

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