

The Honorable Barbara Mikulski
Chair, Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
144 Dirksen Office Building
Washington, DC 20510

The Honorable Alan Mollohan
Chair, Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
Room H-309, The Capitol Building
Washington, DC 20515

The Honorable Richard Shelby
Ranking Member, Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
123 Hart Office Building
Washington, DC 20510

The Honorable Frank Wolf
Ranking Member, Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
1016 Longworth House Office Building
Washington, DC 20515

June 3, 2009

Dear Chairwoman Mikulski, Chairman Mollohan, Senator Shelby and Representative Wolf:

We write to urge the Commerce, Justice, and Science Appropriations Subcommittees to lift several of the restrictions in the Legal Services Corporation (“LSC”) appropriation rider that interfere with the effective and efficient delivery of legal aid. Specifically, we call on Congress to lift the legal services restriction on state, local, and private funds¹ as well as to eliminate some of the restrictions on LSC funds that bar LSC-funded attorneys from using the full range of legal tools for effective representation and thereby prevent low-income people from obtaining their fair day in court. This change would, at no cost to the federal government, vastly expand access to justice for low-income families.

Since 1996, a rider has been placed on LSC’s annual federal appropriation, limiting both the tools LSC-funded legal services providers can use when representing eligible clients and the types of clients those providers can represent. Families and communities across the country are suffering because of the restrictions: victims of consumer fraud and illegal housing practices are placed at a disadvantage because LSC-funded attorneys cannot seek attorneys’ fees; efforts to help prisoners reenter society are needlessly postponed; communities are hamstrung in their ability to combat predatory lending practices because legal aid clients cannot participate in class actions; and those most knowledgeable about issues critical to low-income clients cannot engage themselves in legislative and administrative reform efforts.

¹ This letter does not seek to eliminate the rider’s current ban on using LSC or non-LSC funds for abortion-related litigation.

The most onerous of the restrictions extends all of the restrictions to every dollar of revenue that LSC-funded legal services providers receive, including revenue from state and local governments, private donors and other federal, non-LSC sources. A virtually unprecedented federal overreach, this restriction encumbers more than \$490 million in non-LSC dollars nationally and 58.1 percent of LSC-grantees' total funds.² In some states, this "restriction on state, local and private funds" gives the federal government remarkably disproportionate control over programs' funds regardless of the funding source. For example, in New Jersey, only 13 percent of LSC-funded programs' total funding comes from LSC,³ yet the restriction on state, local and private funds dictates how the other 87 percent of funds may be spent.

The restriction on state, local and private funds also results in the wasteful spending of precious public resources. In many states, justice planners have had to set up entirely separate organizations and law offices, funded by state and local public funders and private charitable sources, to do the work that LSC-funded programs cannot do, resulting in wasteful duplication of overhead, personnel and administrative costs.

The recent economic crisis has only exacerbated the effects of the restrictions and heightened the need to eliminate the most burdensome of them. The legal problems associated with the housing market crisis have further disadvantaged clients of LSC-funded organizations in court, as their lawyers lack the often crucial leverage of attorneys' fees when fighting deceitful foreclosure consultants and as affected clients are unable to join class action lawsuits against predatory lenders.

In addition, at a time of rising need, plummeting interest rates have dried up a key source of legal aid revenue, IOLTA funds, forcing legal aid offices to lay off staff, cut salaries and leave increasing numbers without needed assistance. Money now wasted in duplicative expenditures could be redirected to serve more clients if the restriction on state, local and private funds were removed. Moreover, permitting LSC-funded organizations to collect attorneys' fees would be a much needed revenue-generator.

For all these reasons, we urge you to amend the rider in the fiscal 2010 appropriation to LSC, a no-cost way to help make LSC-funded programs more efficient and effective, and to improve access to justice for the most vulnerable during these harsh economic times.

Thank you for your consideration of this important issue.

Sincerely,⁴

National Organizations

AARP

Alliance for Justice

Asian American Legal Defense and Education Fund

Boat People SOS

Brennan Center for Justice at NYU School of Law

² See Legal Servs. Corp., Fact Book 2007, at 10 (2008), available at <http://www.lsc.gov/pdfs/factbook2007.pdf>.

³ *Id.* at 9.

⁴ Signatory list current as of June 4, 2009. An earlier version of this letter was sent on May 4, 2009.

Center for Law and Social Policy
Center for Lobbying in the Public Interest
Child Care Law Center
Cleary Gottlieb Steen & Hamilton LLP*
Disability Rights Education and Defense Fund, Inc.*
Elias Foundation
Ella Fitzgerald Charitable Foundation
Equal Justice Society*
Equal Justice Works*
Evangelicals for Social Action
Families USA
Garvey Schubert Barer*
Human Rights Watch
Independent Sector
Insight Center for Community Economic Development (formerly NEDLC)*
International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America and Local 2320, the National Organization of Legal Services Workers
Leadership Conference on Civil Rights
Legal Action Center
Lowenstein Sandler PC*
Medicare Rights Center

Mexican American Legal Defense and Educational Fund
National Association of IOLTA Programs
National Center for Law and Economic Justice*
National Center for Lesbian Rights*
National Committee for Responsive Philanthropy
National Council of Nonprofits
National Employment Law Project
National Health Law Program
National Housing Law Project*
National Legal Aid & Defender Association
National Organization of Social Security Claimants' Representatives
National Senior Citizens Law Center*
OMB Watch
Orrick, Herrington & Sutcliffe LLP*
Poverty & Race Research Action Council
Prison Fellowship
Sargent Shriver National Center on Poverty Law
Service Employees International Union
Schulte Roth & Zabel LLP*
Skadden, Arps, Slate, Meagher & Flom LLP*
Youth Law Center*

State & Local Organizations

Access Now, Inc. (Florida)
AIDS Legal Referral Panel (California)*
Affordable Housing Advocates (California)*
Alabama Civil Justice Foundation
Alameda County Bar Association (California)*
Arizona Foundation for Legal Services & Education
Asian Law Alliance (California)*
Asian Law Caucus (California)*
Bet Tzedek Legal Services (California)*

Bread for the City (Washington, D.C.)
The Bronx Defenders (New York)
The Children's Law Center (Washington, D.C.)
California Advocates for Nursing Home Reform
Californians for Legal Aid*
Casa Cornelia Law Center (California)*
Centro Legal de la Raza (California)*
Coalition of California Welfare Rights Organizations, Inc.*
Colorado Lawyer Trust Account Foundation

Community Foundation of St. Joseph County (Indiana)

Community Legal Services, Inc. (Pennsylvania)

Disability Rights California*

Disability Rights Legal Center (California)*

Empire Justice Center (New York)

D.C. Employment Justice Center

Family Violence Law Center (California)*

ForeverCrowned Ministry, Inc. (Kansas)

Harriett Buhai Center for Family Law (California)*

Housing and Economic Rights Advocates (California)*

Impact Fund (California)*

Inland Empire Latino Lawyers Association, Legal Aid Project (California)*

La Raza Centro Legal (California)*

Law Foundation of Silicon Valley (California)*

Legal Aid Association of California*

Legal Aid Foundation of Colorado

Legal Aid Society of San Mateo County (California)*

Legal Aid Society of the District of Columbia

Legal Services Corporation of Virginia

Legal Services for Children (California)*

Legal Voice (formerly Northwest Women's Law Center) (Washington)*

Los Angeles Center for Law and Justice (California)*

Lutheran Office of Governmental Ministries in New Jersey

Maine Bar Foundation

Maryland Association of Nonprofit Organizations

Maryland Legal Services Corporation

Massachusetts Law Reform Institute

Mental Health Advocacy Services, Inc. (California)*

Michigan Designated State Planning Body for Legal Services

Michigan Nonprofit Association

Mississippi Center for Justice*

Montana Justice Foundation

MUST Ministries (Georgia)

Nevada Law Foundation

New Hampshire Bar Foundation

New Jersey Catholic Conference

Nonprofit Coordinating Committee of New York

Peter Edelman, Chair

District of Columbia Access to Justice Commission

Public Advocates Inc. (California)*

Public Counsel (California)*

Public Interest Clearinghouse (California)*

Public Interest Law Project (California)*

Salt Lake County (Utah) Aging Services*

San Diego Volunteer Lawyer Program, Inc. (California)*

STEPS to End Family Violence (New York)

Texas Access to Justice Foundation

Virginia State Bar

Washington Legal Clinic for the Homeless (Washington, D.C.)

Western Center on Law and Poverty (California)*

Worksafe Law Center (California)*