

February 22, 2018

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
U.S. Senate Committee on Appropriations
Room S-128, The Capitol
Washington, DC 20510

The Honorable Jeanne Shaheen
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
U.S. Senate Committee on Appropriations
Room S-128, The Capitol
Washington, DC 20510

The Honorable John Culberson
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
U.S. House Committee on Appropriations
H-305, The Capitol
Washington, DC 20515

The Honorable José Serrano
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
U.S. House Committee on Appropriations
H-305, The Capitol
Washington, DC 20515

Re: Objection to the Department of Justice's Proposed Closure of the Office for Access to Justice

Dear Chairman Shelby, Ranking Member Shaheen, Chairman Culberson, and Ranking Member Serrano:

We are writing to express our concern and disappointment over the Department of Justice's (DOJ) apparent intent to close the Office for Access to Justice (ATJ). During the past several months, the Department has failed to adequately staff the office and, it is our understanding, has recently put the Appropriations Committees on notice that the office will be eliminated from the Department's organizational chart. ATJ's critical mission is "to help the justice system efficiently deliver outcomes that are fair and accessible to all," which is a responsibility also reflected in DOJ's mission. Therefore, we believe there is a benefit to maintaining ATJ's presence within the Department, and we request that you lodge an objection to the proposed closure of the ATJ office.

During the previous Administration, our groups enjoyed a fruitful relationship with the ATJ office, which opened a dialogue between the Department of Justice and the public defense community and other groups committed to legal services and criminal justice reform. On many occasions, external stakeholders conveyed information from the field that helped with DOJ decision-making and formed the basis for DOJ policies. While DOJ decisions did not always fully address our objectives, the ATJ office has been effective in serving as a conduit to ensure that a range of issues were brought to the appropriate authority within the agency. The closing of this door runs contrary to DOJ's mission to do justice and will only serve to exacerbate tensions between DOJ and the communities we serve.

The Department of Justice's closure notice comes as the state of public defense has reached crisis proportions. As countless reports have documented, public defense systems across the country suffer from inadequate resources, grossly excessive caseloads, and attacks on their independence, among other problems. Just after the Supreme Court issued its landmark decision in *Gideon v. Wainwright*, Attorney General Robert F. Kennedy recognized that "the Department of Justice . . . in its role as the criminal prosecutor for the Federal Government . . . has a special responsibility for the development of procedures that will result in an adequate defense of all indigent persons accused of crime." The Department should be encouraged to embrace, rather than abdicate, its special responsibility while the promise of *Gideon* remains woefully unfulfilled.

While the current Attorney General's commitment to this area remains to be seen, as a U.S. senator he supported resources for public defense. The Department should be encouraged to rethink its position and take fuller account of the benefits of a fully supported and staffed ATJ office. Closing the office does a disservice to future attorneys general, who may wish to augment the Department's efforts in one of the many areas assigned to the ATJ office. In light of these factors, we request that you convey to the Department your formal disapproval of their intention to close the Office for Access to Justice.

Thank you for your attention to this important matter and for your commitment to safeguarding the Sixth Amendment's right to counsel.

National Association of Criminal Defense Lawyers
American Civil Liberties Union
The Constitution Project at The Project on Government Oversight
Brennan Center for Justice at NYU School of Law
The Leadership Conference on Civil and Human Rights

cc: The Honorable Thad Cochran, Chairman, U.S. Senate Committee on Appropriations
The Honorable Patrick Leahy, Vice Chairman, U.S. Senate Committee on Appropriations
The Honorable Rodney Frelinghuysen, Chairman, U.S. House Committee on Appropriations
The Honorable Nita Lowey, Ranking Member, U.S. House Committee on Appropriations