

January 30, 2009

Peter Orszag, Director  
Office of Management and Budget  
Executive Office of the President  
725 17<sup>th</sup> St., NW  
Washington, DC 20503

Dear Mr. Orszag:

We write to urge that the President's FY 2010 budget request to the Congress adopt an approach for the Legal Services Corporation ("LSC") that is different than that embodied in the LSC "administrative provision" advanced by the previous Administration's budget requests and embraced by the past Congress. Thus, in addition to endorsing LSC's request for funding in fiscal 2010, we specifically request that the budget call on Congress to lift the legal services restriction on state, local, private and other non-LSC funds as well as to eliminate other restrictions on federal funds that interfere with the ability of low-income people to obtain a fair day in court. This would, at no cost to the federal government, vastly expand access to justice for low-income families during these harsh economic times.

Each year since 1996, a Gingrich-era rider to the LSC appropriation has cut deeply into the ability of low-income individuals to obtain needed legal representation to prevent them from falling deeper into poverty. At a time of rising need, this ill-conceived rider prevents civil legal aid organizations – which play a critical role in preventing foreclosure and eviction, protecting victims of domestic violence, and ensuring that the elderly and disabled have basic benefits – from operating as efficiently and effectively as possible.

The rider denies those represented by LSC-funded lawyers access to basic legal tools, such as claiming court-ordered attorneys' fee awards and participating in class actions that are available to all other litigants. It also prohibits LSC-funded attorneys from representing many legal aliens and from conducting legislative and administrative advocacy on behalf of clients. Moreover, the rider contains an extraordinarily harsh restriction – applied to almost no other federal grantees – that extends these multiple LSC funding restrictions to cover *all* the activities of LSC grantees, including those activities that are financed by state and local government, by other federal programs, and by private donors, once the program accepts its first dollar in LSC funds.

This most harmful restriction, the "restriction on state, local, private and non-LSC federal funds," has encumbered more than \$490 million provided by state and local governments, charitable contributions, and other non-LSC sources to legal aid programs.<sup>1</sup> The restriction has disqualified LSC-funded programs from receiving certain foundation grants and has caused limited public funds to be wasted. 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 restriction has hamstrung communities in their ability to combat predatory lending practices because legal aid clients cannot participate in class actions and cannot seek court-ordered attorneys' fee awards, a critical source of leverage in many cases.

<sup>1</sup> See Legal Servs. Corp., Fact Book 2007, at 6 (2008), available at <http://www.lsc.gov/pdfs/factbook2007.pdf>

Many low-income persons do not have equal access to justice because legal aid attorneys are not permitted to provide the full range of services clients need. Access to justice for poor people is inherently unequal when it is subject to advocacy restrictions that are not imposed on clients who can afford to pay for their lawyers. Across the political spectrum, there has been a growing recognition of the need to change these appropriations provisions.<sup>2</sup> Justice planners in 18 states have recognized the barriers to justice that stem from the overreaching federal restrictions.<sup>3</sup>

Recommending the elimination of these restrictions in the President's FY 2010 budget request would be a no-cost change, and would go a long way toward preserving access to justice during these most challenging economic times.

The organizations signing this letter are among a growing number of groups involved in efforts to remove onerous LSC restrictions. We are hopeful that President Obama will join the effort and request a meeting with you, Mr. Briggs, or another appropriate staff member to discuss this critical issue further.

Our staff will be contacting you to follow up on this letter. In the interim, please feel free to contact Rebekah Diller, Deputy Director of the Brennan Center's Justice Program, by phone at 212.992.8635 or by email at [rebekah.diller@nyu.edu](mailto:rebekah.diller@nyu.edu).

Sincerely,

Brennan Center for Justice at NYU School of Law

International Union, United Automobile, Aerospace, and  
Agricultural Workers of America and Local 2320, the National  
Organization of Legal Services Workers

Center for Law and Social Policy

National Legal Aid and Defender Association

American Civil Liberties Union

Cc: Xavier de Souza Briggs  
Preeta Bansal  
Monique Williams

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<sup>2</sup> See Leadership Conference on Civil Rights' letter to Congress (Jan. 6, 2009), available at <http://www.civilrights.org/library/advocacy-letters/lccr-legislative-priorities-111.html>; Rebekah Diller, "[Legal Services Corporation: Restoring Legal Aid for the Poor](#)," Center for American Progress Action Fund (2008), available at [http://www.americanprogressaction.org/issues/2008/changeforamerica/pdf/legal\\_services.pdf](http://www.americanprogressaction.org/issues/2008/changeforamerica/pdf/legal_services.pdf); Letter from National Association of Evangelicals to Senators Richard C. Shelby and Barbara A. Mikulski (July 13, 2006), available at [http://www.brennancenter.org/page/-/d/download\\_file\\_36360.pdf](http://www.brennancenter.org/page/-/d/download_file_36360.pdf); Letter from Prison Fellowship and others to Representatives Frank R. Wolf and José E. Serrano (June 7, 2004), available at <http://www.brennancenter.org/dynamic/subpages/letter%20to%20congress%20reentry%20legal%20aid.pdf>

<sup>3</sup> See Brennan Center Fact Sheet, "Reports from Eighteen States Have Identified Federal Restrictions as a Barrier to Justice," available at <http://www.brennancenter.org/page/-/Justice/012809%20State%20Justice%20Reports%20re%20Restrictions.pdf>