



THE ACCESS TO JUSTICE INITIATIVE OF THE U.S. DEPARTMENT OF JUSTICE

"Today, the current deficiencies in our indigent defense system and the gaps in legal services for the poor and middle class constitute not just a problem, but a crisis. And this crisis appears as difficult and intransigent as any now before us."

Attorney General Eric Holder
Remarks at the Shriver Center Awards Dinner
October 14, 2010

TWO-YEAR ANNIVERSARY ACCOMPLISHMENTS

Since its launch in 2010, the Access to Justice Initiative has worked to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status. The Initiative's staff works within the Department of Justice, across federal agencies, and with state, local, and tribal justice system stakeholders to increase access to counsel and legal assistance, and to improve the justice delivery systems that serve people who are unable to afford lawyers.

Indigent Defense

In the criminal justice system, public defender offices are underfunded and understaffed, often so severely that they cannot hope to provide their clients with effective representation. Indigent defender annual caseloads can range from 500 to 900 felony cases and over 2,000 misdemeanors, at least five to six times the recommended ceilings set by the National Advisory Commission on Criminal Justice. In some instances, jurisdictions have reported case load assignments to be so high that defenders average just seven minutes per case. Understaffing leads to lack of attention to individual clients' cases, which in turn can lead to grave injustice, including wrongful convictions and unjust imprisonment.

A key priority of the Access to Justice Initiative is working with national indigent-defense advocacy groups and public defenders from across the country to address the crisis in the provision of indigent legal defense. To date, the Initiative's accomplishments in this area include:

- **Supporting Development of Quality Indigent Defense Systems**

2012 BJA Solicitation: The Initiative worked with the Bureau of Justice Assistance (BJA) to develop a \$1.4 million grant program to help jurisdictions implement one or more of the ABA Ten Principles of a Public Defense Delivery System. The purpose of the “[Answering Gideon’s Call: Improving Indigent Defense Delivery Systems](#)” grant initiative is to contribute to indigent defense practice and knowledge by implementing and testing approaches to providing quality indigent defense services using the Ten Principles. The grant solicitation, released on April 4, 2012, sought applicants who are interested in developing innovative, data-driven approaches to indigent defense reform. Selected grantees must partner with a research organization to track outcomes.

Byrne/JAG Guidance: The Initiative also worked with BJA to promote increased representation of the indigent defense community on the state and local advisory committees responsible for allocating DOJ’s Edward Byrne Memorial Justice Assistance Grant (JAG) Program formula grants. The JAG Program provides federal funding for states and localities to promote effective strategies across the criminal justice system. This year’s [solicitation](#), released on March 28, 2012, includes important new language encouraging state and local jurisdictions to bring all system stakeholders, including indigent defense providers, together in the strategic planning process, and it requires applicants to submit information describing the strategic planning process and identifying all stakeholders currently participating in the process.

- **Expanding Research on the Delivery of Indigent Defense Services**

2012 NIJ Solicitation: In January 2011, the Initiative and the National Institute of Justice’s International Center co-sponsored an Expert Working Group on International Perspectives on Indigent Defense. The purpose of the workshop was to identify both domestic and international best practices for representing low-income defendants and to devise a research agenda on indigent defense in the United States. The 40-person group consisted of leading experts from nine countries drawn from multidisciplinary communities, including domestic and international practitioners, researchers, advocates, and government officials. A report summarizing the workshop and the expert working group’s recommendations – [Expert Working Group Report: International Perspectives on Indigent Defense](#) – was issued in September 2011, which helped inform the National Institute of Justice’s \$1 million [Solicitation for Social Science Research on Indigent Defense](#) issued on February 23, 2012.

- **Supporting Tribal Courts**

Tribal Court Trial Advocacy Training Program: With the U.S. Department of the Interior’s Bureau of Indian Affairs, Office of Justice Services, Office of Tribal Justice Support (OTJS), the Initiative has helped to launch the *Tribal Court Trial Advocacy Training* program. This three-day trial advocacy course is designed to improve the trial skills of judges, public defenders, and prosecutors who appear in tribal courts. Two trainings have been held in Rapid City, South Dakota and Phoenix, Arizona, and eight additional trainings are being scheduled for the coming year. All trainings are free and are staffed by attorneys from the Initiative, Assistant United States Attorneys who practice in Indian Country, the Executive Office for U.S. Attorneys’ Native American Issues Coordinator, Assistant Federal Public Defenders, and tribal prosecutors, public defenders, and judges.

Recommendations on Public Defense: As a result of the Initiative’s work with OTJS in organizing the *Tribal Court Trial Advocacy Training Program*, OTJS has invited the Initiative to provide non-binding recommendations to tribal public defender offices on how to strengthen the services that they provide to their clients.

- **Supporting the Development of International Guidelines and Best Practices in Indigent Defense**

UN Principles & Guidelines: A representative of the Initiative served on the U.S. delegation to the United Nations Commission on Crime Prevention and Criminal Justice (UN Crime Commission) to assist with negotiating a resolution which supported the [United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#)—the first international principles and guidelines on indigent defense. The United States was one of 16 co-sponsors of the UN Crime Commission resolution that adopted the document.

- **Strengthening Juvenile Justice**

Shelby County Investigation: Working with the Civil Rights Division, the Access to Justice Initiative reached out to more than 25 organizations concerned about due process for children within the juvenile justice system. Soon after the Civil Rights Division announced the findings from its investigation into allegations of due process and equal protection violations at the Shelby County, Tennessee juvenile courts and conditions of confinement in the juvenile detention center, the Initiative helped set up a national conference call and later assisted in convening a meeting of advocacy groups, researchers, foundation program officers, and others concerned about juvenile justice with Assistant Attorney General Tom Perez, to help them better understand the implications of the Shelby County matter for their own work and for safeguarding the rights of juveniles, and to seek their input on ways the federal government could continue to work to protect juvenile rights.

Civil Legal Services

The majority of Americans who come to court do so without a lawyer, left by their economic circumstances to face life-altering events — such as losing their home, the custody of their children, or even the privilege to reside in the United States — without legal assistance. More than 50 million Americans technically qualify for federally funded legal assistance, but over half of those who actually seek such assistance are turned away because available funding is so low. Similarly, for those living just above the qualifying line, even basic legal needs are beyond reach. There continues to be a substantial “justice gap” between truly meeting the needs of low- and moderate-income people and the resources available for civil legal services.

The Initiative’s accomplishments in this area include:

- **Improving Access to Legal Services in High-stakes Civil Proceedings**

Foreclosure Mediation: Jurisdictions around the country are increasingly offering mediation programs as an opportunity for lenders and homeowners to reach mutually agreeable and beneficial alternatives to foreclosure. The Initiative is working to increase access to well-constructed foreclosure mediation programs for the nearly eight million American households at risk of losing their homes by promoting best practices and effective research models, and by helping inform the national conversation on how the historic foreclosure settlement funds can support foreclosure mediation, legal assistance, and housing counseling. To date, the Initiative has hosted several national-level convenings and briefings on effective foreclosure mediation strategies, and has published two white papers: “[Emerging Strategies for Effective Foreclosure Mediation Programs](#),” and “[Foreclosure Mediation: Emerging Research and Evaluation Practices](#).” The Initiative, along with HUD’s Housing Counseling Program, also hosted a briefing call for State Attorneys General to discuss the presence of and need for foreclosure mediation, legal assistance, and housing counseling resources in their states, and how settlement funds might support these activities.

Child Support Proceedings: The Access to Justice Initiative is collaborating with the Office of Child Support at the Department of Health and Human Services (HHS) to disseminate and support best practices with respect to access to legal services and self-help assistance for low-income individuals in child support proceedings. These efforts were highlighted at an event co-hosted by HHS and the Initiative in late June 2012.

9/11 Victim Compensation Fund: The Initiative worked with other components within DOJ, the New York City Bar, law schools throughout the New York region, the private bar, and advocacy organizations to help make sure that potential claimants for the 9/11 Victim Compensation Fund, including first responders and those who participated in the cleanup, could

easily understand their rights and secure needed assistance. The website for filing claims was translated into Spanish, Mandarin Chinese, and Polish. Legal clinics were set up at law schools in the New York area to offer free assistance to individuals in filing their claims.

Gulf Coast Claims Facility: The Initiative worked with the Associate Attorney General's office to be sure that those affected by the BP oil spill received clear explanations of the legal right to compensation and that the Gulf Coast Claims Facility (GCCF) provided for free legal assistance to individuals and businesses submitting claims to the GCCF. Ultimately, the GCCF recommended that practice be adopted by claims facilities addressing losses from future catastrophic events.

Elder Abuse: The Initiative is working with the Department's Elder Justice Initiative and Office for Victims of Crime to [develop training materials for civil legal aid providers](#) to assist them in recognizing the signs of elder abuse and the appropriate legal remedies. LSC has pledged that when the training has been developed, it will be made available to all its offices.

Hague Child Abduction Convention Guidance: The Initiative has actively supported efforts to ensure that foreign parents of abducted children, regardless of their income, have access to legal services in the United States in cases brought under the Hague Convention on Civil Aspects of International Child Abduction. In December 2011, LSC, in consultation with the Department of State and the Initiative, [developed guidance](#) clarifying that LSC grantees have the authority to represent indigent foreign nationals in these cases brought in United States courts for the return of, or access to, their children.

- **Expanding Research on the Delivery of Civil Legal Aid**

Academic/Practitioner Partnerships: The Initiative collaborated with the Stanford Center on the Legal Profession, the Harvard Program on the Legal Profession, and the American Bar Foundation on a March 2010 roundtable forum about enhancing the role of legal scholars and teachers in closing the justice gap in America. Attended by legal academics and practitioners from around the country, a top recommendation was to explore opportunities to create an independent structure to produce research about legal aid, the dimensions and drivers of unmet needs, and the relative effectiveness of different delivery models. The Initiative then hosted a series of meetings leading to a National Science Foundation grant application by the American Bar Foundation to host a late fall 2012 gathering to prepare a broad research agenda and plan to develop a sustainable infrastructure to support the research.

- **Preserving and Increasing Civil Legal Aid Funding**

Federal Safety-Net Grant Programs: Believing that some federal safety-net grant programs could perform more successfully by incorporating legal services, Initiative staff have reached out to agencies working to promote access to health and housing, education and employment, and family stability and community well-being, and have sought out new partnerships to remove unintended barriers that prevent legal aid providers from participating as grantees or sub-grantees.

- Department of Labor - The Initiative partnered with the DOL's Employment and Training Administration (ETA) and the Legal Services Corporation to add legal services to more than \$80 million in ETA grants for job-training programs that help people with criminal records or other hard-to-employ youth and adults secure employment. As a result, several solicitations and [guidance](#), including, for ETA's largest grant program, "Reintegration of Ex-Offenders," now include new language that expressly allows the use of grant funds to pay for legal services that provide essential services needed to support the mission of the grant such as: legal assistance to secure driver's licenses, expunge criminal records, and modify child support orders. The Initiative and LSC staff also made presentations at new grantee orientations to further amplify the message about how legal services can improve outcomes for the reentry population.
- Department of Justice - Initiative staff worked with DOJ's Bureau of Justice Assistance to issue a [new guidance](#) recently announced and distributed at the 2012 Second Chance Act Conference to inform all DOJ Second Chance Act grant recipients that a wide range of legal services may be an appropriate use of funds where such services further the Second Chance Act's purpose.
- Department of Veterans Affairs - Initiative and LSC staff are working to raise awareness of how legal services can similarly help prevent homelessness for veterans benefiting from the Veterans Affairs Supportive Services for Veterans Families (SSVF) program. Together they provided a webinar to current SSVF grantees about housing-related legal interventions, and made presentations to a national audience of legal services providers about SSVF. The Initiative has been asked to provide similar information about how legal services can help prevent homelessness in the VA's future applicant educational processes for their upcoming proposed Notice of Funds Availability.

AmeriCorps Vista: AmeriCorps VISTA, the federal government's national service program designed to fight poverty, has in recent history been underutilized by the legal services community. In partnership with the Corporation for National and Community Service, Initiative staff drafted *A Guide to the AmeriCorps VISTA Program*

for Legal Services Organizations intended to introduce VISTA to legal services organizations, demonstrate how VISTA can work effectively in the context of legal services, and provide specific guidance for legal services organizations interested in sponsoring a VISTA project at their site.

Broadband Technology Opportunities Program Guidance: The Access to Justice Initiative provided recommendations and guidance to the Department of Commerce with respect to their Broadband Technology Opportunities Program (BTOP), which administered grants to expand broadband access and adoption in communities across the country. As a result of this guidance, BTOP issued millions of dollars in grants to two applicants who committed to using broadband technology to improve the delivery of civil legal services to low-income communities.

IOLTA: In Fall 2010, the Initiative was asked by the National Association of IOLTA Programs if DOJ would support legislation to ensure continued unlimited FDIC insurance coverage for state Interest on Lawyers' Trust Accounts (IOLTA). Due to an oversight in the drafting of the Dodd-Frank Wall Street and Consumer Protections Act, the legal services community feared that losing the insurance protection at the end of 2010 would decimate the second largest funding source for free civil legal aid. The Initiative worked with DOJ's Office of Legislative Affairs to secure the Department's support for legislation to continue full FDIC protection for IOLTA accounts, and with Congressional leadership and staff to successfully adopt the legislative fix.

- **Establishing and Strengthening Access to Justice Commissions**

Judicial Support for Commissions: In July 2010, Senior Counselor Laurence H. Tribe gave keynote remarks at the Annual Conference of Chief Justices that included a charge to establish statewide Access to Justice Commissions in all states that lack a Commission, an entity that he described as "one of the most important justice-related developments in the past decade." Following his remarks, the CCJ unanimously adopted [Resolution 8: In Support of Access to Justice Commissions](#), urging the approximately two dozen states without active commissions to establish one. Staff have since worked to provide technical assistance to more than a dozen states considering creation of new Commissions. Staff also worked with the ABA Resource Center for Access to Justice Initiatives and the Public Welfare Foundation to develop a national strategy for establishing and strengthening Commissions, and now serve on a new national ABA Access to Justice Expansion Project Advisory Committee.

- **Supporting Access to Counsel in Immigration Proceedings**

Notario Fraud: The Initiative has been involved in an inter-agency working group with other DOJ components, the Federal Trade Commission, and the Department of Homeland Security to address the unauthorized practice of law in the immigration

context (commonly referred to as “notario” fraud). The Initiative’s primary focus in this effort has been increasing the availability of free and low-cost legal assistance for fraud victims through helping to organize a series of lawyer trainings and free legal clinics.

Unaccompanied Children: The Initiative has worked with HHS Division of Children Services to enhance opportunities for unaccompanied immigrant children in federal custody to obtain legal representation in immigration proceedings.

- **Engaging the Pro Bono Bar**

ABA and LSC Efforts: The Initiative is encouraging the development and improvement of pro bono efforts by the private and federal bar. The Initiative has participated in the recent American Bar Association and Legal Services Corporation pro bono efforts throughout 2011 and 2012. The Initiative’s Senior Counselor and Deputy Counselor are members of the LSC Pro Bono Task Force.

Cross-Cutting Initiatives

The Access to Justice Initiative also works with a diverse array of partners to tackle issues spanning the breadth of the justice system. These efforts, and the related speaking engagements of the Attorney General, the Associate Attorney General, ATJ Senior Counselor, and ATJ staff, further draw the attention of the public to pressing access to justice issues.

The Initiative’s accomplishments in this area include:

- **Promoting Innovative Justice Solutions through Collaboration with the White House**

White House Champions of Change Event: The Initiative took the lead in organizing a White House “Champions of Change” event on October 13, 2011, to honor and recognize the work of legal leaders from communities large and small who are dedicating their professional lives to closing the justice gap in America. Sixteen leaders from across the country were recognized for their work in public interest law and providing legal services to people throughout the country who could not afford them. Students, professors, clinicians, pro bono directors, and law librarians from [118 law schools nationwide participated live via the internet](#).

White House Middle Class Task Force Event: Attorney General Eric Holder and the Access to Justice Initiative co-hosted a Middle Class Task Force event on November 19, 2010, at the White House with Vice President Joe Biden and announced a series of steps designed to help middle class and low-income families secure their legal rights. The actions included strengthening foreclosure mediation programs, helping

veterans secure the legal help they need, and making it easier for workers to find a qualified attorney when they believe their rights have been violated. Working with the Veterans Affairs and the Legal Services Corporation, the Initiative announced the launch of an awareness campaign between the VA's community-based Vet Centers and local LSC legal aid service providers to help veterans better address legal challenges in areas such as foreclosure, consumer fraud, and employment issues. This included the launch of a new web site, www.StatesideLegal.org, to help veterans access information online. Coordinating with the U.S. Department of Labor (DOL) and the American Bar Association, the Initiative helped launch a collaboration to assist workers in resolving complaints received by the DOL's Wage and Hour Division, such as not getting paid the minimum wage or not being paid overtime. DOL also agreed to provide complainants whose complaints had been investigated with information about the investigation's findings, so that that information could be shared with an attorney to assist in resolving the matter.

White House Event to End Violence Against Women: Working with the White House and the Office of the Vice President, the Initiative helped launch the [Access to Justice for Victims of Domestic Violence Project](#), an effort to create a pool of lawyers with expertise in providing comprehensive legal representation to domestic violence victims. Announced at the White House's October 27, 2010, Event to End Violence Against Women, this project helped to create partnerships between law school domestic violence clinics, legal services providers that provide services to domestic violence victims, and law firms in Baltimore and New Orleans.

- **Promoting Innovative Justice Solutions through Multi-agency Collaboration**

Federal Interagency Reentry Council: The twenty-member Federal Interagency Reentry Council, established by Attorney General Eric Holder in January 2011, represents a significant executive branch commitment to coordinating reentry efforts and advancing effective reentry policies. The Initiative leads the Council's Subcommittee on Employment Barriers, which is tasked with reducing barriers to employment for those involved with the criminal justice system, and has also been working to increase support for legal services that help remove employment, housing and other barriers to the population exiting incarceration or supervision. To that end, the Initiative has partnered with the Legal Services Corporation, DOL, DOJ and the VA to add legal services to grants serving youth and adults with criminal records and other significant barriers to employment. (For a detailed description of these grant programs, see "Expanding non-LSC Civil Legal Aid Funding Streams: Federal Safety-Net Grant Programs.").

U.S. Interagency Council on Homelessness: The USICH is an independent agency within the federal executive branch dedicated to achieving the goals outlined in the first federal strategic plan to prevent and end homelessness, "Opening Doors." The Senior Counselor for Access to Justice has been designated by the Attorney General as the official DOJ representative to the USICH. In this role, the Initiative convened

a summit with the USICH, supported by HUD, which brought together stakeholders from around the country, including local officials, law enforcement, business representatives, and advocates to discuss constructive alternatives to the criminalization of homelessness, including alternative justice system strategies. A related report, "[Searching Out Solutions: Constructive Alternatives to Criminalization](#)," further exploring themes raised at the summit was published in May 2012. The Initiative recently led the Justice Department's efforts in producing a new guide, "[Reducing Homeless Populations' Involvement in the Criminal Justice System](#)," intended to generate greater awareness in the field among law enforcement, courts, prosecutors, defenders, state and local legislators, advocates, social service providers, and the homeless about U.S. Department of Justice resources available to serve homeless people, and those at risk of homelessness, who are involved in the criminal justice system.

- **Exchanging Information with Foreign Ministries of Justice and Judicial Systems on Efforts to Improve Access to Legal Services**

International Delegations: As the primary office in the U.S. Government charged with strengthening and improving criminal and civil legal aid, the Initiative has met with officials, government representatives, and members of civil society from Afghanistan, Australia, Bulgaria, Canada, China, Finland, Hungary, Nepal, the Netherlands, Sweden, the United Kingdom, and the West Bank on these issues.

International Legal Aid Group: The Initiative represented the U.S. Government at the International Legal Aid Group's (ILAG) 2011 biannual meeting – the first time the U.S. Government participated in an ILAG meeting since the initial one was convened in 1992. ILAG is a network of legal aid specialists including chief executives and managers from legal aid commissions, high ranking civil servants and leading academics in over two dozen, mostly Western European and commonwealth countries. Its mission is to improve evidence-based policy-making in the field of poverty legal services through discussion and dialogue relating to international developments in policy and research. By participating in these efforts, the Initiative can help ensure that US best practices are shared on the global stage and international best practices are identified for potential transfer to the United States.

For More Information

To be added to the Access to Justice Initiative's quarterly e-newsletter mailing list, and to receive updates about funding, grants, ATJ publications and other related news please visit our email updates page by clicking [here](#).