, this support structure was fully operational. It faced few threats from federal officials or from Congress.

## **1973: Nixon appoints Howard Phillips to head OEO**

This changed in January of 1973 when President Nixon appointed Howard Phillips to head OEO. Phillips was a critic of the war on poverty and of the legal services program. Although Phillip was to preserve legal services for the eventual transition to the Legal Services Corporation, he declared: “I think legal services is rotten and it will be destroyed.” He put legal services programs on month-to-month funding, cancelled law reform as a program goal, and moved to defund migrant programs and back-up centers.

Marshall Boarman was put in charge of OEO research and development. He wrote several memos on back-up centers, arguing that they were duplicative, unaccountable, focused on social change, and unnecessary to providing legal services to the poor. The Boarman memos provided intellectual support not only to Phillips but also to Congressional critics such as Edith Green and later to opponents in the Reagan era.

The assault on legal services and the back-up centers by OEO was stopped when a federal court enjoined Phillips from acting as director of OEO because his name had not been submitted for Senate confirmation. See *Williams v. Phillips*, 360 F Supp. 1363 (D.D.C. 1973) and *Government Employees, Local 2677 v. Phillips*, 358 F. Supp. 60 (D.D.C. 1973). However, stopping OEO and Phillips did not end the threat to the support structure and back-up centers.

## **1973-74: During creation of LSC, Nixon forces adoption of Green Amendment**

In June 1973, the House took up a bill to create the LSC. Floor debate on the bill got quickly out-of-hand. The House added a number of amendments to the Committee bill that would curtail many law reform activities by legal services programs. One of those amendments was by Congresswoman Edith Green, a Democrat from Oregon.

The Green Amendment modified §1006(a) (3) of the proposed Legal Services Corporation Act (42 USC §2996(c) (3)) to specify that LSC could undertake directly, and not by grant or contract, the following activities: (a) research; (b) training and technical assistance; and (c) information clearinghouse activities.

Congresswoman Green's intent was clear. She believed her amendment described the back-up centers and that requiring the activities to be performed directly within LSC would eliminate the back-up centers as well as the National Clearinghouse, the National Paralegal Institute, the national training program, and possibly even state support centers.

However, she made a serious drafting error in amending only part of the LSC legislation. Because she was familiar with the OEO legislative provisions on research, under which the support centers had been previously funded, she assumed that the back-up centers would be funded under the research and technical assistance provisions of the LSC bill. She did not take into account the provisions in the legal services legislation that provided for funding of programs providing legal assistance including specialized legal assistance.

Ms. Green was not aware of the direct advocacy activities of the support centers and their professional relationships with poor clients. She assumed that the centers were primarily research organizations that developed new theories. In her view, the centers were the brains and the local program staff were the workers that carried out the orders of the back-up centers. This belief was never accurate and it

assumed a role that the back-up centers never played. She used a series of examples provided her by conservative critics of the program. However, many of these examples involved the activities of local programs, the legal services training program or (in many cases) non-LSC-funded organizations.

When the Senate took up consideration of the House passed bill in late 1973 and early 1974, it significantly modified what the House had done including fundamentally changing the Green Amendment. The compromise reached during the conference committee on the legislation also preserved the back-up centers and the fundamental support structure created by Earl Johnson in OEO. In May 1973, the conference report barely passed the House (190-183) after first defeating a recommittal motion to include the Green Amendment. The national centers became the focus of opposition to legal services because they were perceived as the brains behind the activism of legal services programs, or the “cutting edge of social change” as Congresswoman Green charged. At that point the legislation became embroiled in the politics of the impeachment process. Key conservative leaders in the House and Senate (and several conservative supporters of the President) made their continued support for President Nixon dependent upon his promise of a veto if national back-up centers were not eliminated. The President then demanded that the Green Amendment be added to the bill in exchange for his support. Ultimately the Senate agreed and a final compromise was passed by both houses. President Nixon then signed the bill on July 25, 1974.

The question then became: how would the new LSC interpret and implement the Green Amendment?

## **1975-77: New LSC reorganizes support to conform with the Green Amendment**

The Green Amendment very much shaped the future of the Corporation until the Green Amendment was later deleted during the reauthorization of the LSC Act in 1977.

The first real policy controversy facing the new LSC board what to do with the back-up centers. In response to Nixon’s veto threat, Congress had passed the Green Amendment. Under that amendment, research, training, technical assistance and clearinghouse functions had to be done by LSC directly "and not by grant or contract." Congresswoman Green intended the language to cover direct advocacy for clients, an essential part of the back-up center function, but failed to state that intent clearly in the language. As a result, the language required LSC to take over only some of the functions of the back-up centers. Other functions couldn't be picked up by LSC because its staff could not practice law directly.

Thus, the LSC board faced a quandary. It could defund the back-up centers as Congresswoman Green intended, but only by eliminating some of their functions entirely. Or, it could continue funding the centers but would have to do something to cover the activities specified in the Green Amendment.

In 1975, as one of its first actions, the LSC board requested a legal analysis from David Tatel, the transition General Counsel, and commissioned a study by a prominent public interest lawyer, Alexander Polikoff, to examine the activities of the centers and LSC's ability to support all or part of the activities. The LSC board also heard from former Congresswoman Green and relevant congressional committee chairmen. The Tatel memorandum and the study conclusions known as the "Polikoff Report" found client representational activities, including the research normally done by a lawyer for a client, to be outside the meaning of the Green Amendment. The study found that the centers engaged in both permitted and nonpermitted activities. Based on the Polikoff report and the Tatel memorandum, LSC President Tom Ehrlich proposed evaluating each center and continuing those

that delivered services still permitted under the Green Amendment while narrowing their activities solely to those permitted by the Act. The term "support center" was coined to connote the new role. Based on the evaluation, all the substantive area centers were refunded.

While the back-up centers survived as "support centers," they received little funding from the Corporation in the initial years. Funding was not significantly increased over 1975 levels although the number of field program staff the centers supported increased dramatically through expansion. As a result, the centers were stretched very thin in attempting to meet the assistance requests, particularly those from expansion programs and offices.

Based on the Polikoff report, the Tatel analysis and the Ehrlich memo, the training centers (Legal Services Training Program and National Paralegal Institute), the NLADA Management Assistance Project and the National Clearinghouse for Legal Services were terminated. The Clearinghouse was absorbed into the Corporation with no change in office location and little change in staff and operation.

The Corporation created two separate divisions—the Office of Program Support and the Research Institute – to take over the activities of the back-up centers that had to be handled by the Corporation. This organization was a particular stimulus to training and to research activities moved in-house under the Green Amendment. The Research Institute produced a series of papers, articles and books on poverty law subjects, sponsored conferences to discuss and disseminate its work and undertook delivery research.

The Office of Program Support (OPS) concentrated on training. It greatly expanding the national training effort and eventually worked into regional and local training. Most of the activities of the terminated centers were continued in OPS. Management assistance functions were divided between OPS and the Office of Field Services (OFS). Up until 1980, OPS and OFS shared authority for management assistance without a clear division of responsibility. Regional offices (part of OFS) provided management assistance to programs. Washington OFS staff developed efforts to assist new and expansion programs. OPS staff ran training and did some direct management assistance. Technical assistance, at least as administered by the regional offices, took various forms: cash awards to accomplish a discrete purpose (to computerize the financial system or to produce a pro-se divorce video tape); the provision of outside consultants to provide a particular service (a management systems expert, or an architect, or a group facilitator to help set program priorities); and consultation on an administrative issue by regional office staff.

During the reauthorization of the LSC Act in 1977, the Green Amendment was deleted, although broad general legal or policy research unrelated to representation of eligible clients could still only be done in-house. This legislative change gave LSC more discretion on how to deliver and fund work.

### **Late 1978-1981: After Green Amendment removed, LSC develops a coherent support policy**

The Legal Services Corporation did not develop a coherent support policy until late 1978. See LSC, *Support: Policies and Options for 1979 and Beyond* (September 14, 1978). That policy developed after a process that included: meetings held by key LSC staff; the Next Steps process; the development of a paper on National Advocacy; and a joint PAG/NCC/NLADA task force on support. During summer 1978, an LSC support task force held two large meetings and three smaller meetings. The task force discussed a planning paper prepared by LSC staff members Alan Houseman and Judy Riggs. In addition, the 1007(h) study required by Congress in the 1977 LSC reauthorization called for creation of national support entities on immigration and veterans. See *Special Legal Problems and Problems of*

Access to Legal Services of Veterans, Migrant and Season Farmworkers, Native Americans, People with Limited English-Speaking Abilities and Individuals in Sparsely Populated Areas (LSC 1980). The new LSC support policy mandated:

- (1) increased national support through increased funding for existing centers, the development of new support centers, expansion of national advocacy and the development of manuals and materials;
- (2) development of state support to carry out three principal functions of state level advocacy, coordination and support initially through a state planning process and ultimately with increased funding;
- (3) decentralization of training, from national events to local and regional training;
- (4) an expanded Clearinghouse Review to include articles and discussions of delivery issues; and
- (5) targeting of technical (or management assistance) to program problems as defined through monitoring and evaluation.

The new LSC policy was never fully implemented. This was due to the low priority placed upon support in the LSC budget requests and among the supporters of the program in Congress. While not overtly hostile, many of the moderate congressional supporters, particularly on the appropriations committee, did not give high priority to increased support. Instead, they pressured LSC to complete the "minimum access" plan of providing programs to cover every county in the US and territories.

## **National support**

Growth did come eventually for national support although no significant new money was available until 1979. The new support policy set out four principal functions for national support:

- (1) support of legal services staff and clients through individual service work, library and resource material, training, communications, the development of manuals and materials, technical assistance and development of strategies for use by local program staff;
- (2) litigation, including serving as counsel for eligible clients and co-counsel with local program staff;
- (3) legislative and administrative representation on behalf of eligible clients, including representation before Congress; and
- (4) coordination and establishment of networks with local program staff, other advocates and advocate organizations representing the poor.

Many of the centers were funded to open Washington, DC offices for advocacy before Congress and in the federal agencies. Responsibilities of some of the existing centers were expanded, and new funding was made available for additional responsibilities and for special projects. All of the centers were encouraged to produce manuals and materials for use by local program staff, and additional funds were made available for these products. The Youth Law Center and the National Juvenile Law Center merged in 1980 into the National Center on Youth Law.

New initiatives were funded to cover the following subjects:

- family law (National Center on Women and Family Law)
- immigration (National Immigration Law Center)
- access to federal courts (Access to Justice Project at NLADA)
- veteran's issues (National Veterans Legal Services Project)
- civil rights (through a contract with the Lawyers Committee for Civil Rights Under Law)
- food and hunger (Food Research and Action Center) and
- mental disability law (Mental Health Law Project).

However, there remained a number of areas in which support needs were great and no center was available to provide assistance (e.g., physically disabled).

## **State Support**

There was substantial growth in state support. OEO had funded the Western Center on Law and Poverty (California); Michigan Legal Services; Massachusetts Law Reform; Ohio State Legal Services; Greater Upstate Law Project (New York) and Legal Services of New Jersey.

When discretionary money became available from the Corporation in 1977 and 1978, the programs in some states (primarily in the South and Southwest) pooled resources to establish state support projects--then called "joint ventures." Often these projects limited their functions to training and legislative and administrative advocacy. Virtually none carried on the full range of activities of those programs funded through OEO. In other states where expansion was great, some state support entities were created as new programs or parts of expansion programs. In some states, the statewide program provided support to its staff and the staff of any other program.

Eventually, LSC recognized the need for state support in all states. In 1979, LSC began the process of state planning for, and funding of, state level advocacy, coordination and support around the country. However, because of budget pressures and the congressional emphasis on "minimum access," new money was not allocated until 1981. The plans were only partially implemented when the appropriations reductions for FY 1982 stopped the expansion of state support.

## **Training**

Perhaps the greatest increase in support occurred in training. Substantial new funds were allocated to OPS in 1978 through 1980. OPS originally gave high priority to a series of national and regional training events for attorneys and paralegals. These events were beginning to come under increasing criticism from local program staff and local project directors (as well as clients) when the support study began. A National Training Advisory Committee (NTAC) was established in 1978. NTAC recommended a shift in training from the national to the local level and increased use of training grants to states and regions to conduct their own training activities. The support study adopted a view that was generally consistent with the recommendations coming from field programs and the advisory committee. By then, however, the OPS staff had been substantially increased. Tension began to arise between the desires of OPS staff and the recommendations of the advisory committees and the support study.

Bureaucratic resistance to the shift in training contemplated by the support policy also existed within OFS and the regional offices. The regional offices saw the opportunity to expand their activities and to

use training as a means to improve quality in programs. In response to the regional office pressures and the OPS desires, LSC adopted a bureaucratically acceptable compromise. Instead of creating regional training centers, LSC regionalized its own staff, placing regional training coordinators in the regional offices. The coordinators were accountable both to the regional office director in OFS and to OPS. They were given some new funds to provide local training grants to programs.

The support policy contemplated turning most national training over to the national support centers. Some of the centers were reluctant to undertake the substantial training role originally contemplated without significantly increased funding. When additional funds for national training and national conferences were made available, the support centers provided the increased training.

The solution wasn't entirely accepted. There continued to be internal divisions within LSC and legal services over the training efforts and the role which OPS and the support centers (state and national) should play.

The training aspect of the support study was never fully implemented until the 1981 budget crisis forced the LSC staff to seriously consider how effective training was to exist in the future. LSC created five regional training centers by funding existing programs to undertake training activities previously done at LSC. Also, LSC funded the Western Center on Law and Poverty to undertake substantive law training. These grants provided funds through 1983. At the time the grants were made, the LSC senior staff expected the training centers to function as permanent LSC grantees. However, because of the severe funding reductions, there was insufficient money to provide funding over a longer period of time.

Also in 1981, LSC gave a grant to NLADA to deliver Management Assistance and created an independent National Clearinghouse.

## **1982-85: Support system fights for survival under Reagan-appointed LSC board**

In 1982, the newly appointed board of LSC (all of whom were recess appointments and not confirmed by Congress) began to focus on the LSC-funded support structure. The early efforts of the boards appointed by President Reagan curtailed and harassed the support infrastructure, but did not dismantle it. It remained in place through 1985.

At the beginning of 1982, the support structure consisted of the following:

- 17 national support centers;
- state support programs, joint ventures, or units of basic programs in most states;
- 5 regional training centers;
- a management assistance project at NLADA;
- a substantive training project at the Western Center for Law and Poverty;
- 6 computer-assisted legal research (CALR) projects; and
- the National Clearinghouse for Legal Services in Chicago.

The Office of Program Support and the Research Institute within LSC were no longer in existence.

## **1982: Newly-appointed LSC board examines support**

Support was examined by a board committee on grants and contracts. The chairman of the committee, Clarence McKee, prepared a report which recommended a number of contract conditions for national support centers that would have required the centers to consider merger or consolidation, to eliminate any overlap among centers as to substantive law and client population, to stop the filing of amicus briefs without prior approval by the president or board, to stop training, to provide recommendations and options regarding alternative mechanisms and vehicles for the provision of support, and to limit direct delivery of legal services to eligible clients.

## **LSC board orders special study on support**

In 1982, the board, after considerable controversy, ordered a special study on support and authorized only six month grants. The study on support was to be conducted and completed by June 20, 1983, but that did not happen. The study was to review the existing support structure to determine whether or not there was a more effective, efficient and economical delivery system for the provision of national support and state support.

The study involved four components. The first was a survey to identify the areas in which support was needed; specific information on where and how support needs were presently being fulfilled; the effectiveness of the sources of support and satisfaction with those sources; and information on potential sources to meet unsatisfied support needs.

That survey was carried out by the National Opinion Research Center (NORC) under a contract with the Corporation. It was not publicly released until 1985. The results of that survey supported the continuation of the existing state and national support centers. Key findings of the NORC study include the following:

Most legal services personnel find that their frequent or important support needs are being met; 74.7% of project directors and 68.8% of staff attorneys obtained assistance for their very important or very frequent needs.

Next to their own program colleagues, legal services field lawyers and project directors turn to national support centers most frequently for support needs; 65% of project directors and 55.5% of staff attorneys turn to LSC-funded support entities for 21% or more of their support needs.

During the period from 1982 to the summer of 1983 when the survey was taken, 94% of project directors, 87% of field attorneys, and 98% of legal services paralegals received assistance from national support centers.

Of all support resources available, both within and without legal services programs, national support centers provided the most satisfactory services. State support centers rated nearly as high; 89.9% of program directors, 90.3% of staff attorneys, 81.6% of paralegals and 85.7% of Judicare attorneys who used national support found the service very satisfactory, the highest rating

Co-counseling assistance is needed by large numbers of legal services lawyers. 69.3% of project directors and 62.7% of staff attorneys listed co-counseling as one of their needs.

Second, the Corporation undertook an evaluation of each of the 17 national support centers and 11 of the state support centers. These evaluations were of mixed quality; some had to be redone because of

their poor quality. All evaluations contained numerous factual errors. Many of the evaluators had no previous legal services experience and knew nothing about the support structure.

Third, the Corporation was to commission a study of the "important poverty law areas" and "alternative resources" in these areas which would go beyond the survey and the evaluations. Such a study was never commissioned.

Fourth, the study was to review all of the current records of national support and address the specific questions raised in 1982 by the grants and contracts committee.

### **LSC targets legislative activities at state and national support centers**

The Corporation also imposed a new requirement on both state and national support centers. They were to set forth their plans, proposals and timetables within 90 days after January 1, 1983 for closing any Washington offices or separate state capital offices or show cause to the satisfaction of the LSC president why the services at separate offices to local programs or to its area of specialized law could continue in view of the new congressional restrictions and prohibitions on legislative activities. All of the national and state support centers provided such information. None of their separate capital or Washington offices were closed because no separate office was devoted exclusively to lobbying as the board and new president believed.

### **LSC attempts to narrow the role of national and state support centers**

In 1983, LSC also promulgated LSC Instruction 83-9, Grant Conditions for National and State Support, 48 Fed. Reg. 54,305 (December 1983). In the state and national support instruction and a subsequent proposed regulation (49 Fed. Reg. 34190, August 28, 1984), LSC attempted to narrow the role of national and state support centers.

Under LSC plans, centers would have been limited to providing advice, assistance, training and materials to local legal services staff. They would have been severely limited or precluded from a whole range of advocacy activities which state and national support have previously undertaken: legislative representation before Congress and at the state level; administrative representation before federal and state agencies; litigation challenging major national or state policies; and development of networks of advocates and client groups, both to assure effective coordination of advocacy activities and to mobilize support when necessary to prevent implementation of new policies. The Instruction also prohibited centers from using fiscal year 1984 funds to support branch offices.

Fourteen national support centers brought litigation challenging the Instruction. On December 28, 1983, the District Court in DC issued a temporary restraining order. On January 31, 1984, The District Court issued a preliminary injunction, *National Senior Citizens Law Center v. LSC*, 581 F. Supp. 1362 (D.D.C. 1984). This was affirmed on appeal at 751 F.2d. 1391 (D.C. Cir., January 11, 1985) which held that the Instruction violated a rider (known as the "affirmative rider") in the 1984 LSC Appropriation.

The "affirmative" rider prevented an LSC board of directors not confirmed by the Senate from taking adverse action against legal services programs. The rider was first included during 1982 for the FY 1983 appropriation, which took the form of a Continuing Resolution. Congress adopted a FY 1984 appropriations bill in late November 1983 which strengthened the "affirmative rider" by (1) providing for a clear formula for funding legal services programs and prohibiting LSC from altering those grant

levels; and, (2) refunding all current grantees and contractors with a required funding increase unless contrary action was taken by a confirmed LSC board of directors by January 1, 1984. Both the 1984 restrictions and affirmative rider provisions were kept in place under the FY 1985 appropriations act.

## **LSC seeks to narrow training efforts**

LSC also attempted to redirect training efforts. In the states, training had focused on both substantive law developments and skills for advocacy. Training had included both state and local training on routine issues, and regional and national training on new national poverty law developments and such skill areas as legislative advocacy and federal litigation. National conferences and seminars for advocates from across the country discussed new developments and encouraged coordination of local efforts. LSC sought to limit training to routine substantive developments and skills, eliminate regional and national conferences and preclude the use of training as a means of developing effective networks of advocates.

LSC sought to change the direction of training by eliminating funding for the five regional training centers and the substantive law training program. These efforts were only partially successful because litigation blocked the termination of the regional training center grants.

A preliminary injunction was issued on March 23, 1984 based on an opinion of March 6, 1984. The injunction enjoined the Corporation from terminating grants to the regional training centers because its actions violated the "affirmative rider" and because the Corporation failed to provide a hearing as required by §§1007 (a) (9) and 1011 of the LSC Act. See *Massachusetts Law Reform Institute v. Legal Services Corporation*, 581 F. Supp 1197 (D.D.C. 1984). LSC then sought and obtained an expedited appeal. On June 14, 1984, the Court of Appeals for the D.C. Circuit affirmed the preliminary injunction finding neither abuse of discretion nor any reliance upon an incorrect legal theory. The district court issued a final judgment on December 19, 1984. See 601 F.Supp. 415 (D.D.C. 1984). The case was settled in June 1985.

As part of the effort to redefine support functions, LSC sought to increase the amount of training undertaken by state and national support centers. This step, if it had not been part of the effort to restrict support center advocacy activity, and if additional funds had been provided, may well have enhanced training for program staff. In 1983, however, LSC did not attempt to develop any new approach to training before taking steps to eliminate the structure put in place in 1982. Nor did LSC attempt to build upon the structure and make improvements in it. Instead, LSC began dismantling the training programs before the experiment with the decentralized approach they represented could be fully tested. In fact, the evaluations which LSC conducted in 1983 suggested that the regional training centers were providing effective training.

## **LSC negotiates contract with the National Clearinghouse for Legal Services**

With regard to the National Clearinghouse for Legal Services, LSC entered into extensive negotiations with the National Clearinghouse over its 1984 contract. The Clearinghouse had been funded by contract beginning in 1981. A major difference between the Clearinghouse and the Corporation staff was over the issue of whether LSC staff could stop the Clearinghouse from carrying articles that were either critical of legal services or discussed national poverty law developments arising out of legislative and federal agency policies. The dispute was resolved and the Clearinghouse funded for 1984 and beyond.

## **LSC targets 6 computer-assisted legal research (CALR) projects**

Another support controversy involved six computer-assisted legal research (CALR) projects which were funded in 1981 and 1982 to provide computer-assisted legal research services to local programs on a regional basis. LSC was considering a major study and evaluation of CALR. It failed to fund the CALR projects until late March of 1984, and unsuccessfully attempted to limit funding to six months. It also sought unsuccessfully to deny the projects the percentage increase in funding to which they were entitled under the LSC Appropriations Act for 1984 (Pub. L. 98-166). The Corporation never proceeded with the evaluation.

## **1985-1992: LSC-funded support continues**

In 1985, the support structure consisted of the following:

- 17 national support centers,
- state support centers or units in each state,
- 5 Regional Training Centers,
- 6 computer assisted legal research projects, and
- the National Clearinghouse for Legal Services, which published the Clearinghouse Review.

## **LSC board attempts to defund certain support components**

Between 1985 and 1996, the support structure came under continuing but unsuccessful attack from critics of legal services and some members of the board of LSC. These critics saw the support structure as the engine that drove legal service into class actions, major litigation, legislative and administrative advocacy. They believed the support structure as the glue that held together a coordinated, cohesive advocacy network to challenge the status quo. In September 1987, the LSC board voted to request that Congress not provide funds for national and state support, regional training centers, computer assisted legal research projects and the National Clearinghouse for Legal Services.

Congress rejected this proposal, and, indeed, became very irritated at the LSC board for making such a proposal. Congress acted to protect support as well as other components of the legal services delivery system under attack (e.g., migrant and Native American programs), Led by Senator Warren Rudman (R-NH), the FY 1987 appropriation for LSC specifically earmarked funding for support components. For example, Public Law 99-500, (October 18, 1986), the FY 1987 appropriation of \$305,500,000 for LSC provided: \$623,964 for regional training centers; \$7,528,218 for national support; \$7,842,866 for state support; \$865,000 for the Clearinghouse; and \$510,444 for computer assisted legal research grants. This earmarking continued until the FY 1996 appropriation.

LSC's board attempted to defund several national support centers (e.g., Migrant Legal Action Program, National Center for Youth Law). The board's only success was defunding the National Social Science & Law Project located in Washington, D.C. All of the other 16 remained funded until FY 1996. Similarly, no state support center was defunded, although the board unsuccessfully attempted to defund the Western Center on Law and Poverty because of its advocacy activities around a California election proposition on tax limits (Proposition 13).

## **Support entities carry on**

LSC remained hostile or indifferent until the Clinton-appointed LSC board took over in 1993. Meanwhile, the support entities themselves, working with NLADA, continued to focus on support and to build cohesive state and national networks of advocates.

Throughout the 1980s, numerous LSC studies attempted to examine support but none were successful in eliminating it. Two non-LSC studies were done on state support. The Management Project of NLADA commissioned a paper on state support completed by Erica Black Grubb in November 1983, *The Role of State Support in Delivering High Quality, Cost-Effective Legal Services to Low Income Clients*. The National Organization of State Support Units did a subsequent study in 1991 entitled *The Challenge of Leadership: Providing State Support Services in the 1990s*. A shorter version of the report was included in an article by Daniel M. Taubman, "The Role of State Support Centers in the 1990s and Beyond," 25 *Clearinghouse Rev.* 75 (Special Issue 1992).

During this period, NLADA organized a number of conferences for state support staff to help state support build on successful initiatives among the various states and improve state level advocacy. Regional training centers met periodically to improve training and learn from each other. National support centers gathered at national NLADA conferences to share experiences and successful activities.

## **1993-94: Clinton-appointed LSC board focuses on support**

In 1994, the Delivery Working Group (of the Project Advisory Group and NLADA) completed a comprehensive review of support that was presented to the LSC Board for its consideration just after the 1994 Congressional elections. That study set out eight core functions of state and national support:

**Advocacy:** State and national support centers conduct advocacy directly as sole or co-counsel at state and national levels and are the focal points for such advocacy efforts because the two primary judicial, legislative, and administrative systems are centered at the state and federal levels.

**Coordination of and assistance to advocacy of others:** Providing help to others in the Legal Services system who are doing advocacy, rather than doing it directly.

**Management, administrative and organizational assistance, coordination, and development:** Providing a variety of help to Legal Services programs and their administrative staff at both state (where there are at least two field programs distinct from the state support center) and national levels

**Information dissemination to and sharing with staff, case handlers, and board members:** state and national support centers are primary information distribution points.

**Information dissemination to and sharing with the low-income client-eligible community:** A central role of all Legal Services programs - and therefore of support - is to provide information to client-eligible people so that they may be relatively more empowered and may seek, wherever possible, to help themselves. The nature of support's involvement in this activity will vary according to the pattern of involvement of other Legal Services programs and non-LSC entities for the particular substantive area, client population, or state.

Conducting and assisting necessary training

Resource development: At both the state and national levels, support can play an important part in helping develop new sources of revenue for Legal Services.

Preserving and strengthening Legal Services as an institution: National and state support, given their leadership responsibilities, can collectively be responsible for advancing Legal Services' reputation and stature, preserving its independence, maintaining its integrity, and insuring its strength.

The FY 1995 Appropriation for LSC (Pub. L. 103-317, August, 1994) increased LSC funding to \$415 million and continued the earmarked funding for the various categories of support. This was the last time there would be annualized support funding through LSC. The LSC Board had planned to begin consideration of what to do to expand support in 1995, but by then there was a new Congress and a new political environment.

## **1995: Congressional conservatives fail to phase out LSC but eliminate much support funding**

With the 1994 congressional elections, LSC suffered a dramatic reversal of political fortune. Conservatives included the elimination of LSC in the infamous “Contract with America.” The leadership of the new Congress, under House Speaker Newt Gingrich (R-GA), committed itself to the elimination of LSC and ending federal funding for legal services. The House leadership 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 budget plan that assumed that LSC’s funding would be cut by one-third for FY 1996, another third in FY 1997, and completely eliminated thereafter. Opponents of legal services dubbed this funding plan “the glide path to elimination.”

Senator Pete Domenici (R-NM) led a bipartisan majority in the Congress that remained committed to maintaining a federally funded legal services program. Nevertheless, key congressional decision-makers, led by Reps. Bill McCollum (R-FL) and Charles Stenholm (D-TX), determined that major “reforms” in the delivery system would be required if the program was to survive.

The FY 1996 appropriation for LSC (Pub. L. 104-134, April 26, 1996) incorporated these reforms. Grants were to be awarded through a system of competition, rather than through presumptive refunding of current recipients. Funding was to be distributed on a strict, census-based formula, eliminating any LSC discretion over funding amounts.

More fundamentally, congressional conservatives were determined to redefine the role of federally funded legal services by refocusing legal services advocacy away from law reform, lobbying, policy advocacy, and impact litigation and toward basic representation of individual clients. Congress set out to accomplish this goal by restricting the broad range of activities that programs had engaged in since the early days of OEO, many of which had been mandated in the past. These restrictions are described in the separate history of Restrictions. Most significantly, Congress eliminated LSC funding for national and state support centers, the National Clearinghouse (which published the Clearinghouse Review), regional training centers, and computer assisted legal research centers.

## 2019: Where it stands

The network of state and federal support and training entities formerly funded by LSC has been curtailed, and some of its components have been substantially dismantled. However, many critical components still exist.

Since the loss of their LSC funding, most of the national centers have continued and received funding through national and regional foundations and some IOLTA programs. Many have thrived and grown in funding, national recognition and effectiveness. Examples include:

- National Center for Law and Economic Justice
- National Housing Law Program,
- National Center for Youth Law
- National Health Law Program
- Justice in Aging (formerly the National Senior Citizens Law Center).

A number of the national support centers that had focused solely on issues affecting the low-income community have broadened their focus to attract new sources of funds and also grown in effectiveness. Examples include:

- National Consumer Law Center
- National Employment Law Project
- National Immigration Law Center
- Insight Center for Community Economic Development (formerly the National Economic and Development Law Center)

Several (e.g., National Center on Women and Family Law) closed their doors when they were unable to raise sufficient funds to operate effectively.

The National Clearinghouse became the Sargent Shriver National Center on Poverty Law. It was a major state level advocacy entity. It also incorporated the Center for Legal Aid Education and was a leader in providing substantive, skills, advocacy and racial justice training for civil legal aid programs. It stopped publishing Clearinghouse Review in hard copy in 2015, and ceased publication altogether in 2018.

Although the Regional Training centers no longer exist as such, some programs which housed the centers have continued some training activities. NLADA also ensures substantive law training at national conferences, conducts a substantive law training program for newer attorneys and paralegals every two years and conducts a conference for litigation directors every two years. The Management Information Exchange (MIE) provides management training for executive directors, managers, supervisors and fundraising staff.

At the state level, the network of LSC-funded support centers has been replaced by a group of independent non-LSC funded entities engaged in state advocacy that operate in over 30 states. Only 12 of the current state entities are former LSC-funded state support centers. Several states have been unable to recreate a significant state support capacity at all. The Project for the Future of Equal Justice surveyed state advocacy and support during 2000 and 2001 (The Missing Link in State Justice Communities: The Capacity in Each State for State Level Advocacy, Coordination and Support). The survey revealed that, since the loss of LSC funding for support in 1996:

(1) A few states have preserved and/or strengthened the capacity for state level advocacy, coordination and information dissemination, have increased training and developed very comprehensive state support systems;

(2) in a number of states, there has been no state level policy advocacy, no significant training of staff, no information sharing about new developments, no litigation support and no effective coordination among providers; and

(3) in a number of states, some state support activities have been undertaken by new entities or carried on by former LSC-funded entities.

Those activities that do exist vary widely. In some states an existing entity continued to exist but at lower funding. In other states, a new entity was created to replace an existing entity or to work alongside an existing entity. In still other states, entirely new ways of providing state level advocacy, coordination and support have emerged, such as the Michigan Poverty Law Project, a joint endeavour of Legal Services of South Central Michigan and the University of Michigan Law School.

In 2015, Sargent Shriver National Center on Poverty Law received foundation funding to create the [Legal Impact Network](#) of state advocacy organizations. This network has helped pull together existing state advocacy and support programs, convene meetings of such entities, and develop new state advocacy programs.

## The future

Many of the national centers are thriving but will continue to need ongoing foundation and IOLTA support to continue their effective work. The Shriver Center became a leader in state advocacy and training. NLADA and MIE will continue their critical training and management assistance activities.

In some states there remain very effective state support centers and initiatives. In other states there is a big challenge to ensuring effective state advocacy, coordination and support. As states move forward in creating integrated, comprehensive systems of civil legal aid delivery, it is essential that these new systems ensure extended representation in complex litigation, in class actions, and on systemic issues; and representation before state and local legislative and administrative bodies that make laws or policies affecting low-income and vulnerable people. In addition, these state systems must ensure that all individuals participating in providing, supporting, or managing civil legal aid should receive ongoing training and participate in professional and leadership development activities. Management information and information about new developments in the law also should be disseminated to all advocates and managers. Support should be provided on state legal issues, and advocates should coordinate their work on behalf of the client community. Finally, these emerging state systems must assure that providers in the state should work and coordinate with national entities and organizations to receive support and information about changes in law and policy and to ensure that the interests and legal rights of low-income persons are taken into account by national bodies involved in civil justice and dispute resolution.

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