

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 Richard Shelby
Ranking Member, Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
123 Hart 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 Frank Wolf
Ranking Member, Subcommittee on Commerce, Justice, Science, and Related Agencies
Committee on Appropriations
1016 Longworth House Office Building
Washington, DC 20515

Dear Chairwoman Mikulski, Chairman Mollohan and Ranking Members Shelby and 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.

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

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

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 come 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 non-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,

(List in formation)

Brennan Center for Justice at NYU School of Law

Center for Law and Social Policy

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

National Legal Aid & Defender Association

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

³ *Id.*, at 9

Alliance for Justice

OMB Watch

Service Employees International Union

Child Care Law Center

Poverty & Race Research Action Council

Families USA

National Employment Law Project

Washington Legal Clinic for the Homeless

ForeverCrowned Ministry Inc.

Community Legal Services, Inc. (Philadelphia, PA)

Legal Aid Society of the District of Columbia

Massachusetts Law Reform Institute

Empire Justice Center

Community Foundation of St. Joseph County

MUST Ministries

The Bronx Defenders

Maryland Association of Nonprofit Organizations

Sargent Shriver National Center on Poverty Law