

Federal Civil & Criminal Justice Reform Agenda

Recommendations for Strengthening the Nation's Civil and Criminal Judicial Systems January 2007

I.

Increase access to lawyers and to the courts for low-income people in civil matters

- A. **Increase LSC funding** – Increase the annual federal appropriation for the Legal Services Corporation (LSC). The Board of LSC and the American Bar Association support a funding level of \$411 million for FY 2007. This amount is an improvement over the current funding level of \$330 million, even though more is needed to meet genuine need.
- B. **Fix the LSC private money restriction** – Remove the LSC “private money restriction” and “physical separation requirement” to enable LSC grantees, like other nonprofits, to use their own non-federal funds, free of federal funding restrictions, to assist low-income clients.
- C. **Remove the LSC restrictions** – Remove other restrictions, imposed on LSC in 1996 and renewed in subsequent years, that limit the use of LSC funds to represent certain types of immigrants, to represent clients in class-action litigation, to seek attorneys’ fee awards, and to engage in other important activities on behalf of low income communities.
- D. **Provide guestworkers with access to lawyers** – Ensure that new immigration reform legislation enables guestworkers to qualify for legal assistance from LSC-funded civil legal aid programs to enforce their wage and hour, safety, and other rights.
- E. **Fix LSC immigration restriction for minors** – Enable children in the immigration system to qualify for representation from LSC grantees (e.g. through the Alien Child Protection Act).
- F. **Engage in oversight of the LSC IG** – Investigate whether investigations by the LSC Inspector General (“IG”), done under the banner of ensuring that impact work does not interfere with work to meet the basic needs of low-income clients, are in fact interfering with programs’ dedicated efforts to meet those needs.

- G. **Fix Bankruptcy Act to eliminate lawyer liability** – Expand access to legal assistance for people seeking bankruptcy protection by reforming the Bankruptcy Act to remove the personal liability imposed on lawyers who assist individuals with claims under the bankruptcy law.
- H. **Fund student loan forgiveness programs** – Fund student loan repayment programs for civil legal aid attorneys. LSC’s pilot Loan Repayment Assistance Program (LRAP) is a possible model. Congress approved \$1 million in 2005 to start LRAP, which provides up to \$5,000 in annual assistance for up to three years for selected civil legal aid attorneys.
- I. **Pass legislation similar to the FAIRNESS Act of 2004** – Pass legislation similar to the Fairness and Individual Rights Necessary to Ensure a Stronger Society: The Civil Rights Act of 2004 (the FAIRNESS Act), which has not been passed by Congress. The FAIRNESS Act would restore access to the courts to enforce essential civil rights protections stripped by recent Supreme Court rulings.

II.

Strengthen defense services within state criminal justice systems

- A. **Provide federal support for state indigent defense** – Allocate federal funds for defense services that are comparable to already-existing federal funds being allocated to prosecutors and police.
- B. **Fully implement the Innocence Protection Act** – Congress should implement all provisions of the Innocence Protection Act, particularly those that require states to meet national standards for providing capital defense services.
- C. **Enforce standards to ensure state indigent defense systems meet constitutional requirements** – Tie federal funding to the states to adherence by the states with the ABA’s Ten Principles of a Public Defense Delivery System.
- D. **Create a Center for Defense Services** – Establish and fund a “Center for Defense Services” to serve as an independent, national, non-profit watchdog that would monitor the adoption and implementation of indigent defense standards, conduct training sessions, and administer matching grants and other programs, for the purpose of strengthening indigent defense services in the states. For more information, see: ABA, Gideon’s Broken Promise: America’s Continuing Quest for Equal Justice at 42 (2004).
- E. **Fund student loan forgiveness programs** – Congress should reintroduce and pass the Prosecutors and Defenders Incentive Act, which would provide student loan repayment for prosecutors and public defenders.

III.

Improve other criminal justice system functions

- A. **Support passage of Second Chance legislation** – Support passage of the Second Chance bill, which aims to reduce recidivism, increase public safety, and strengthen society by funding state initiatives supporting the successful reintegration of people with criminal convictions into their families and communities.
- B. **Reduce racially disparate effects in the criminal justice system** – Monitor initiatives intended to reduce racial disparities, including the End Racial Profiling Act and legislation addressing the disparity between crack sentencing standards and sentencing standards for powder cocaine.
- C. **Prevent sentencing guidelines from becoming mandatory minimums** – Monitor and oppose legislation introduced by Rep. Sensenbrenner that would attempt to make the federal sentencing guidelines mandatory minimum sentences, arguably in violation of the Constitution.