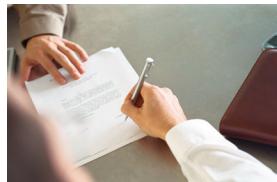


# DISTRICT OF COLUMBIA ACCESS TO JUSTICE COMMISSION



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ANNUAL REPORT  
FOR THE YEAR ENDING  
FEBRUARY 28, 2009

# I. Introduction

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The District of Columbia Access to Justice Commission<sup>1</sup> was created by the DC Court of Appeals in 2005 to make equal access to justice a reality for low and moderate income District residents. The Commission has made great strides in helping more of these residents obtain legal assistance, reducing barriers in the judicial system, and making the legal services network even more accessible. The current economic crisis, however, poses a challenge to these gains.

As the economic crisis deepens, civil legal services become even more important. Unemployment in the District is almost 10%, the highest level in nearly 30 years. With a rise in unemployment, there is an increased need for legal counsel to assist with the consequences of a loss in income, including unemployment benefits, potential loss of housing, other government benefits, and child support.

Other legal issues arising directly out of the economic slowdown are also on the rise. Tenants are fighting evictions because of foreclosures against landlords; landlords are delaying repairs due to reduced access to credit; and, creditors are increasing collection efforts on consumer debt. Furthermore, as economic stress increases, domestic violence also increases.

The legal services network is confronting these growing needs while funding is shrinking. In this environment, the work of the Commission has become more important than ever.

# II. Initiatives

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## A. Public Funding for Civil Legal Services

One of the Commission's first initiatives was to advocate for the District government to fund civil legal services. Due to the Commission's efforts, the District government allocated \$3.2 million in both fiscal years (FY) 2007 and 2008. The Commission sought \$4.0 million in FY 2009, and the Mayor responded by proposing \$3.6 million. We testified twice before the City Council's Committee on Public Safety and the Judiciary, and coordinated the testimony of several other legal services providers and their clients. The DC Council adopted the Mayor's proposal and appropriated \$3.6 million for FY 2009. The Commission is seeking \$3.6 million for civil legal services in FY 2010. The Council will complete the FY 2010 budget this summer.

The District's funding resulted in over 3,000 people receiving legal assistance in FY 2007. Many others received information about their legal rights. Even more people will benefit this year. Attachment 2 shows the locations of the lawyers hired with the public funds. Most of these lawyers work in wards with the highest poverty rates and in other underserved locations. Many are also co-located with social service providers that serve low-income residents. Placing lawyers near the client base and in places where clients receive other services makes an enormous difference in reaching people who do not know legal services exist or cannot travel to a provider located downtown. For example:

### Legal Services Keep Residents in Their Homes

Ms. Lee came to Neighborhood Legal Services Program (NLSP) through the Landlord/Tenant Attorney for the Day Project. She was facing imminent eviction because she had fallen behind in her rent. The property had housing code violations. NLSP attorneys succeeded in getting a protective order allowing Ms. Lee to pay reduced rent while she defended herself in the eviction action. The attorneys then negotiated a settlement whereby all outstanding housing code violations were repaired and Ms. Lee was given time to pay the back rent. Without NLSP's assistance, Ms. Lee would probably have lost her housing.

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1 Commissioners and staff are listed in Attachment 1.

- Legal Counsel for the Elderly (LCE), which hired one lawyer with the public funds to make home visits to senior citizens, reports that the majority of their homebound clients never had a lawyer before. Eighty-six percent of the homebound clients had never sought LCE's help before.
- The Children's Law Center established a partnership with Children's National Medical Center in which the lawyers are on-site in medical clinics. Pediatricians often approach the lawyers directly to discuss referrals and consult on specific matters. It is not unusual for a lawyer to come into the examination room immediately after the doctor has provided medical care to address legal issues that the doctor identified while treating the patient.
- The Legal Aid Society of the District of Columbia (LAS) has been located downtown for the past 75 years. In just one year with the public funds, LAS reports that one-third of all its clients come to one of its three new offices that are located east of the Anacostia River. Each of these offices is co-located with another social or legal services provider. LAS's downtown office has not seen a drop in requests for assistance, which indicates that the people who LAS serves in Southeast may not have sought help otherwise.

The Commission and the DC Bar Foundation conducted a joint site visit to the publicly-funded programs in October 2008 for the second consecutive year. It was inspiring to see how the funding is making justice a reality for many of the District's most vulnerable residents.

A portion of the funding pays for the District's loan repayment program for civil legal services lawyers living and working in the District. In FY 2009, 37 lawyers are receiving about \$280,000 in loan repayment assistance. Recipients have said it makes a tremendous difference in their ability to remain in civil legal services.

The public funding also supports a shared legal interpreter bank, which has 21 interpreters available for legal services providers in 11 languages. Many advocates and government officials (both federal and state) have expressed interest in the bank. Both the Commission's Executive Director and the Director of the bank have spoken about it at national conferences.

## **B. Private Funding for Civil Legal Services**

As the economy deteriorated, the Commission intensified efforts to ensure that civil legal services providers continue to have funds to maintain operations. This has been difficult, as some primary funding sources – Interest on Lawyers' Trust Accounts, foundations, and law firms – have indicated they have less (in some cases, far less) to give. The Commission has taken a three-pronged approach to address short-term, medium-term, and long-term funding needs.

Short-term – The Commission has been developing a long-term fundraising strategy to increase giving by the private bar. However, as the effects of the recession became apparent in late 2008, we took some immediate steps as well. We sent a letter to the managing partners of over 100 law firms in the District encouraging them to maintain -- and hopefully increase -- giving to legal services providers in 2008 and 2009. The letter was signed by the Commission's Chair, the President of the DC Bar Foundation, and the managing partners of three major law firms.

Medium-term – The Commission met with the leaders of the DC Bar and DC Bar Foundation in early 2009 to discuss how the private bar could help respond to the crisis. We decided to act jointly to educate the legal community about the increasing legal needs facing low-income residents due to the recession and to encourage the private bar to increase financial support for legal services providers.

Long-term – The Commission is developing benchmarks for law firm donations to legal services providers that

should result in increased giving and be a model for other jurisdictions. We asked the professional services firm Ernst & Young to survey legal services providers and law school clinics about their sources of law firm financial support. Ernst & Young aggregated the data so that we know, for instance, how much law firm X gave to legal services. We are using this data to develop the benchmarks. We intend to roll out these benchmarks later this year, but changing economic conditions may affect this schedule.

## C. Legal Needs Report

Thanks to the pro bono efforts of DLA Piper LLP, the Commission released a comprehensive civil legal needs report in October 2008: *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community*. The Executive Summary is Attachment 3. Full copies are available on the Commission's website, [www.dccivilrights.org](http://www.dccivilrights.org). The report found that District residents' legal needs exceeded available services in each of the nine areas studied: consumer, education, employment, estate planning, family, public benefits, health/disability, housing, and immigration. It provides ten recommendations for improving civil legal services in the District that we hope will serve as a blueprint for the community to follow.

DLA Piper hosted the release of the report. The release featured remarks by the Mayor, DC Council Chair, Chair of the Council's Committee on Public Safety and the Judiciary, Chief Judges of the DC Court of Appeals and DC Superior Court, President of the Legal Services Corporation, President of the DC Bar, and Chair of the Commission. We are grateful that so many judges and court staff attended. The report generated widespread media attention, including the attached Washington Post article ([see Attachment 4](#)) and a segment on National Public Radio's Kojo Nnamdi show. Other articles about the report are on the Commission's website.

We distributed the report widely. Those who received it included the Mayor, City Council members, the Chief Judges of the DC courts, federal courts, and Office of Administrative Hearings, leaders of the DC Bar, managing partners of over 100 law firms, law school deans, area foundations, and advocacy groups.

The Commission is using the report to urge others to get more involved in meeting unmet legal needs. We convened a meeting of law school leaders to discuss how law schools can play a larger role in service delivery. We also met with representatives of eight area foundations to educate them about civil legal services and discuss the report. We anticipate following up with both groups this year.

### Legal Services Cut Through Red Tape

A Whitman Walker Clinic (WWC) staff attorney assisted Mr. Janzig, who was referred for legal services by a WWC nurse after she learned that he was unable to get his HIV medication at the pharmacy. The staff attorney discovered that Mr. Janzig's health insurance plan had been changed from Medicaid to Medicare Part D without prior notice. His new drug coverage plan under Medicare Part D posed numerous problems including:

- The plan failed to timely enroll him, leaving him with a several week gap in coverage.
- The plan failed to qualify Mr. Janzig for the low-income assistance program, causing a \$1,500 bill at the pharmacy when he tried to fill his medication.
- The plan did not cover all of his medications.

The WWC attorney expedited Mr. Janzig's enrollment with a new medical provider, while the WWC nurse arranged for a local pharmacy to provide emergency medication. The attorney also enrolled the client in the low-income assistance program and filed a complaint with Medicare to speed the process. After resolving the emergency, the attorney counseled Mr. Janzig on his plan options and gave him information about changing to another Part D plan that would provide him better prescription coverage.

## **D. Interest on Lawyers' Trust Accounts (IOLTA)**

The steep decline in interest rates and reduced economic activity over the past year have reduced greatly the IOLTA funds available to legal services providers. The program, which generated over \$2 million for civil legal services in the fiscal year ending June 30, 2008, is expected to raise less than half that amount this year.

The Commission is working closely with the DC Bar Foundation (the entity that administers the IOLTA Program) to cushion the impact of this loss to the extent possible.

First, the Commission drafted comments to the Federal Deposit Insurance Corporation (FDIC) expressing concern about the FDIC's proposed rules for the Temporary Liquidity Guarantee Program. The Program had the unintended effect of further undermining IOLTA accounts by excluding these accounts from the full insurance available under the Program. The FDIC quickly reversed its position after receiving numerous comments raising this concern.

Second, the Commission is supporting the Bar Foundation's proposed changes to the DC Rules of Professional Conduct and DC Court of Appeals Rules Governing the Bar that are designed to increase IOLTA revenue. The Bar Foundation submitted proposed rules changes to the DC Bar in November 2007, along with a recommendation that the Bar's Board of Governors petition the DC Court of Appeals to adopt the revised rules. After studying the proposed changes, the DC Bar's Rules of Professional Conduct Review Committee recommended them, along with perfecting amendments, to the DC Bar's Board of Governors. On February 11, 2009, the DC Bar published these amendments to the IOLTA rules for public comment. We anticipate that the Board of Governors will send proposed amendments to the IOLTA rules to the DC Court of Appeals later this year.

## **E. Pro Bono**

In 2008, the Commission completed its joint initiative with the DC Bar to encourage the 51<sup>st</sup> – 100<sup>th</sup> largest law firms in the District to devote either 3% or 5% of their billable hours to pro bono work. The DC Bar had a similar initiative targeting the 50 largest law firms in 2001. Through this joint effort, almost half of the 51<sup>st</sup> – 100<sup>th</sup> largest law firms signed on to this initiative. We expect additional firms to join in the future. We are also assisting the DC Bar Pro Bono Program in raising the profile of its Senior Lawyers Project so that more senior attorneys get involved in pro bono work.

## **F. DC Courts and Office of Administrative Hearings**

We have worked closely with the DC Courts and the Office of Administrative Hearings (OAH) to make it easier for low-income litigants to navigate both judicial systems. We meet regularly with Chief Judge Satterfield and OAH's Pro Bono Committee to update them about our work and to raise issues about court operations directly with them. Our work has included:

- Discussing the DC Courts' policies governing the provision of interpreters in civil cases.
- Suggesting changes to the way Superior Court considers *in forma pauperis* (IFP) applications. The Court has convened an *ad hoc* task force that will propose one court-wide IFP application for the Civil and Family Divisions rather than having the Divisions use separate standards.
- Beginning to discuss how tenants can have a more streamlined process to raise housing conditions claims.
- Serving on a court-appointed team to make recommendations about improving services for *pro se* litigants and suggesting possible trainers for a judicial training on working with these litigants.

- Preparing a proposal for a civil resource center and legal services office in the Moultrie Building.
- Arranging for OAH to present at DC Bar Pro Bono trainings and to appear on a local cable television show to showcase the agency's work.
- Collaborating with OAH to encourage District agencies whose cases come before OAH to distribute information about legal services providers to the public.

## **G. Improving Legal Services Delivery**

The Commission is working on ways legal services can be delivered more efficiently and effectively. We prepared a proposal to enhance legal services providers' ability to conduct policy and legislative advocacy, as well as impact litigation. By growing these capacities, we increase the likelihood of helping many people in a single initiative rather than serving client after client with the same problem. The proposal also suggests creating a few part-time positions for subject-matter experts to serve as mentors for other legal services providers and pro bono attorneys. Unfortunately, the dramatic economic downturn has made it difficult to fund this proposal in the near future.

Similarly, the Commission encouraged the providers to streamline intake and referral across the legal services network. The DC Bar Foundation made a grant to a few providers to jointly develop a proposal for a shared hotline. Once again, however, the scarcity of funding makes it difficult to implement this proposal.

## **H. Outreach**

### **Local**

The Commission is increasing community awareness of the importance and availability of civil legal services. As mentioned above, the Commission's legal needs report generated widespread publicity. In addition, the Commission updated lists of legal services providers in specific poverty law areas. The DC Superior Court, OAH, Office of the Tenant Advocate, and legal services attorneys working east of the Anacostia River use these lists when meeting with community groups or when people ask about legal assistance.

### **Legal Services Support Our Most Vulnerable Residents**

A concerned citizen called the Legal Counsel for the Elderly (LCE) about the legal and social service needs of her elderly, disabled neighbor, Mr. Rodriguez. When LCE first met Mr. Rodriguez, he was living in an infested, soiled apartment. He had received several notices from the management in his subsidized housing complex about the stench in his apartment, and he had been fined because his motorized wheelchair had damaged an apartment wall. Mr. Rodriguez's only means of transportation, his motorized wheelchair, had broken. His hearing aids no longer worked, which rendered him almost completely deaf and unable to use the telephone.

With the help of LCE attorneys and volunteers, Mr. Rodriguez's apartment was thoroughly cleaned and all infested clothing and furniture discarded. LCE attorneys negotiated with management in the apartment complex about the fine and placed Mr. Rodriguez on the waiting list for a handicapped accessible apartment. His wheelchair was repaired by the seller free of charge. Mr. Rodriguez also signed two financial powers of attorney with the assistance of LCE attorneys. The two people designated by Mr. Rodriguez in the powers of attorney have purchased food for him, taken care of his bills, and helped protect his bank account from possible predators. They also obtained new hearing aids for him, so he is finally able to use the telephone.

We also deepened relationships with community-based organizations. We hosted a breakfast for nine organizations shortly after the release of our legal needs report to get ideas about how the legal services network

could enhance partnerships with non-legal services providers to reach low-income residents more effectively. These were the same organizations that the Commission interviewed for the legal needs report. In addition, we began meeting with a small group of faith-based providers to explore how the legal services network and clergy can collaborate to assist residents in need.

Further, the Commission continued to inform the legal community about our work and to encourage them to support civil legal services. We have spoken at meetings hosted by the OAH judges, the 2008 Judicial and Bar Conference, the Washington Council of Lawyers, and the community legal interpreter bank. Finally, we are grateful that the Bar Association of the District of Columbia honored the Commission and the DC Bar Foundation in November 2008 for our work.

## **National**

The Commission is actively involved in national access to justice efforts. We participate in the annual meeting of the State Access to Justice Chairs. This year, we assisted the meeting organizers by serving as mentors to other states' Commissions that are seeking to: 1) address language access needs; 2) establish a loan repayment program; 3) conduct a legal needs study; and 4) staff their Commission.

Our work has also been featured at the National Legal Aid and Defenders annual conference, in the American Bar Association Judges' Journal ([see Attachment 5](#)), in the Management Information Exchange Journal, and by the Migration Policy Institute.

## **III. Commission Support**

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The Commission relies on the District of Columbia Access to Justice Foundation to provide staff support and funding. The Chair of the Foundation is Georgetown University Law Center Professor Peter Edelman.<sup>2</sup> Neither the Foundation nor the Commission receives any public money so all funds must be raised privately. We are extremely thankful to a number of the District's leading law firms and other donors that provide financial support to the Foundation. Our donors are listed in Attachment 6.

In addition, Venable LLP provides the Commission with free office space, and DLA Piper LLP is the Commission's pro bono research counsel. Steptoe & Johnson LLP is the Foundation's pro bono general counsel. We could not carry out our work without the assistance of these organizations.

## **IV. Conclusion**

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This year has been challenging. The economic crisis has increased civil legal needs while funding for legal services is decreasing. We expect further challenges this year. While we can take pride in the accomplishments and work discussed in this report, we as a community must redouble our efforts to ensure that the recession does not erode these gains.

With the continued support of the DC Courts and the rest of the community, we are confident that the legal services network can weather this crisis and emerge even stronger in the future.

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<sup>2</sup> The other Foundation board members are: Andrew H. Marks, Vice-President and Treasurer (Crowell & Moring LLP); Nathalie P. Gilfoyle, Secretary (American Psychological Association); Joanne Doddy Fort (Baach Robinson & Lewis PLLC); Stephen J. Pollak (Goodwin Procter LLP); James E. Rocap, III (Steptoe & Johnson LLP); Valerie A. Slater (Akin Gump Strauss Hauer & Feld LLP); Robert N. Weiner (Arnold & Porter LLP); and Robert L. Wilkins (Venable LLP).

# DC Access to Justice Commissioners

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Peter B. Edelman  
Chairman



Hon. Inez Smith Reid  
Vice-Chairman

Muneer Ahmad

Hon. Stephanie Duncan-Peters

Nathalie Gilfoyle

Andrew H. Marks

Hon. Hiram Puig-Lugo

Rawle Andrews

Joanne Doddy Fort

Maria S. Gomez

Shirley Massey

Hon. Vanessa Ruiz

Shelley Broderick

Patty Mullahy Fugere

Su Sie Ju

Stephen J. Pollak

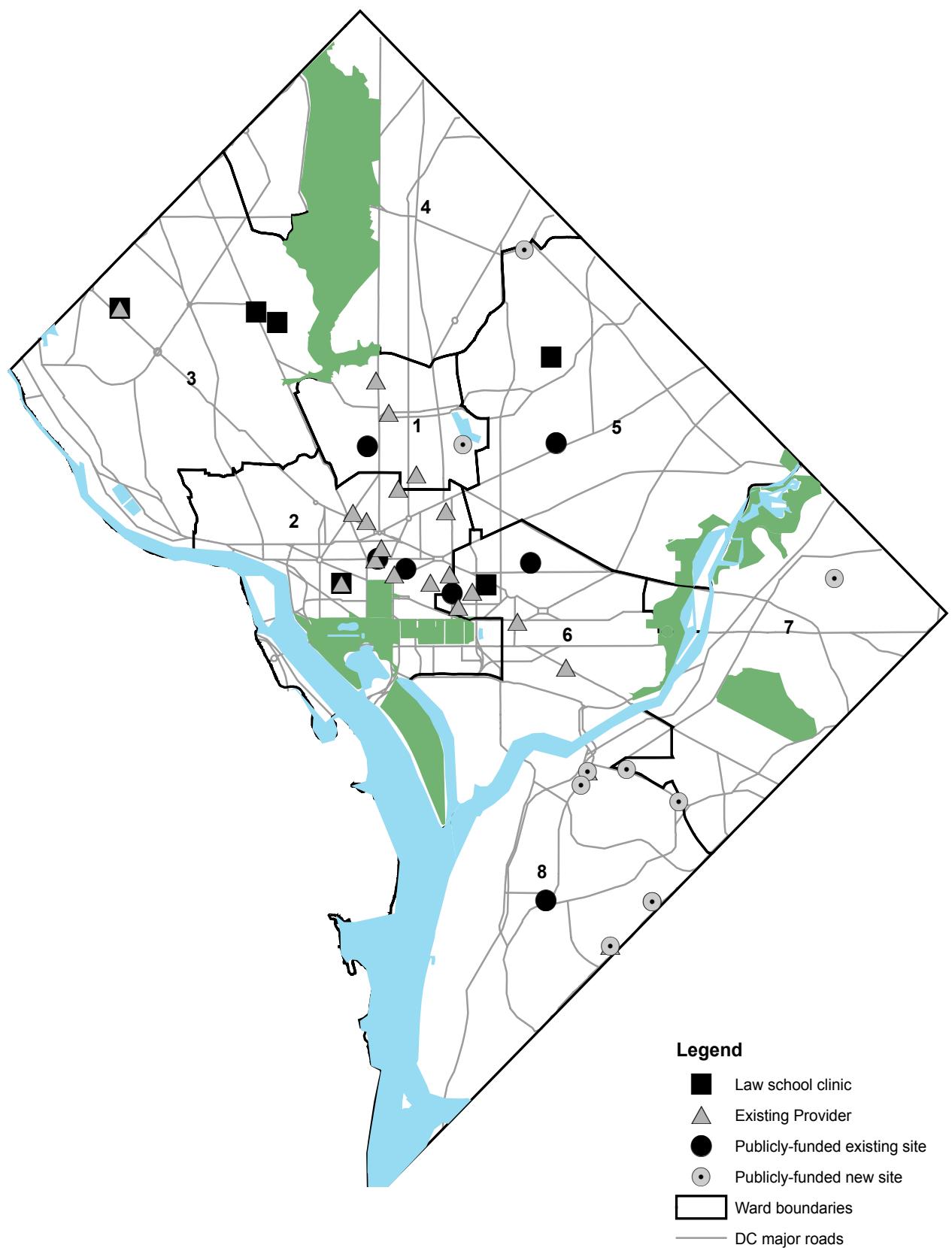
Jonathan M. Smith

## Staff

Sunil H. Mansukhani  
Executive Director

Steven Bulger  
Administrative Assistant

# Civil Legal Services Offices in DC 2007



Source: DC Bar Foundation  
Created by Neighborhood InfoDC (1/3/08)

Attachment 2



# JUSTICE FOR ALL?

An Examination of the Civil Legal Needs of the District of Columbia's  
Low-Income Community

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## EXECUTIVE SUMMARY

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# JUSTICE FOR ALL?

## EXECUTIVE SUMMARY

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# DISTRICT OF COLUMBIA

## ACCESS TO JUSTICE COMMISSION

### Commissioners:

Peter B. Edelman  
*Chair*

Hon. Inez Smith Reid  
*Vice-Chair*

Muneer Ahmad

Rawle Andrews

Shelley Broderick

Joanne Doddy Fort

Patty Mullahy Fugere

Nathalie Gilfoyle

Maria S. Gomez

Su Sie Ju

Hon. Hiram Puig-Lugo

Andrew H. Marks

Shirley Massey

Hon. Stephanie  
Duncan-Peters

Stephen J. Pollak

Hon. Vanessa Ruiz

Jonathan M. Smith

Sunil H. Mansukhani  
*Executive Director*

October 2008

On behalf of the District of Columbia Access to Justice Commission, I am proud to present, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community*. *Justice for All?* documents the array of civil legal needs facing low-income District residents and the capacity of the legal services network to respond to those needs.

Our report finds what many in our community know all too well – unaddressed civil legal problems can have a devastating impact on a person or family, and there are far too few legal resources available to help people in need. Perhaps nowhere is this more apparent than in the *pro se* statistics provided by the DC Superior Court, where, for instance, only three percent of tenants in Landlord/Tenant Court and two percent of litigants involved in domestic violence cases are represented by counsel. It is difficult to imagine a person of means deciding to proceed unrepresented in these situations. While we have made strides to help residents who cannot afford counsel, we still face numerous challenges in making equal access to justice a reality in the District of Columbia. This report provides a roadmap on how we can overcome these challenges.

*Justice for All?* is the most comprehensive legal needs report ever done in the District of Columbia. We are grateful to the legal services providers that responded to our lengthy surveys and provided valuable input along the way, to the community-based organizations that told us about the needs of their clients, and to the DC Courts and Office of Administrative Hearings, which provided a detailed analysis of the number and percentage of *pro se* litigants in various types of cases. We are also extremely grateful to the law firm of DLA Piper LLP (us). DLA Piper took the lead role in researching and drafting this report pro bono. Numerous partners, associates, summer associates, and support staff worked on this project. In particular, Sara Moghadam, Shani Dilloff, and Jennifer Zador from DLA Piper put in countless hours on all aspects of the report and managed the DLA Piper team throughout the process. Their work has been stellar. Simply put, this report would not have been possible without them.

I hope you will join us in responding to the challenges we have identified in this report, as it will take all of us working together to make a difference.

Sincerely,



Peter B. Edelman  
Chair, DC Access to Justice Commission

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# Executive Summary



## Overview of the Issue

In criminal cases, a defendant facing the risk of incarceration is entitled to an attorney even if he or she cannot afford one. In most civil cases, however, a person is not entitled to an attorney, even though civil legal proceedings can affect things we hold most dear—custody of our children, our physical safety, our ability to work and need for shelter, just to name a few. Accordingly, most people who are not wealthy are forced to navigate their way through the civil legal system alone, too often with negative consequences. This is true for financial reasons but also because persons living in poverty may not even know that they have legal rights or that a lawyer can help them. This problem is particularly prevalent in the District of Columbia (hereinafter the District), where approximately 20 percent of residents live in poverty and approximately 33 percent are low income.<sup>1</sup>

## The Importance of Legal Representation

Access to counsel is not just a convenience that makes the litigation process more efficient. Legal representation can dramatically affect the outcome of a given case. Lawyers advise clients about substantive rights, claims or defenses they may not know they had. They help clients navigate their way through complex laws and procedures that govern the judicial system. These laws and procedures can be confusing even to those with formal education and economic means.

Lawyers also make a difference in situations far removed from the courtroom. They offer advice, resolve problems before they turn into court cases, advocate for laws and policies that better serve the interests of their clients and provide transactional services—such as drafting a will or advanced medical directive so that end-of-life wishes will be respected. Every day, lawyers in the District perform these valuable services for individuals with the resources to pay for them. Low-income residents need and deserve them as well.

The consequences of unaddressed civil legal problems can be devastating and spill over into other aspects of life. A person who has been evicted, for example, may also have difficulty holding down a job and keeping children in school. A person unable to remain in this country due to immigration problems may leave behind a spouse and children or have to uproot them. For a person with limited resources, losing disability benefits could lead to homelessness. And, if unable to secure legal protection from an abusive relationship, a woman may have to leave her job and her home, subjecting her children to financial insecurity and instability.

## Legal Services for the Low-Income Community Benefit All District Residents

Unmet legal needs can impose substantial financial burdens on the District. For example, the District may have to pay for the emergency shelter of a family wrongfully evicted from their home simply because they were unaware of valid defenses and did not fight the eviction. Or, the District may have to provide public assistance to supplement the income of a worker whose employer has failed to follow wage and hour laws.

The decision to invest in legal services for the District's most disadvantaged residents will benefit the entire District. In fact, some estimate that every \$1 of public funds invested in legal services generates \$4 in benefits.

## The DC Access to Justice Commission and This Report

In recognition of the large number of unmet civil legal needs of low- and moderate-income residents, the DC Court of Appeals created the DC Access to Justice Commission (Commission) in 2005. The Commission was charged with:

*Assuring high quality access for [these] residents and others in the District, who suffer disparate access barriers to the civil justice system and with raising the profile in our community of the need for equal access to justice.*

This report assists the Commission in these efforts by helping it to prioritize future initiatives. It also seeks to educate all District residents about the civil legal needs confronting low-income individuals and the legal services network's efforts to meet those needs.<sup>2</sup> Only by understanding the challenges that face so many of our neighbors can we come together as a community to address them.

## The Methodology

Our data comes from several sources. These include:

- Written surveys distributed to the District's legal services community in 2006 (asking for fiscal year 2005 data).
- A short data collection form that legal services providers<sup>3</sup> and law school clinics were asked to fill out for each person who sought legal assistance from October to November 2006.
- Interviews of 28 community-based organizations (that are not legal services providers) and government agencies.
- Court statistics.
- Listening sessions with various stakeholders.
- Social science reports concerning the District.

A legal services lawyer helped a District family understand and assert their rights in order to remedy a horrible housing situation. The family lives in an apartment complex in a low-income neighborhood. A tenant downstairs from them experienced major plumbing problems. The sewage backup caused sewage to stream into the apartment through the sink, toilet and bath tub. The tenant moved out, but the problem was never fixed. The other tenants, including this family, complained to the landlord about sewage water flooding the now vacant apartment, seeping onto the common stairwell and causing a horrible odor to spread throughout the complex. The family's back bathroom, which was directly above the flooded apartment, contained a smell so foul that the family had stopped using it entirely. No clean-up, maintenance or repair work was done for nearly two months.

The legal services lawyer educated the family about their rights under DC housing law. She also helped them write a letter to the landlord that demonstrated their knowledge of their rights and demanded that immediate action be taken. Within 24 hours of delivering the letter to the landlord, a maintenance crew was sent to the apartment complex to fix the deficient plumbing, clean out all the sewage and eliminate the offensive smells that had plagued the family and their neighbors for weeks.

This report gives an overview of the civil legal issues confronting low-income residents and the challenges that the legal services network confronts in attempting to meet them. It does not purport to provide an exhaustive discussion of any particular subject area or the role of any one part of the network in meeting unmet legal needs. It also does not focus on the legal needs of moderate-income residents or attempt to assess the quality of legal services delivered. Nor does it go into matters not currently addressed by any provider. The report only touches in passing on the barriers low-income residents—with or without counsel—face in navigating the courts, government agencies and the Council of the District of Columbia (hereinafter the Council). All of these issues are important and merit future study.

## Our Findings

### 1. SUBSTANTIAL OBSTACLES TO OVERCOME

Low-income residents face tremendous obstacles in the civil legal system. The problem is not merely the inability to afford an attorney. The barriers are also educational, physical and emotional. As one representative of a community-based organization observed:

*Poverty isn't just poverty of finances. It is poverty of a broad set of issues and concerns. It is a poverty of access, education, resources, and streams of knowledge that allows you to participate fully in society. This poverty includes [knowledge about] legal rights.*

Among other things, many low-income residents:

- Are unaware of their legal rights,
- Lack knowledge regarding the availability of legal services,
- Have difficulty getting to a lawyer because many residents are geographically isolated from lawyers and the courts,
- Lack trust in the legal system, and
- May have become used to accepting adversity and unfairness. Believing that change can occur is the first step in advocating for it; for many residents, this first step may be the hardest.

Moreover, many of the District's poorest residents also have physical or cognitive disabilities, do not speak English fluently, are elderly, have poor literacy skills, are in jail or prison or have criminal records. For these individuals, the

barriers to civil legal justice are heightened substantially. So, too, are the challenges that providers must confront in meeting their needs. For instance, written self-help materials are of no use to those who cannot read them, and free legal assistance is of little use to those who cannot go to a provider's office or understand the language in which the services are delivered. Since segments of the District's low-income community are not only diverse but live with particular hardships, it is important for the legal services community to tailor its outreach, education and service delivery methods to meet these residents' unique needs.

Community organizations have many ideas about how to overcome some of these obstacles. For example:

- Because people with limited resources may have limited time and inconsistent schedules, information should be distributed at places that already intersect with their daily lives, such as churches or schools.
- Walk-in services are preferable to services that are only by appointment.
- Low-income residents often lack substantial formal education and may be low literate or illiterate. Accordingly, in-person communication is preferable and written materials must be easily comprehensible.
- Many low-income residents lack access to computers and, therefore, the Internet may not be the most effective means of distributing information to them.
- Low-income residents may be distrustful of lawyers and the legal system. Legal services providers should develop relationships with churches and other trusted community organizations that serve these residents.
- Different cultures and communities require different forms of communication. For example, oral communication rather than written materials may be more effective in reaching out to certain ethnic communities.

### 2. THE EXTENSIVE, VARIED AND COMPLEX CIVIL LEGAL NEEDS CONFRONTING THE LOW-INCOME COMMUNITY

The civil legal needs confronting members of the low-income community are varied and complex. They are often intertwined with physical or emotional well-being. In addition, low-income residents may have more civil legal needs than their wealthier counterparts due, in part, to their interaction with government agencies and their vulnerability to scams and unfair practices (such as predatory lending, foreclosure rescue scams and unfair employment practices).

Our report looks at nine different subject areas: consumer, education, employment, estate planning/wills/probate,<sup>4</sup> family, public benefits, health/disability, housing and immigration. Survey and data collection participants

also reported on other issues that did not fall neatly into these categories, such as prisoners' rights issues, personal injury and police misconduct/disputes.

Within each of these subject areas, the low-income community needs legal services. The following summary illustrates the types of issues, the kinds of legal services that will help address the need and other findings of interest for each subject area. It does not purport to be a complete explanation of our findings, which are in Sections III-VIII of the full report.

In reviewing the summary, please note that it lists the number of full-time equivalent (FTE) legal services attorneys in each subject area in 2005. In fiscal years 2007 and 2008, the DC government appropriated \$3.2 million for civil legal services that resulted in the hiring of 31 additional FTE legal services lawyers. Seven of these FTE lawyers work in Landlord/Tenant Court, as is noted in the summary. The rest are not included in the summary's figures, because these lawyers are not necessarily limited to one practice area.

## Summary of Subject Areas

SUBJECT AREA	REPRESENTATIVE ISSUES/CASE TYPES	EXAMPLES OF NECESSARY SERVICES
<b>CONSUMER</b>	<ul style="list-style-type: none"><li>Predatory lending</li><li>Deceptive business practices</li><li>Bankruptcy/debt collection</li></ul>	<ul style="list-style-type: none"><li>Assisting with bankruptcy petitions</li><li>Reviewing contracts before execution</li><li>Advocating for new consumer protection legislation</li></ul>
<b>EDUCATION</b>	<ul style="list-style-type: none"><li>Special education</li><li>Disciplinary proceedings</li><li>School transfers/access to education</li></ul>	<ul style="list-style-type: none"><li>Advocating for reform of the education system</li><li>Representing individuals in special education proceedings</li></ul>
<b>EMPLOYMENT</b>	<ul style="list-style-type: none"><li>Wage and hour issues</li><li>Employment discrimination</li><li>Wrongful termination</li><li>Unfair employment practices</li></ul>	<ul style="list-style-type: none"><li>Representing discharged workers in court and administrative proceedings</li><li>Advocating for wage and benefits legislation</li><li>Educating the community regarding unfair employment practices</li></ul>
<b>ESTATE PLANNING/ WILLS/PROBATE</b>	<ul style="list-style-type: none"><li>Wills</li><li>Guardianships</li><li>Conservatorships</li></ul>	<ul style="list-style-type: none"><li>Drafting wills and advanced medical directives</li><li>Providing advice or representation to participants in probate proceedings</li></ul>

## Summary of Subject Areas (continued)

SUBJECT AREA	REPRESENTATIVE ISSUES/CASE TYPES	EXAMPLES OF NECESSARY SERVICES
<b>FAMILY</b>	<ul style="list-style-type: none"> <li>• Domestic violence</li> <li>• Child custody/visitation</li> <li>• Divorce</li> <li>• Child welfare</li> </ul>	<ul style="list-style-type: none"> <li>• Representing victims of domestic violence</li> <li>• Representing children, parents, and foster parents in child welfare proceedings</li> <li>• Preparing petitions for divorce</li> <li>• Advocating for laws to protect domestic violence survivors</li> <li>• Advocating for laws reforming foster care</li> <li>• Seeking reform of court processes to facilitate self-representation</li> </ul>
<b>PUBLIC BENEFITS</b>	<ul style="list-style-type: none"> <li>• Temporary Assistance to Needy Families (TANF)</li> <li>• Social Security</li> <li>• Food stamps</li> </ul>	<ul style="list-style-type: none"> <li>• Assisting individuals to navigate agency procedures</li> <li>• Applying for or appealing the denial of benefits</li> <li>• Educating the community regarding eligibility</li> </ul>
<b>HEALTH/DISABILITY</b>	<ul style="list-style-type: none"> <li>• Health insurance</li> <li>• Americans with Disabilities Act/accommodation issues</li> <li>• Medical debt</li> </ul>	<ul style="list-style-type: none"> <li>• Intervening with an insurer to resolve a coverage issue</li> <li>• Seeking regulatory changes to broaden health coverage</li> <li>• Working with community groups and service providers to inform persons in poverty about health programs</li> </ul>
<b>HOUSING</b>	<ul style="list-style-type: none"> <li>• Affordable housing</li> <li>• Eviction proceedings</li> <li>• Other landlord/tenant disputes</li> <li>• Housing discrimination</li> </ul>	<ul style="list-style-type: none"> <li>• Representing tenants facing eviction or living in hazardous conditions</li> <li>• Assisting tenant associations with incorporating and organizing</li> <li>• Preserving affordable housing in the District</li> <li>• Changing procedures in Landlord/Tenant Court</li> </ul>
<b>IMMIGRATION</b>	<ul style="list-style-type: none"> <li>• Deportation/removal proceedings</li> <li>• Status/classification issues</li> </ul>	<ul style="list-style-type: none"> <li>• Representing individuals in deportation cases</li> <li>• Outreach and education regarding changes in immigration laws</li> </ul>

## Additional Findings Regarding Subject Areas

### Consumer

- With limited resources and sometimes bad credit ratings, people living in poverty are vulnerable to exploitation by unscrupulous lenders, merchants and scam artists.
- Subprime loan providers target customers with few financing options. As a result, they may be predatory and carry excessive and unjustifiable fees, penalties or loan terms, involve inappropriate marketing strategies and fail to disclose loan terms fully. In 2003, home buyers in Wards 5, 7 and 8 were almost ten times more likely to receive a home purchase loan from a subprime lender than those in Ward 3.
- There were approximately five full time equivalent (FTE) paid legal services attorneys who focused on consumer matters in 2005.
- Consumer exploitation or other forms of economic injustice are a major problem for District residents but a nebulous one, making it unlikely that victims will recognize the need for legal assistance. These problems usually cannot be remedied by traditional forms of one-on-one representation. Many are systemic problems that require a comprehensive strategy and the resources to carry it out.
- Community-based organizations reported that those who are low-income and the elderly have the greatest need for assistance in the consumer area.
- Financial services cases can be difficult to staff with pro bono lawyers because of conflicts issues.

### Education

- In 2006-2007, the high school graduation rate for students in the District was only 58%. The city would save almost \$20 million in health care costs over the lifetimes of each class of dropouts had they earned diplomas.
- Over 50% of teenage students attend schools that meet the District's definition of "persistently dangerous" due to the number of violent crimes on campus.
- In 2005, there were approximately five FTE paid legal services attorneys devoted to education matters.
- Almost all of the providers who received requests for education-related assistance identified special education as one of its two most requested. More than one provider also identified disciplinary proceedings and school transfers/access to education.
- The school district's special education system is of particular concern to legal services providers. In 2004-2005, nearly 19% of students were identified as disabled. This figure is up from 11.4% in 1999. The system is ill-equipped to handle the large number of children who are disabled, and all children suffer as a result.
- Providers have observed that the statutory cap on the attorneys' fees payable in special education cases has greatly reduced the incentive for private attorneys to take these cases.

### Employment

- The District's unemployment insurance (UI) program replaces less than 25% of average earnings, which places the District last among the 50 states, the District of Columbia, Puerto Rico, and the Virgin Islands.
- In 2005, there were approximately six FTE paid legal services attorneys who focused on employment matters.
- Data collected by the Office of Administrative Hearings (OAH) over two representative months demonstrates that only about 10% of all parties in UI appeals are represented by counsel. About the same number of employees as employers were represented. In 2005, more than 50% of appeals taken to the DC Court of Appeals from agency matters were by *pro se* litigants, (i.e., people who appear in court without a lawyer) and the overwhelming majority of those were UI matters.
- Community-based organizations emphasized a particular need for assistance with employment issues among the immigrant and ex-offender communities.
- The potential recovery for low-income employees may not be large enough for a plaintiff's lawyer to agree to bring an employment discrimination claim on a contingency fee basis.

### Estate Planning/Wills/Probate

- Persons in non-traditional household arrangements have a special need for wills and other estate planning.

## Additional Findings Regarding Subject Areas (continued)

- Approximately three FTE paid legal services attorneys were devoted to estate planning work in 2005, fewer than any other subject area.
- In 2005, nearly half of the formal probate matters before the DC Superior Court's Probate Division involved *pro se* plaintiffs. Almost all of the small estate matters (*i.e.*, those involving assets of \$40,000 or less) and the majority of the trust matters before the Probate Division involved *pro se* plaintiffs. Similarly, in 2005, 40% of appeals to the DC Court of Appeals from the Probate Division involved a *pro se* litigant.
- Estate planning ranked fourth (behind housing, family, employment and tied with consumer) in terms of the subject areas in which providers perceive the most under-addressed legal need.
- There are both unique opportunities and challenges when it comes to utilizing pro bono assistance in this area. Because matters can be discrete, estate planning work may provide opportunities for transactional attorneys or smaller firms to assist low-income residents. However, probate matters can be particularly difficult to place with pro bono attorneys because it is difficult to tell at the outset if the matter will require tax, real estate or other expertise. Most probate lawyers are solo practitioners or with smaller firms and lack the resources to do extended pro bono work.
- The District's aging population makes it likely that the low-income community's need for estate planning assistance will continue to increase.

### Family

- The Center for the Study of Social Policy reports that only 45% of child abuse and neglect investigations are completed within the 30-day deadline.
- Since the overwhelming majority of poor and low-income children come from single parent homes, there is a great need for child support enforcement services in the District, including establishing paternity and obtaining and enforcing child support orders.
- Approximately 21 FTE paid legal services attorneys focused on family law in 2005.
- In the Family Court, 38% of plaintiffs were *pro se* in adoption cases and 77% of plaintiffs were *pro se* in divorce/custody/miscellaneous cases. On the respondents' side, nearly 38% in 2005 were *pro se* in divorce/custody/miscellaneous cases, and over 98% of respondents were unrepresented in paternity and child support cases.
- In 2005, about 98% of both petitioners and respondents in the Domestic Violence Unit were *pro se*.
- More providers ranked family law among the top four areas in which requests were received in 2005 than any other subject area.
- Of the five "generalist" organizations that provide services in a range of areas, all included family law in the top three subject areas in which they received the most requests.
- There is a need for assistance with multi-jurisdictional custody and support issues because while many

people move to or from the District, most providers focus only on disputes arising in the District.

- It is difficult to find legal services attorneys, particularly bilingual attorneys, to take time consuming divorce cases.

### Public Benefits

- While 25% of the District's families live below the federal poverty level, only 15.7% received TANF benefits in 2005. The average TANF payment for a family of three in the District is \$407 per month (compared to \$490 in Maryland and \$389 in Virginia), and is lower than half the states.
- In 2005, approximately 12 FTE paid legal services attorneys were devoted to public benefits matters.
- In 2006, 871 public benefits appeals were filed with OAH. OAH estimates that over 95% of the parties proceeded unrepresented with their TANF, food stamps, Medicaid and interim disability assistance cases.
- The public benefits problems confronting low-income residents are often exacerbated by the government agencies charged with delivering the benefits. The need for advocacy work with respect to these agencies is extensive and critical.
- Public benefits rules and regulations are among the most technical and complex in the poverty law area. These regulations challenge even experienced advocates.

## **Health/Disability**

- There is a strong correlation between poverty and disability. About 33% of District residents who are disabled live below the poverty line, compared to about 20% of the total population.
- 10,000 residents under the age of 18 had no medical insurance coverage in 2006. Numerous persons that qualify for public coverage are not currently enrolled.
- The District's AIDS rate is the worst of any major city in the country. In 2006, there were 12,428 people reported as living with HIV and AIDS in the District.
- In 2005, approximately 15 FTE paid legal services attorneys were devoted to health/disability matters.
- Legal services providers believe that there will be an increase in the legal needs related to mental health issues.

## **Housing**

- Over 37% of District residents live in housing that is deemed unaffordable, meaning that these residents spend over 30% of their income on housing costs. Over 18% of District residents are experiencing severe housing burden, meaning they spend more than 50% of their income on housing costs.
- Housing issues confronting the low-income community are extensive and vary depending on whether the resident is a homeowner, renter, recipient of public housing assistance or homeless.

- In 2006, 2,114 families applied for emergency shelter at the District's central intake facility, including an estimated 3,332 children. However, emergency shelter apartments or alternative services served only 442 of those families. As of 2006, the estimated wait time for a family seeking emergency shelter was at least six months.
  - In 2005, about 20 FTE paid legal services attorneys were devoted to housing matters. The public funding beginning in fiscal year 2007 added seven more attorneys stationed in Landlord/Tenant Court to provide same day representation to *pro se* litigants.
  - More than 46,000 cases were filed in Landlord/Tenant Court in 2006. Only about 3% of defendants who have to appear in Landlord/Tenant Court are represented by counsel.
  - Of the cases filed in Landlord/Tenant Court, approximately 75% are closed due to dismissals or default judgments. Of the remaining 25%, approximately two-thirds are closed by confessions of judgment or consent agreements, notwithstanding claims or defenses that may be applicable. In contrast, tenants who are represented by counsel rarely enter consent judgments.
  - The District has a number of pro-tenant laws, but many residents are unaware of these laws.
- ## **Immigration**
- From 1980 to 2000, the immigrant population in the District rose from 40,559 to 73,561 – an 81.4% increase. While the total District population declined by 6% in the 1990s, the immigrant population grew by 25%.
  - The District's immigrants come from a variety of countries. Such a melting pot of customs, language, religion and social outlooks creates a complex and diversified set of issues and needs.
  - Of the approximately 11 FTE paid legal services attorneys who were devoted to immigration matters in 2005, all worked with smaller providers.
  - District providers face pressure to serve a large number of immigrants residing outside of DC because local initiatives in neighboring suburbs have targeted immigrants.
  - Residents seeking assistance with immigration issues can face unique obstacles such as substantial filing and other fees charged by federal agencies (which, unlike courts, will not waive fees for indigent applicants) and language barriers.
  - Public benefits or other civil legal problems (and their resolutions) can have collateral consequences on immigration status.
  - The close linkage between one's immigration status and other civil legal issues makes it increasingly challenging for legal services providers to address and anticipate all the collateral issues that could arise when serving immigrants. As a result, the need for understanding the intricacies of immigration law extends far beyond just those providers that focus on getting clients permanent residence, citizenship, or asylum.

While it is extremely difficult to quantify the exact magnitude of need in each of these areas, some information is available. The DC Courts provided statistics for 2005 concerning the number of *pro se* litigants for certain cases. These statistics, which are included in the preceding summary, demonstrate that the need is substantial. To recap:

- Almost 45 percent of formal probate matters, 98 percent of the small estate matters and 60 percent of the trust matters before the Probate Division of DC Superior Court involved *pro se* plaintiffs.
- 98 percent of both petitioners and respondents in the Domestic Violence Unit of the DC Superior Court proceeded *pro se*.
- 77 percent of plaintiffs in divorce/custody/miscellaneous cases in Family Court were *pro se*.
- More than 98 percent of respondents in paternity and child support cases were *pro se*.
- About 97 percent of defendants who had to appear in Landlord/Tenant Court were *pro se*.

Some subject areas also had more activity and articulated demand for services than others. For instance, according to our data, family, housing and public benefits were the areas in which the largest numbers of requests for legal assistance were received. Our survey of providers indicated that:

- More providers turned away requests for assistance in family, housing and consumer than any other area.
- Providers perceived the most under-addressed legal needs to fall within the areas of housing, family and employment.
- Housing, family and immigration were the three subject areas for which providers most frequently anticipated an increase in the need for civil legal services.

Community-based organizations most frequently mentioned the following subject areas as those with the greatest level of need: housing and landlord/tenant, immigration, employment, public benefits, consumer and family law. As demonstrated throughout this report, however, the unmet need for legal assistance in each of the nine areas is significant. Our survey confirmed that there is no area in which all of the need is being met. Further, in almost every subject area, at least one provider anticipated that the level of need would increase.

For several reasons, this report does not rank subject areas in terms of importance or urgency. First, the number of requests for assistance in each area does not tell the entire story because, among other things:

- Residents are more likely to recognize some issues as a legal problem than others (and, therefore, are more likely to seek out assistance for that issue)—*e.g.*, an eviction proceeding may be more recognizable as a problem with which lawyers can assist than a predatory lending scheme;
- Many people do not know about the availability of civil legal services and so do not seek them;
- Residents may stop asking for assistance if they already know that few legal services are available; and
- People generally seek assistance for their individual problems, and thus requests for assistance typically do not take into account the need for systemic advocacy and broad-based legal representation.

Second, the areas that are most pressing may vary depending on the subset of the low-income population—*e.g.*, immigrants, the elderly or ex-offenders may have needs that are different from those of the population as a whole. Finally, it is impossible to rank these subject areas in terms of relative importance simply because the stakes in so many of these matters are so very high. The matters may differ, but bad outcomes in any one of them could prove equally disastrous.

### **3. THE CAPACITY OF LEGAL SERVICES PROVIDERS**

The District has a variety of resources to draw from in serving low-income residents. The city is home to a legal services community that includes more than 30 legal services providers, government agencies and law school clinics. The providers range from one lawyer to more than 30 and from generalists offering a diversity of legal services programs to those focusing on particular subject areas. They have a wealth of expertise, use varying practice models and provide services ranging from distributing self-help materials to brief advice to full representation.

In addition, members of the District's judiciary have continually demonstrated their commitment to improving access to justice for all District residents. The District is also home to a private bar with an unsurpassed commitment to pro bono work. The private bar supports pro bono activities and the District's Interest on Lawyers Trust Accounts program (IOLTA).<sup>5</sup> The program has seen a significant increase in fiscal years 2006 and 2007.

Furthermore, in fiscal year 2007, for the first time the Council voted to provide \$3.2 million in funding to support civil legal services. Mayor Adrian M. Fenty and the Council continued this level of support for civil legal services in fiscal year 2008.

All of these factors have given the District a solid base for addressing residents' unmet legal needs. That is the good news. The bad news is that the good news is not nearly good enough.

Even in light of these resources, the needs of those who cannot afford a lawyer substantially outweigh the available services. Our survey indicated that one of the top three reasons providers turned away requests in 2005 was that they had inadequate resources to handle the matter. Resource constraints also likely played a role in the other two reasons providers gave for turning away requests—the matter fell outside of the provider's mission or expertise, or the person making the request fell outside the provider's income or eligibility guidelines. Providers are limited in the services they can provide and the areas they can serve due to a lack of funds for staff and training. Similarly, providers often use income eligibility guidelines as a way of rationing scarce resources.

The legal services providers reported a combined budget in 2005 of approximately \$15 million for the provision of legal services to District residents. (This figure excludes funds dedicated to the civil cases that bear a statutory right to counsel.) The budgets of individual providers ranged from \$60,000 to \$2 million, with the plurality falling within the \$100,000 to \$500,000 range. Notably, some of the legal services providers' funding comes with certain restrictions, such as the populations that can be served (*e.g.*, only the elderly, victims of domestic violence or people with disabilities) or the subject area that must be covered (*e.g.*, housing). Such restrictions limit providers' ability to shift areas of service and case priorities to meet emerging needs.

Even with the recent addition of \$3.2 million in government funding (which was not available in 2005), the providers' collective budget does not come close to what is spent on other aspects of our justice system or what is needed to serve the District's low-income community. Legal services providers, along with the pro bono services of District lawyers, are the primary way for low-income District residents to have significant participation in the justice system. The lack of funding for the providers limits their ability to serve more clients directly and to facilitate the work of more pro bono attorneys. The result is a lack of meaningful access to our judicial system for thousands of city residents.

Our survey indicated that there were approximately 140 FTE legal services attorneys working to meet the civil legal needs of the District's low-income community in 2005 (excluding those working on the limited numbers of cases in which there is a statutory right to counsel). An additional 31 attorneys have been employed as a result of the DC government's recent funding. While the legal services network only had about 12 FTE positions located east of the Anacostia

River in 2005, the public funding has more than doubled this number. Even with these additional attorneys, staffing is far from adequate to meet the need.

Most legal services providers are relatively small. In 2005, half had three or fewer lawyers working for them. Legal services attorneys working in the family, housing and health/disability areas constituted over 50 percent of all the legal services attorneys in 2005. There were only about five FTE legal services attorneys serving the District's low-income community in areas such as consumer and education. The recent infusion of public funding added seven housing lawyers, with the rest of the 31 lawyers spread out among the other subject areas.

Given their limited resources, legal services providers have accomplished remarkable things and served a significant number of District residents. Our survey indicated that they collectively provided full representation (representation through the resolution of the matter) to nearly 3,600 people in 2005. That figure does not include the number of people represented by pro bono counsel. More than 23,000 individuals received limited advice and several thousand received a referral to another legal services provider. These services are important, but our survey demonstrates that providers want to and need to do much more.

## 4. CHALLENGES FACING THE LEGAL SERVICES NETWORK—A CALL TO ACTION

Our report identifies a number of challenges the legal services network must address in order to serve more low-income residents more effectively. Resources are at the root of many of these challenges, but additional funding is not the complete solution. Many of these challenges are longstanding and not easily solved. That is not an excuse to let the problems persist, but rather a call to action to all involved—legal services providers, government agencies, courts, bar members, law schools, foundations and all others who are part of our civil justice system—to come together and tackle these challenges. We identified ten courses of action which would greatly improve the provision of legal services to the District's low-income residents.

### A. Increase Staff of Legal Services Providers

Each legal services provider lacks the staff necessary to assist all the people who walk in the door; as a result, providers are forced to ration assistance. For instance, our data indicated that a significant number of providers only had capacity to offer low-income residents brief advice or *pro se* assistance to many seeking services. The relatively small number of legal services lawyers cuts across subject matter areas. It

**A** legal services lawyer represented Ms. Parker\*, a woman who fled with her children from a violent relationship. Because the father of her children was more sophisticated and had more resources, he was able to manipulate the system. Ms. Parker was charged with parental kidnapping and her children were taken away. After a bitter and difficult legal battle, the DC Superior Court found that Ms. Parker was a victim of abuse, entered a protective order for her, and began the process of reuniting her with her children. If Ms. Parker had not been able to get a legal services lawyer, it is possible that she would not have been able to get custody of her children.

\* The names of the people in this report have been changed to protect client confidentiality.



is difficult to fathom, for instance, that there are only about five FTE legal services lawyers working on consumer-related issues in the District, given the widespread nature and complexity of these problems. On the other end of the scale, those areas with the most lawyers—housing and family law—still do not have nearly enough attorneys to meet the need. Low staffing also inhibits the ability of legal services providers to leverage the pro bono resources available in the private bar because there are fewer attorneys available to train, mentor and support pro bono attorneys and to package and refer matters for them to handle. It is a simple equation: more legal services lawyers will equal more low-income people served.

#### **B. Make the Legal Services Delivery System Even More Accessible to the Low-Income Community**

The legal services network has a number of different legal services providers with widely varying characteristics. While there are benefits to such diversity, the fragmented nature of the system can give rise to inefficiencies and can be confusing to residents who are seeking to find the right provider for a particular case. Consequently, the network should find ways to get clients to the right organization quickly. In addition, the combination of too few attorneys and too many requests for assistance results in a system that generally focuses on a high volume of brief assistance as opposed to extended representation. While not everybody needs (or wants) full representation, the network should respond according to the clients' needs and ensure that the structure of the system does not affect the type of assistance the client receives.

#### **C. Expand Systemic Advocacy**

The combination of immediate client needs and too few resources precludes most providers from devoting substantial time to strategic systemic advocacy, despite the desire to do so and the recognition that such efforts could have a broad, lasting impact. Systemic advocacy projects hold the promise of assisting with issues underlying the needs of low-income residents and should be increased. This work does not result in changes overnight, and measuring success is more difficult in comparison to representing an individual client. However, investing in this capacity, if done thoughtfully, should yield results that will affect a broader cross-section of the low-income community.

#### **D. Expand Pro Bono While Ensuring Effective and Efficient Use**

The pro bono support that legal services providers receive from the private bar significantly expands their capabilities to serve low-income residents. However, even with all of the pro bono work that goes on in the District, there is still an urgent need for more. The private bar has considerable untapped sources that could provide significant pro bono support. It is incumbent on the legal services providers and the private bar to maximize pro bono and ensure its effective and efficient application. To meet this challenge, pro bono attorneys need additional training and support; law firms should develop more in-house expertise in poverty law areas; the legal services network should examine the most appropriate ways to use pro bono lawyers to meet different poverty law needs; and the private bar should speak out forcefully when pro bono efforts appear limited in a particular area.

#### **E. Increase Outreach and Community Education to the Low-Income Community**

Although it is generally acknowledged that low-income residents lack

education about their legal rights and the availability of legal services, providers have generally been reluctant until now to devote too much of their limited resources to outreach and community education. Among other things, providers are concerned that extensive outreach will essentially be false advertising, since they do not even have the capacity to help all the people who seek assistance now. The addition of legal services attorneys due to the infusion of public funding should result in greater outreach. Moreover, by educating members of the low-income community about their rights and encouraging them to vindicate those rights, providers may learn of matters earlier in the process so issues can be addressed before they turn into full-fledged cases.

#### **F. Expand Partnerships and Outreach to Community-Based Organizations**

Community-based organizations we interviewed could often identify only a handful of providers to whom they had referred clients; they generally lacked knowledge about the majority of legal services providers. These community-based organizations are on the front lines serving the low-income community and need to be aware of the range of legal services available to their constituents.

Collaborations between and among legal and social services providers (*e.g.*, between medical clinics and lawyers) are on the rise, which should help address the lack of knowledge problem to some degree. Further collaboration between legal and social services providers, even if no formal partnership is formed, is needed to increase the awareness of and to streamline the legal services process for District residents. While establishing these partnerships is time consuming and can be challenging, the resulting benefits to clients should exceed these short-term costs. Simply informing community-based organizations about available services should help the legal services network reach potential clients in need.

#### **G. Strengthen the Legal Services Network's Capacity to Serve Populations that are Difficult to Reach**

Many of the District's poorest residents are difficult to reach because they have physical or cognitive disabilities, they are limited English proficient (LEP)<sup>6</sup> or have poor literacy skills, or they have limited mobility because they are elderly, infirm or incarcerated. For these individuals, the barriers to civil justice are heightened substantially. Many legal services providers have developed expertise in serving one or more of these groups. Their collective knowledge needs to be harnessed so they can serve as a resource for the rest of the legal services network. Properly serving each of these difficult-to-reach populations will be a challenge that will likely require consider-

able resources deployed in creative ways. Reaching out to these populations, however, is essential to ensure that the most vulnerable members of our community have meaningful access to our civil justice system.

#### **H. Enhance Training**

Our survey showed that resource constraints prohibit legal services providers from providing more training to their lawyers and staff in a host of areas. Such training could substantially enhance the collective skills and efficiency of the legal services attorneys and staff. In particular, providing appropriate training to managers should help each provider stabilize and grow, thereby strengthening the entire legal services network.

#### **I. Keep Up with Technological Change**

Legal services providers have long lacked the tools of technology that lawyers in the private sector take for granted. Although the situation has been helped by the recent increase in funding, the legal services network still needs improved technology and sustained support to keep up with evolving technological advances.

#### **J. Improve Data Collection**

In collecting information for this report, we noted that data collection practices vary among legal services providers and are often limited. The lack of comprehensive, uniform record-keeping makes a complete assessment of the system challenging. Fortunately, the DC Bar Foundation and the providers have spent significant time in the last year addressing this issue.

## **Conclusion**

Since the Commission's formation, much has been done to address the unmet legal needs of the low-income community. For the first time, the District has provided public funding for civil legal services. Collaboration by and among legal services providers is also on the rise. Providers have spent considerable time discussing how to improve legal services delivery and have reached out to community-based organizations to assist them in reaching low-income residents. The pro bono culture among private practitioners in the District appears to be as strong as ever.

One thing is clear, however. Much more must be done. With each step forward, we have discovered new information concerning the magnitude and complexity of the need. The changing demographics of the city have presented the legal services network with additional challenges, and there

is universal agreement that the legal needs of the low-income community will only increase over time. Funding for civil legal services must be substantially increased, and yet, increased funding is not the complete solution. The complete solution will require the entire legal services network and the community at large to collaborate in addressing the unmet needs and challenges we have identified. The ability of thousands of the poorest District residents to have equal access to justice depends on it. As stated by Chief Judge Eric T. Washington of the DC Court of Appeals:

*The DC Courts' vision of being an institution that is "Open to all, trusted by all, with justice for all" will never be fully realized as long as so many of our low- and moderate-income residents lack adequate civil legal representation to help protect their basic rights and liberties.<sup>7</sup>*

The stakes are high, but so too is the commitment of the legal services network to effectuate lasting change in the District. It can be done. It must be done.

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<sup>1</sup> In this report, individuals are “poor” or “in poverty” if their income is below 100 percent of the federal poverty threshold and “low-income” if their income is below 200 percent of the federal poverty threshold. In 2007, the federal poverty threshold for an individual was \$10,587; for a family of four, \$21,201. See U.S. Census Bureau, “Preliminary Estimates of Weighted Average Poverty Thresholds for 2007,” available at <http://www.census.gov/hhes/www/poverty/threshld/07prelim.html>.

<sup>2</sup> In this report, the “legal services network” includes legal services providers, pro bono attorneys, the courts, DC Bar, DC Bar Foundation, law school clinics and government agencies dedicated to meeting low-income residents’ legal needs.

<sup>3</sup> In this report, “legal services providers” and “providers” are nonprofit organizations where attorneys work full-time on behalf of the poor.

<sup>4</sup> In this report, the phrase “estate planning” includes advance medical directives, such as health care and financial powers of attorney, living wills, guardianships or conservatorships and other legal issues related to planning for incapacity and death.

<sup>5</sup> This program, established by the DC Court of Appeals, remits to the DC Bar Foundation interest generated from trust accounts holding client funds too small in amount or held for too short a duration to generate any net interest for a particular client, for distribution to legal services programs that benefit the District’s low-income residents.

<sup>6</sup> This report considers people to be LEP if they state on the Census questionnaire that they speak a language other than English at home and speak English less than “very well.”

<sup>7</sup> Statement of Eric T. Washington Before the Council’s Committee of the Whole (Apr. 11, 2006).

# The Washington Post

## Poorer D.C. Residents Lacking Legal Services; Report Suggests Area Firms Offer Help

The Washington Post - Washington, D.C.

Author: Keith L Alexander - Washington Post Staff Writer  
Date: Oct 8, 2008

Low-income D.C. residents are not getting enough assistance in pursuing landlord-tenant cases, custody disputes, small-claims matters and other civil litigation, according to a report issued yesterday by a court-appointed panel.

Many low-income residents are unaware of their rights and unsure of where to turn for help, the District of Columbia Access to Justice Commission said in its findings. The report said that these residents are more likely to represent themselves in court, putting them at a disadvantage.

The 17-member commission was created in 2005 by the D.C. Court of Appeals to improve access to legal services for poor and moderate-income residents. It includes judges, attorneys and legal services providers. The report, prepared pro bono by the law firm DLA Piper, was part of a mission to raise awareness about the issue. It relied upon court statistics, surveys of lawyers and law school clinics, and input from 28 community-based nonlegal service organizations.

The 125-page study found that poorer D.C. residents are not adequately represented in a variety of proceedings. For example, the report said, 2 percent of tenants in the District's landlord tenant court and 2 percent of parties involved in domestic violence cases are represented by attorneys.

Poor and low-income residents have options. The area's legal community provides help through legal aid organizations and pro bono efforts. And the District has allocated \$10 million in the past three years for civil legal services. In the past year alone, the city spent \$3 million and hired 31 attorneys to provide assistance. Seven were specifically designated to housing issues.

"We will do everything we can to address this issue. It will get our full and committed support," said Mayor Adrian M. Fenty (D), who attended a reception last night during which the report was released.

The report's authors said they hoped that the study would identify more D.C. government funds for fiscal 2009. The report was prepared before the city's \$131 million budget gap was discovered late last month.

Peter B. Edelman, the commission's chairman, said that while additional funds from the city would be helpful, more District law firms could step in by selecting senior lawyers in their firms to commit to pro bono work or by contributing money to hire lawyers.

"We have to reach people and we have to convince them to step up," Edelman said.

Eric T. Washington, chief judge of the D.C. Court of Appeals, said the report is a "blueprint to focus our resources and identify critical issues." Lee F. Satterfield, the newly appointed chief judge of the D.C. Superior Court, said he plans to encourage judges in civil cases to be more "sensitive" when the people before them have no representation. In addition, he said, the court is considering adding a second judge to landlord-tenant court, which should give judges more time on individual cases.

Credit: Washington Post Staff Writer

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# Access to Civil Justice in the District of Columbia

## A Case Study of the District of Columbia Access to Justice Commission

By Peter B. Edelman

**A**ccess to civil justice for lower-income residents of the District of Columbia is a high priority for leaders of the bench and bar in our city. In February 2005 then-Chief Judge Annice M. Wagner of our D.C. Court of Appeals, along with her colleagues, issued an order creating the District of Columbia Access to Justice Commission. How our commission came to be, and what it has accomplished, constitutes a case study that we hope is of interest to states considering the creation of such a commission and to commissions already in existence as they continue their work.

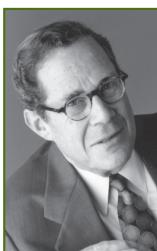
The order did not just happen. It resulted from a timely confluence of forces. As readers of this journal know, the state chief justices had decided a few years earlier to make the creation of state access to justice commissions a priority. Shortly after that, legal services providers in our city—we have more than two dozen different organizations—reached out to leaders of the D.C. Bar and the D.C. Bar Foundation to propose approaching the Court of Appeals about establishing a local commission. The response from the private bar was not unanimous. Some key people were skeptical about the value of inserting yet another body into the mix. What would it do? What would it add? What difference could it make? Nonetheless, the players decided to approach the court.

Chief Judge Wagner saw the possibilities. Extensive conversations produced an agreement to create a seventeen-member body, with representatives from the bench, the bar, the bar foundation, the provider community, clients, and civic and community leaders from other areas and professions. I was asked to chair.

The court's order creating the Access to Justice Commission charged it with four tasks: (1) to establish an inclusive and coordinated planning process; (2) to improve coordination and support for civil legal services; (3) to propose rules and systems changes in courts, administrative agencies, and legislative bodies to improve access; and (4) to pursue increases in funding and volunteer resources for the District's civil justice network.

Three basic sets of facts were clear. First, the District has an unacceptable level of poverty and an insufficiency of legal representation for the poor. Second, the cadre of full-time lawyers who represent the poor—one of the stronger in the country in terms of both quantity and quality—is nonetheless much too small in relation to need. And third, while private practitioners in the District have a robust pro bono commitment and, through their firms and individually, they contribute considerable funds to support the full-time providers, both the volunteer person power and the funds contributed fall considerably short of what is potentially possible. Jurisdictions across the country face similar challenges.

Three-plus years into the life of the commission (it was established for an initial three-year period and has recently been extended on an open-ended basis by current Chief Judge Eric T. Washington), there are tangible accomplishments, a sense of purpose and mission, and a shared belief that the commission has a unique role.



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What is unique is that the commission is a place where providers, bar leaders, and judges sit as peers to discuss and pursue change about issues of mutual concern. The commission has no power to make anyone do anything—it does not dispense funds, and it has no regulatory power—but the prestige of its members, both individually and collectively, has given it cachet in the broader legal community.

The leadership of the bar, the bar foundation, and the courts all call on the commission for consultation and partnership. Because of the commission's cross-cutting membership, providers find it easier to raise concerns with the courts about issues like procedures in landlord-tenant court, problems with the system of language interpreters, access for the disabled, and the quality of information provided to pro se litigants. Successive bar presidents have asked the commission to join an initiative to increase the number of firms signing the pro bono "pledge" to devote an annual minimum percentage of billable hours to pro bono work. The commission and the bar foundation consult regularly on strategy, both about funding and about deployment of resources.

### Funding

Not surprisingly, the obvious first priority for the commission was increasing funding for civil legal services. The commission itself is financed entirely by law firms, with rent-free space contributed by Venable LLP. The commission has a full-time and absolutely superb executive director, Sunil Mansukhani, a former Justice Department attorney. The firm of DLA Piper has served as pro bono counsel to the commission from almost the very beginning, contributing thousands of person-hours to a multitude of research projects, especially a sophisticated mapping of legal needs of low-income residents.

### Public Funding

In the District, funding for civil legal services had in the past come mainly from law firms and individual lawyers, Interest on Lawyers Trust Accounts (IOLTA), and the national Legal Services Corporation. What struck us almost immediately was that other than dis-

pensing a modest amount of federal funding for lawyers serving such constituencies as the elderly and victims of domestic violence, the District government had never appropriated any city funding for civil legal services. (The Public Defender Service, which represents criminal and juvenile clients, and the Children's Law Center, which works in the area of child welfare protection, each have unique arrangements that make the federal government their principal funder.)

We learned that forty-three states were, in one form or another, providing funds for civil legal services, which added up to about 20 percent of the total funds going into the system nationally. It appeared that no one had ever asked the District to step up to the plate. We did a study of the most pressing needs in our jurisdiction and the capacity of our providers to make good use of a significant infusion of public funding, and we asked then-mayor Anthony Williams to include \$6.2 million in his budget for fiscal 2007, to be devoted primarily to out-stationing poverty law offices in low-income neighborhoods and beefing up representation of tenants in the D.C. Superior Court's Landlord and Tenant Branch (landlord-tenant court). Our research had revealed that only twelve lawyers were located in the poorest (and most isolated) section of the city east of the Anacostia River, and also that 98 percent of the 49,000 tenants sued annually in landlord-tenant court were unrepresented by counsel.

The story of the process that ensued is worthy of an article in itself, but at the end of the day, with special leadership from then-Ward 3 Council Member Kathy Patterson, the City Council appropriated \$3.2 million to our city's bar foundation, to be re-granted through a competitive process. Chief Judges Eric T. Washington and Rufus King III of the appellate and trial courts testified—very helpfully—before the D.C. City Council as to the legal needs in the city. The bottom line was thirty-one new lawyers, or an increase of about 25 percent in the number of full-time attorneys representing low-income people. The number of poverty lawyers working east of the Anacostia River doubled. Seven attorneys hired with the public funds are now stationed in landlord-tenant court. We also worked with the

court to develop an administrative order that allows lawyers to make temporary appearances on behalf of pro se litigants. All of the grantees of the funding were urged to structure their proposals to achieve a maximum multiplier effect in enlisting pro bono involvement of private practitioners in the work. So we anticipate that the ultimate payoff from the public funding will be much greater than the direct work of the thirty-one new lawyers.

Three of the especially creative ideas are worth special mention. Legal Counsel for the Elderly is using some of the funds for a lawyer who visits the homebound elderly to bring legal services to them. The Children's Law Center has teamed up with the Children's National Medical Center to have lawyers on-site at the medical clinic so that a family's medical and legal needs can be addressed simultaneously. University Legal Services hired a lawyer to work at the D.C. Jail to identify inmates with mental health issues that need attention.

The funding was renewed in fiscal 2008 by inclusion in the first budget of Mayor Adrian Fenty, and it was renewed once again for fiscal 2009 with a \$400,000 increase proposed by the mayor himself.

The city's \$3.2 million in funding included two important components: a loan repayment assistance program for poverty lawyers who are District residents, with complementary funds raised privately to support lawyers working in the District but living in Maryland or Virginia, and a shared interpreter bank to provide language interpretation for clients to be able to communicate effectively with their lawyers outside of court (the courts take responsibility for interpretation in court). Indispensable leadership for the enactment of the loan repayment assistance program came from Council Public Safety and Judiciary Committee Chair Phil Mendelson, a D.C. councilmember who has also been a key supporter of the overall funding effort.

### IOLTA

Consulting with the D.C. Bar Foundation, we found that we could be supportive of efforts to improve the interest rates paid on IOLTA accounts. Joining with the bar foundation, we pressed banks that were

paying very low interest rates on the escrow accounts, and we gave public recognition to banks that raised their rates. We are continuing to urge law firms to deposit their escrow funds in banks that pay the highest rates. And a proposed comparability rule is currently working its way through our local processes to our D.C. Court of Appeals. If adopted, it will require that banks pay interest rates that are comparable to what they pay on accounts of their regular business customers. About nineteen states have already taken this step.

#### **Law Firm Giving**

A key project, now in progress, is the development of a strategy to induce firms to increase their financial support for the D.C. Bar Pro Bono Program, the D.C. Bar Foundation, and the individual providers. With the pro bono help of the professional services firm of Ernst & Young, we asked all of the providers to disclose all of the law firms that donate funds to them and the amounts donated. Ernst & Young then consolidated the information, removing the particulars as to which provider had received funding from which law firm, so that we now have a list of the total giving of each law firm in the area of civil legal services for low-income people. Just what we will do with the information is still under discussion, but at the least it should be helpful in letting individual firms know informally that they are not doing as well as some of their competitors.

#### **The System: Mapping of Needs and More**

##### **Mapping Needs**

At our very first meeting, Robert Wilkins from Venable LLP asked, innocently enough, whether we knew what the legal needs are in our city. He was told that the bar foundation did a legal needs study in 2003 and discovered that only 10 percent of the legal needs of low-income people in the District are being met. Robert asked if anyone knew in any more detail about the underlying specifics. This exchange led to what has turned out to be a major project, made possible only because of a generous contribution of time by lawyers at DLA Piper.

We decided not to replicate the map-

ping-of-needs studies that other cities have done, in part because we did not have the resources to do telephone polling and focus groups. Instead, we did four things. We asked the legal services providers to keep track of everyone who walked in the door seeking help during a one-month period and to use a common protocol to obtain information from these individuals. Second, we asked the legal services providers about the legal needs of their clients and the providers' capacity to meet those needs. Third, we interviewed about two dozen health and human services providers about the legal needs of their customers and the providers' knowledge of the legal services system. Fourth, we gathered court statistics and data from other sources that would help illuminate the areas of greatest legal need.

The results were published early in October of this year, and they are rich with detail. We have learned that our providers turn away more requests for help in family, housing, and consumer matters than in any other area and that employment and immigration are other areas the providers say are the most under-addressed or where the need is increasing. Large percentages of individuals appear pro se in family court matters of all kinds, landlord-tenant court, probate, and in situations of domestic violence. As important as the quantitative findings is the full discussion of the nature of the needs in each area.

We think that the report will continue to be of value to the entire legal community locally, and we hope it will be a model for others around the nation. We see it as a touchstone for planning and for setting priorities as we move ahead.

One challenge that jumps off the pages of the report is the need to reach out to health and human services providers around the city. We discovered that they know next to nothing about the world of lawyers. That is, of course, our fault. So we need to undertake a public education campaign to inform the non-legal providers about legal services, to get them to include questions about legal problems in their interview protocols, to create referral networks, and to use their auspices to reach their patients and customers.

These are system-improving steps that we should have foreseen without the confirmation of a study, but which we will now pursue.

##### **Intake**

When we first started, we did not wait for the mapping-of-needs work to be completed. We looked for obvious areas to begin our work. Manifestly, with two dozen-plus-providers, coordination was one such area. We established a "support functions" committee with members drawn from the broader legal community as well as from the commission itself.

We decided to concentrate first on intake. As a community we were pretty much at square one in terms of having a citywide system of intake with multiple points of entry and a user-friendly way of getting people to the help they need. We still have quite a long way to go, but we were able to establish a monthly meeting of intake workers that has in turn resulted in numerous new approaches to cooperation and more responsive services to clients, and we trained intake workers in the use of LawHelp.org/dc so they will have the most up-to-date information as to where to refer people in need of legal assistance. The Bar Foundation made a grant to three of our providers to develop a plan for a hotline and associated referral mechanisms that should make it easier for people seeking legal help to be directed to the proper place. Another grant enables the D.C. Bar Pro Bono Program to develop "hotdocs" that will allow pro se litigants to answer a series of questions in landlord-tenant and family law cases and receive a pleading that incorporates those answers.

The intake work illustrates a key point. There is no such thing as a perfect and permanent fix to any problem. We realized recently that we have to go back to the intake issue and push harder. With our recently renewed mandate from the court, we have seven new members who are bringing fresh energy and ideas. (We now have six-year term limits for the members and have created a staggered system whereby about half the commission will turn over every three years.) Reviewing our activities, we realized that

some of the work has not moved along with the momentum we would like. We have reconstituted our support functions committee and will redouble our efforts to improve the user-friendliness of the system. These are not simple tasks, but they are vital.

#### **Impact Work**

The other obvious challenge that the support functions committee assigned to itself was the issue of structural change—activities that, beyond the vitally necessary work of serving individual clients, would reduce poverty overall. The question of impact work has evolved greatly since the “good old days” of the sixties. The approach of the early legal services lawyers was to bring class actions against states and localities and private entities of one kind or another in order to get constitutionally based or big-ticket statutory relief. Our sixties predecessors had great

committee intends to study the legal services providers’ technology needs, especially when they are doing work away from their offices. Another agenda item is to develop a plan for locating legal services on-site at the courthouse, which we will present to the courts in the coming months.

#### **Language Access**

Another pressing and immediate need has to do with language access. Our courts do a good job (although not perfect) of providing language interpretation in the courthouse. But providers told us of continuing frustration in serving clients in their offices. We undertook a broadly participatory planning process and included the idea of a shared interpreter bank in our request for city funding. Getting the system fully up and running is a continuing task, but our work in getting a responsive and effective framework in place paid off at an early stage in the life of the commission.

practitioners who doubt the importance of investing in the cadre of full-time lawyers, and private lawyers who prefer glamorous class actions—such as the one arising from the refusal of a chain restaurant to serve African-American Secret Service agents guarding the president—and who claim they are unable to absorb the intricacies of family law or landlord-tenant disputes.

So a major challenge for our commission going forward is to make our pro bono structure more nimble and more responsive to community needs that arise. Where is the pro bono system to help people whose home ownership is threatened by foreclosure arising from subprime and predatory lending? Where is the structure to help ex-offenders surmount legal barriers to employment? Where is the representation for people embroiled in the byzantine working of our immigration system? Where is the organized way to involve retired lawyers and stay-at-home (predominantly female) mid-career lawyers in pro bono work? These are all needs that we can recognize, and the challenge is finding the leverage to make some things happen.

#### **The Courts, Administrative Hearings, and the City Council**

##### **The Courts**

With four judges sitting on our commission, we have excellent access to the chief judges of our local courts at both the trial and appellate levels. They are both deeply committed to improving access and responsive to suggestions. We have worked closely with the courts on a number of matters. One concerned making sure that the courts’ new system of electronic filing does not adversely affect low-income litigants. Another involved commenting, at the courts’ request, on their 2008–2012 strategic plan. A third involved writing to the Joint Committee on Judicial Administration to urge the courts to seek funding to increase access to the courthouse for people who are disabled.

All of that said, there is still much to be done to improve the ability of pro se litigants to navigate the system, to offer up-to-date information to low-income litigants, and to be sure that language

## **We realized recently that we have to go back to the intake issue and push harder.**

successes in many ways. But times have changed. The courts are less responsive. There is less “low hanging fruit” in any case. Lawsuits are resource intensive, and successful implementation of a litigated victory can involve more work that continues for years.

Meanwhile we have “discovered” that getting a law passed or an executive policy changed is sometimes easier than litigation or is perhaps even the only possible route for systemic change.

So we are working—and it is still a work in progress—to develop a local support center for the twenty-first century. It will most likely be part of one of our existing providers and feature both big-case litigation expertise and knowledge about the legislative process and the interstices of our local executive branch.

For the future, the support functions

#### **Pro Bono**

Deserving of attention in and of itself is the question of how we build upon and expand the already impressive pro bono contribution that lawyers in our city make. The D.C. Bar Pro Bono Program sponsors effective intake and referral clinics, and literally dozens of firms have pro bono programs, most of which are linked closely with one or more organizations that provide legal services on a full-time basis.

Yet it is plainly the case that we could and should be doing more and that we need to improve upon the overarching framework that nurtures and pushes for even greater pro bono participation. There are some underlying attitudes that many communities confront: full-time legal services lawyers who do not trust the commitment or capacity of volunteers, private

interpretation services are available as contemplated. Landlord-tenant court still offers major challenges, largely because so many tenants still lack counsel, but also because there are continuing issues (some budgetary, to be sure) in the way the court functions.

#### ***Office of Administrative Hearings (OAH)***

All of the offices of administrative hearings in the various city agencies were consolidated into a single agency fairly recently. The consolidated entity has been working hard to become unified, and our commission has developed a partnership with OAH to help particularly with developing a pro bono system for representation and also advice and counseling. We have also helped in planning strategies to publicize OAH's work and procedures and also to reduce barriers to litigants' access to OAH. Other plans for what our commission might do are still in formation, but the process is constructive and promising.

#### ***City Council***

The question of access to justice in relation to the work of the City Council is somewhat difficult to define. Some possible measures are easy to identify, such as the holding of hearings only during

the day when people are at work and are unable to take time off to testify. How, more broadly, to make the legislative process more accessible to ordinary citizens is less clear. The D.C. Consortium of Legal Services Providers has developed a helpful agenda that includes neighborhood hearings, greater public notice of hearings, reduction in the use

causing so many of the legal problems faced by low-income people, let alone causing their inability to afford counsel. We would note just one additional problem—the long-pressing need to find ways for people whose incomes are somewhat above the poverty line to obtain counsel. If there is a huge shortage of lawyers for people whose incomes are below or just

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## **Where is the pro bono system to help people threatened by foreclosure?**

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of emergency legislative powers so as to increase transparency, and a more public process of decision making. Our commission looks forward to working with the consortium to develop a collaborative agenda.

#### **The Future**

We have found, not surprisingly, that there is an unending agenda of matters to address in improving access to justice for civil litigants in the District of Columbia, to say nothing of the overarching agenda of working to end the poverty that is

above the poverty line, there is, if anything, an even greater dearth for people whose relatively low incomes are nonetheless too high to qualify for free legal counsel. This is a long-standing problem in our country, but one that must be confronted as the movement to improve access to justice gathers momentum around the nation. ■

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