

December 3, 2020

Biden-Harris Transition Team
Department of Justice Team

**Re: Proposal to Reestablish the U.S. Department of Justice's
Office for Access to Justice**

Dear Biden-Harris Transition Team,

We write to recommend that Biden-Harris Administration reestablish the Office for Access to Justice in the U.S. Department of Justice as a separate Department component and reassign it the functions as set out in 28 CFR § 0.33 and the 2015 Presidential Memorandum Establishing the White House Legal Aid Interagency Roundtable.

The U.S. Department of Justice's (DOJ) Office for Access to Justice (ATJ) – an initiative of the Obama Administration launched in 2010 that was closed by the current administration in 2018 – had an ambitious mission to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth, race, or status. As the voice for access to justice in the Executive Branch, ATJ's many accomplishments included: a robust statement of interest and amicus brief practice, weighing in on cases implicating the Sixth Amendment right to counsel and criminalization of poverty; providing expertise on the right to counsel to Tribes and Tribal Public Defender Offices implementing special domestic violence criminal jurisdiction recognized in the Violence Against Women Reauthorization Act of 2013; and ensuring the United States served as a leader in the global access to justice movement. Most notably, ATJ launched and staffed the White House Legal Aid Interagency Roundtable to raise federal agencies' awareness of how civil legal aid helps advance a wide range of federal objectives including improved access to health care and housing, education and employment, family stability and public safety.

The office's closure left the federal Executive Branch with no focal point for improving access to justice in the criminal and civil justice systems, harming public trust and the effectiveness of government programs and policies. Just a few examples help illustrate what happens in the void: vanished guidance to states that federal formula funds should support public defense and courts, not just police and prosecutors, and to state and local courts encouraging them to eliminate excessive fees and fines; the current administration's call for the elimination of the Legal Services Corporation, as well as the DOJ Executive Office for Immigration Review's Legal Orientation Program, which provides individual and group presentations, workshops, and referral to pro bono legal services to detained immigrants in removal proceedings; and the end of regular input from the public defense and legal aid community to federal justice policymaking.

Federal leadership is needed now more than ever:

- We need a coordinated Executive Branch federal response to the tsunami of pandemic-related civil and criminal justice issues. The reestablished office could resurrect its interagency work within DOJ and across federal agencies to address pandemic-related civil justice problems for millions of Americans, such as escalating domestic and elder abuse, housing instability from evictions and foreclosures, debt collection, and access to health care, unemployment insurance, and other government benefits and social services. These efforts could also be directed to help individuals in our prison and jail populations — incarceration must not be a death sentence.
- Overall trust in the justice system is at an all-time low, especially among low-income people and people of color.
- We need government programs to work as effectively as possible, which often means including legal help alongside other supportive services.

That is why we write to urge the incoming administration to reestablish the Office for Access to Justice as a separate DOJ component to reassume its functions as the Executive Branch's expert on civil and criminal legal services for people who are low-income and underserved.

Thank you for your consideration.

Sincerely,

Access to Justice Technology Fellows Program
Alliance for Justice
American Immigration Lawyers Association
American University School of Public Affairs,
The Justice in Government Project
Association of Pro Bono Counsel
Center for American Progress
The Constitution Project at the
Project On Government Oversight
Equal Justice Works
Fair and Just Prosecution
Fines and Fees Justice Center
Freedom Network USA
Georgetown Law Justice Lab
Innovation for Justice Program, University of
Arizona James E. Rogers College of Law
The International Legal Foundation
Juvenile Law Center
Kids in Need of Defense (KIND)
Lawyers Committee for Civil Rights Under Law
The Legal Aid Society of New York

Namati
National Association of Counsel for Children
National Association of Criminal Defense
Lawyers
National Center for Access to Justice at
Fordham Law School
National Center for Medical-Legal Partnership
National Coalition for a Civil Right to Counsel
National Homelessness Law Center
National Juvenile Defender Center
National Legal Aid & Defender Association
New York County Defender Services
Pro Bono Institute
Pro Bono Net
Public Rights Project
Self-Represented Litigation Network
University of Pennsylvania Carey Law School
Future of the Profession Initiative
Voices for Civil Justice