**District of Columbia Access to Justice Commission**

**Public Funding for Civil Legal Services**

**History of Access to Justice Appropriation**

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When the D.C. Access to Justice Commission was created in 2005, D.C. was one of only seven states that did not provide public funding to support civil legal services. Legal services providers were supported predominantly by IOLTA funds and private donations from area law firms, with some providers also benefiting from federal funding and support from private foundations. The Commission made its first priority advocating for a public appropriation to support civil legal services.

The public funding proposal stressed the substantial need for legal services for the city’s most vulnerable residents, as well as the appalling disparity between the severity of that need and the resources available to meet it. It was estimated that 90% of low-income residents’ legal needs were not being met, a statistic made even more starting because the estimated national percentage of unmet need was 80%. A crisis in affordable housing, geographic isolation of the majority of indigent residents from the downtown offices of most legal services providers, and high numbers of District residents living in poverty – many in extreme poverty – underscored the need to substantially augment the capacity of legal services organizations to meet client needs. The funding proposal specifically requested resources for three principal purposes: a) to expand representation in housing matters; b) to increase the number of attorneys physically located in poor communities; and c) to create a shared legal interpreter bank that would recruit and train interpreters and make them available to legal services organizations.

The Commission was fortunate to have both the support of its community partners and the leadership of several members of the D.C. Council as it advocated for public funding for legal services. Working closely with the D.C. Bar Foundation, the leaders of legal services organizations, and the District of Columbia Bar[[1]](#footnote-1), the Commission persuaded the District to create a public funding stream (the Access to Justice Program) for civil legal services and secured a $3.2 million appropriation for fiscal year 2007. The money was directed to the D.C. Bar Foundation which competitively awarded it as grants to local providers.

The Access to Justice funding has had a dramatic impact on the legal services landscape. It was used to hire more than 30 legal services attorneys who provide services in some of the most underserved communities in the District. It doubled the number of attorneys working east of the Anacostia River and created unique collaborations to bring services to District residents in the greatest need. It was also used to create a Court Based Legal Services Attorney-of-the-Day Project in Landlord-Tenant Court which provides same day representation to indigent residents facing eviction. In addition, it was used to create a Community Legal Interpreter Bank which provides vital interpretation services to non- or limited-English proficient residents. The Commission also successfully advocated for the creation and funding of a Loan Repayment Assistance Program (LRAP) that helps to reduce the staggering loans that many legal services lawyers have. This program has become an important tool for providers to recruit and retain a dedicated and diverse corps of anti-poverty lawyers.

The District maintained the funding level of $3.2 million for fiscal year 2008 and, recognizing that the gap between need and available services remained too large, expanded the funding to $3.6 million for fiscal year 2009.

Initially, the District appropriated essentially the same amount[[2]](#footnote-2) for fiscal year 2010; however, in the summer of 2009 the District was faced with an unexpected and dramatic revenue shortfall. It was forced to make significant budget cuts, which fell particularly hard on programs serving poor residents, and a 50% cut to the Access to Justice Program was proposed.

This proposed cut dramatically changed the Commission’s posture with respect to advocating for public funding; for the first time the Commission was fighting to protect the program rather than advocating for its expansion. Working closely with the D.C. Bar Foundation, the D.C. Bar, the legal services community and a segment of the non-legal non-profit community, the Commission led a successful community effort to protect the program and as a result the program was cut by 20% ($700,000) instead of 50%. This result would not have been possible without the strong leadership of several D.C. Councilmembers who have championed the program since its inception. Even at this mitigated level, this funding loss was a serious blow to the legal services community, coming at a time when the recession was creating a dramatic increase in client need – and increasing the urgency of the problems clients faced – while simultaneously undermining all funding sources for legal services.

As was true across the country, 2009 was a brutal year for District communities living in poverty as well as the legal services network. In late 2009, the Commission produced a report with the D.C. Consortium of Legal Services Providers – *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia* – that showed that the legal services network lost more than 25% of its funding, 12% of its lawyers, and nearly 40% of non-attorney staff that provided critical client support in 2009 alone. During 2009, revenue from IOLTA, the largest source of funding for civil legal assistance, dropped by over $1 million, firm and individual contributions to legal services decreased by approximately 20%, and District funds provided through the Office of Victim Services and other agencies decreased by hundreds of thousands of dollars.

The decimation of these funding sources, combined with the fact that the District – unlike other jurisdictions – cannot raise court filing fees to compensate for IOLTA and other losses[[3]](#footnote-3) – put significant pressure on returning the public appropriation to its pre-recession levels, or at least to the amount appropriated at the program’s inception. The Commission mounted an aggressive campaign to protect the funds. Its fiscal year 2011 funding request, and the subsequent campaign to influence the D.C. Council, stressed the following points:

1. The recession had dramatically increased client need and more District residents than ever were one legal problem away from utter crisis;
2. Funding for legal services had decreased dramatically from all corners and none of those sources were expected to recover in the near-term;
3. Because of those funding cuts, thousands of vulnerable clients who urgently needed legal help in 2009 did not receive it;
4. State and local governments around the country understand the importance of legal services and are maintaining or increasing their financial support;
5. The provision of legal services does more than help individual residents; it helps to build strong communities by, for example, enforcing building codes, preserving property value and maintaining neighborhoods, uncovering predatory lending schemes, and protecting employees and keeping families economically viable;
6. Legal services save the District money by, for example, decreasing reliance on government programs (i.e. TANF and Medicaid), keeping families housed and out of public shelter programs, and averting legal crises so that fewer individual have to rely on costly public support systems;
7. Public funds can be used to leverage pro bono and other contributions.

The Commission also worked closely with the chair of Council Committee with jurisdiction over the public funding program (The Committee on Public Safety and the Judiciary) who has been a vocal and steadfast advocate of the program. Perhaps most importantly, the Commission mobilized a broad segment of the legal and non-legal non-profit communities to advocate for the funding. Although the Commission had always worked in concert with the rest of the community, during this budget round it substantially increased its outreach to the broader legal community and to the wide array of community-based organizations whose clients are served by legal services providers.

As a result of this work, the Committee on Public Safety and the Judiciary received letters of support from the Chief Judges of the Superior Court and the D.C. Court of Appeals, the President of the District of Columbia Bar, and twenty-five past presidents of the District of Columbia Bar. Individual and group letters were also received from sixty organizations, many of them non-legal community based organizations. Letters were also received from several Voluntary Bar Associations and eleven D.C. Bar Sections made public statements in support of the program. Finally *The* *Washington Post* published an editorial urging the Council to support the program.

At the budget hearing held by the Committee, the Chief Judges of both the Superior Court and the D.C. Court of Appeals, the President of the D.C. Bar, the Chair of the D.C. Access to Justice Commission, the Program Director for the D.C. Bar Foundation, and the Executive Director of the Legal Aid Society of D.C. all testified in support of the program.

As a result of these efforts, the Council funded the program at $3.5 million for fiscal year 2011. This represented almost a complete restoration to the pre-recession level. There is no doubt that this outpouring of community support was instrumental. The Committee took the unprecedented step of publishing a Committee Report just about the public funding, in which it credited the broad expression of community support as a critical factor in its funding level recommendation. A copy of that report is on the Commission’s website, [www.dcaccesstojustice.org/](http://www.dcaccesstojustice.org/) under “Commission in the News.”

Unfortunately, this victory was short-lived. In December 2010, the Access to Justice Program was again threatened with drastic cuts when Mayor Fenty's Budget Gap Closing Plan proposed to cut the already–appropriated funding by more than 50%. The Commission again mobilized the legal community, persuading leaders in many legal spheres—including Stephen Zack, the President of the American Bar Association, the President of the District of Columbia Bar, twenty-six past presidents of the District of Columbia Bar, —to urge the Council to restore the funding. At the Gap Closing Hearing, the Chief Judges of the Superior Court and the D.C. Court of Appeals, the Chair of the D.C. Access to Justice Commission, the President of the D.C. Bar, the Executive Director of the D.C. Bar Foundation, and the Executive Director of the Legal Aid Society of D.C. all testified against the proposed cut. Letters and emails were also sent to Council members by several voluntary bar associations and by individuals across the D.C. legal community. Again, as a result of these efforts, the Council restored most of the funding, to a level of $3.1 million for fiscal year 2011.

In 2011, the Commission's targeted advocacy with the Executive Branch helped to ensure level funding for the Access to Justice Program for fiscal year 2012. At the Commission's request, both Chief Judges of the District of Columbia Courts, the D.C. Bar President, and members of the Mayor's Transition Team sent letters to Mayor Gray urging him to preserve funding for the program. During Council budget negotiations, Councilmember Phil Mendelson, a longtime champion of the Access to Justice Program, succeeded in restoring funding to $3.2 million—the level at which the program was funded at its inception. Analogous efforts in 2011 led Mayor Gray to fund the program at $3.25 for fiscal year 2013, a level that was raised by the Council to $3.5 million. Mayor Gray’s fiscal year 2014 budget funded the program at $3.575 million and again Chairman Mendelson was able to secure additional funds for the program, funding it at $3.75 million.

For FY 2015 targeted advocacy with the Executive Branch led to Mayor Gray proposing an increase in funding to $4.278 million.  Councilmember Tommy Wells, then the Chair of the Committee on Public Safety and the Judiciary, and Chairman Mendelson, maintained that level which represents more than a half million dollar increase in funding. For FY 2016, Councilmember Kenyan McDuffie, chair of the Committee on the Judiciary, and Council Chairman Phil Mendelson increased funding level by $750,000 to $5.028 million.

1. Since 2006, the D.C. Bar membership has regularly passed resolutions authorizing Bar leaders to speak publicly in support of public funding to support civil legal services. [↑](#footnote-ref-1)
2. The funding was decreased slightly to $3.56 million for fiscal year 2010 because the D.C. Bar Foundation, which administers both the civil legal services grants and the LRAP program, was able to use LRAP repayment funds from the previous year to partially support the subsequent funding cycle. [↑](#footnote-ref-2)
3. Because the D.C. Courts are federally funded, filing fee increases and surcharges would create revenue for the federal, rather than the District government. [↑](#footnote-ref-3)