Our Mission

The District of Columbia Court of Appeals, in an Order dated February 4, 2004, recognized the unmet civil legal needs of low and moderate income District residents and established the D.C. Access to Justice Commission. That Order, excerpted below, forms the Commission's mission:

[The] Court recognizes the importance of responding to the unmet legal needs of low and moderate income people in the District of Columbia and others who suffer disparate access barriers, the increasing complexity of civil legal services delivery, the importance of civil equal justice to the proper functioning of our democracy, and the need for leadership and effective coordination of civil equal justice efforts in the District of Columbia.

The District of Columbia Access to Justice Commission is hereby established and is charged with responsibility of assuring high access for low and moderate income residents and others in the District of Columbia, 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.

D.C. Court of Appeals, Order M-220-04, Feb. 28, 2004
Letter from the Chair

Dear Colleagues,

In 2005, the District of Columbia Access to Justice Commission began the formidable task assigned to it: improving access to the complex civil justice network for all members of our community.

The Commission, in its first year, succeeded in securing from the D.C. City Council the first-ever significant appropriation of public funds for civil legal services. These funds have been used by legal services providers to hire additional lawyers who have been providing legal services to low and moderate income residents, in particular those living in areas of the city that have been underserved for generations.

In 2009, the Commission's role in securing public funding in Fiscal Year 2010 was greatly intensified. A proposed cut in public funds threatened to undo many of the gains that had been made. The Commission took the lead in working to see to it that these funds were restored.

Also in 2009, the Commission responded to the sea change in economic climate that occurred, both by documenting the effect of the recession on low income individuals’ access to the civil justice network, and by bringing together the heads of D.C.’s largest law firms and legal services providers to discuss measures to ensure that pro bono service and financial support from the private bar are not victims of the current economic crisis.

The Commission also worked closely with the D.C. Courts and Office of Administrative Hearings to develop procedures and rules that ease access to indigent persons, many with limited-English proficiency and other challenges, who often lack counsel, thus diminishing greatly their ability to navigate the convoluted judicial and administrative systems that all too often affect their lives.

The Annual Report that follows details the Commission’s efforts.

Sincerely,

Peter Edelman
Chair
I. INTRODUCTION

It has been a brutal year for District communities living in poverty. The recession has brought unemployment to historic post-Depression levels, forced thousands of families into foreclosure, increased the severity and incidence of domestic violence, and made more families homeless. The District's already fragile safety net is weaker than ever and, because of drastic revenue shortfalls, government programs designed to support and serve vulnerable residents are stretched far beyond their capacities.

During this time of economic crisis, access to the courts and legal services is critically important. The civil justice system protects families from wrongful evictions, helps domestic violence victims and their children secure protection orders, protects low-wage earners from illegal employment practices, ensures that our most vulnerable residents have health care, and sees that poor families can obtain food and income security benefits to feed and house their children.

In this climate, the work of the D.C. Access to Justice Commission, which was tasked by the D.C. Court of Appeals in 2005 with increasing access to justice for low-income District residents, is more vital than ever.

II. INITIATIVES

A. Public Funding for Legal Services

The Commission plays a leading role in securing funding for civil legal services. Although indigent individuals accused of crimes are entitled to legal counsel, poor residents whose children, housing, safety, job, health insurance or sole income stream is in jeopardy are often forced to navigate the courts alone. In its first year of existence the Commission succeeded in establishing a landmark annual appropriation of public funds for civil legal services. That appropriation provided $10 million in District government support in its first three years alone. Those funds have paid for more than thirty lawyers who serve low-income and underserved residents in some of the poorest parts of the city. The funds also have dramatically expanded geographic access to services, more than doubling the number of attorneys working east of the Anacostia River.

The Legal Aid Society of D.C. reports that between 2006 and 2009, requests for assistance from SE residents increased by 50%. In 2006, over 80% of SE residents had to travel to Legal Aid’s Northwest office for service. In 2009, the pattern shifted dramatically: more than 70% of all SE residents were served locally, either in Legal Aid’s SE office or at the Courthouse. Both service points were funded by Access to Justice funds.

1 Commissioners and staff are listed in Attachment I.

2 Due to the Commission’s efforts, the Council allocated $3.2 million in fiscal years 2007 and 2008 and $3.6 million in fiscal year 2009.
The economic crisis has jeopardized the critical gains that we have made in increasing access to justice for poor and underserved communities. Before the economic downturn, the Commission had secured $3.56 million in Access to Justice funds for fiscal year 2010. Last summer, in response to dramatic revenue shortfalls, the Mayor proposed cutting those funds by half. This cut would have meant a substantial loss of critical services at a time when requests for legal assistance are rising sharply. The Commission was instrumental in staving off this drastic cut. Through testimony, advocacy, and marshalling a broad base of support for the program, the Commission was able to reduce the cut by more than half, and preserve $2.86 million in funding for fiscal year 2010. Without the Commission’s leadership, critical services provided to the District’s poorest residents would have been cut even more deeply.

Access to Justice funds permitted approximately five thousand people to receive legal assistance in fiscal year 2009. Many more residents benefited from know-your-rights workshops, outreach activities, support for tenant organizations, and structural advocacy to change rules and practices that harm low-income residents.

A critical goal of the funds is to help providers to reach isolated and underserved communities. The public funds have advanced this goal by placing attorneys in neighborhood sites and co-locating them with social services and other providers who can address clients’ other important needs.

Attachment II provides a list of grants made to civil legal service providers in 2009 from Access to Justice funds. This work includes:

- Through Legal Counsel for the Elderly’s Project HELP, an attorney makes housecalls to low-income housebound elders across the city and conducts outreach in senior apartment buildings, houses of worship, and community centers. Without this resource, most of these extremely vulnerable clients would not have access to a lawyer.

- The Children’s Law Center has placed lawyers in National Children’s Medical Center clinics where they work with the medical staff to solve the legal problems that clinic patients and their families experience. On-site attorneys take referrals directly from pediatricians and nurses, and early intervention often prevents small health issues from deteriorating into emergencies.

- WEAVE attorneys collaborate with co-located victims services agencies to assist domestic violence victims at the Lighthouse Center for Healing. The cooperative efforts of these agencies help victims to obtain a wide range of supportive services at one location.

- The Employment Justice Center hired a bilingual staff attorney to represent Spanish-speaking, D.C. residents with unpaid

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In 2009, the Children’s Law Center’s Southeast Health Access Project, funded by Access to Justice funds, collaborated with the Children’s National Medical Center to provide a four-part training series for parents and caregivers at a SE community health center. This training instructed parents on their legal rights in areas like mental health services for children and teens, school discipline and school nutrition.

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3 The Access to Justice funds support grants to civil legal services programs, the Community Legal Interpreter Bank, and the Loan Repayment Assistance Program (LRAP).
minimum and/or overtime wage claims and to educate workers about their rights. Since June 2009, she has helped workers to recover over $50,000 in unpaid minimum and/or overtime wages.

- **University Legal Services Jail Advocacy Project** has placed a publicly-funded lawyer in the D.C. jail to address, in combination with a social worker, housing coordinator and peer advocate, the legal advocacy needs of incarcerated individuals with mental illnesses who are in the process of moving back into the community.

Another critical goal of the funding is to increase housing-related services. Too many low-income families lose their homes because they do not have a lawyer’s assistance in asserting their rights. Countless others tolerate flagrant housing code violations just to keep a roof over their children's heads. Access to Justice funds support the **Court-Based Legal Services Project**, through which lawyers from four different legal services providers – Legal Aid Society of D.C., Bread for the City, the Neighborhood Legal Services Program, and D.C. Law Students in Court – help litigants at Landlord-Tenant court who have immediate critical needs for representation. These attorneys are often the last line of defense in preventing homelessness.

Access to Justice funds also support a Community Legal Interpreter Bank which provides free interpretation services so that indigent clients who are not proficient in English can communicate with their attorneys. The bank has approximately 50 interpreters available who speak 23 different languages, including American Sign Language. In FY 2008 alone it provided over 2600 hours of interpretation services to more than 350 clients and translated approximately 150 legal information, client correspondence and case-related documents.

Finally, the funds support a Loan Repayment Assistance Program which helps civil legal services lawyers living and working in the District. But for this funding, many committed and talented advocates would not be able to stay in the legal services network.

### B. Rationing Justice Report

In November 2009, the Commission released a report entitled *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia*. The report, a joint undertaking with the D.C. Consortium of Legal Services Providers, examines the impact of the recession on the provision of legal services in the District. The results of the study are dramatic. At a time when client need is rising sharply, funding for the legal services network has plummeted.

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The Asian Pacific American Legal Resource Center’s Housing and Community Justice Project provides legal services to low-income, limited-English proficient senior Asian-Americans. In 2009, the project, with the services of a publicly-funded lawyer, helped to organize a tenant association at the Wah Luck House on 6th Street, which houses low income seniors and families.

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4 A copy of the report and executive summary are included in Attachment III. The report and related press articles also are available on the Commission’s website, [www.dcaccesstojustice.org](http://www.dcaccesstojustice.org).
Even before the recession, there was far less legal assistance available than was needed to meet the needs of low-income District residents. As the Commission’s report *Justice for All?* documented, in every key civil law area examined, there were vastly more clients who needed help than services available to assist them. The recession has greatly increased the number of clients seeking assistance and the urgent nature of the problems they are experiencing. Last year, legal services providers reported an increase of approximately 20% in client requests for help. In that same period, funding for legal services decreased by approximately $4.5 million – a drop of more than 25% of funding. As a result, the network has lost more than 12% of its attorneys and nearly 40% of its paralegals, policy advocates, social workers and other non-legal staff who provide critical support for clients.

There is no doubt that this contraction of the legal services network has widened the justice gap. Thousands of District residents will not receive help with critical legal problems. The report estimates that approximately 1050 fewer cases were handled because of staff losses and approximately 2100 fewer clients received counseling, advice or brief services. The clients who were not served by a legal services program had nowhere to turn. They were forced to navigate the complex legal system on their own. Often, they simply abandoned their rights, claims or defenses with devastating consequences. Funding losses have also forced programs to reduce intake hours, restrict intake criteria, curtail service provision, eliminate programs, and reduce or eliminate crucial supportive and social work services.

The report predicts that this year will be worse. The economic recession has undermined all of the traditional funding sources for legal services. In order to maintain critical services in 2009, many legal services programs went deeply into reserves, imposed salary and hiring freezes, furloughed staff and reduced or eliminated discretionary funding. They cannot absorb further funding shortfalls, which means further cuts to services in 2010. The District’s $700,000 cut to the public appropriation alone will likely mean the loss of eight or nine lawyers.

The Commission is working hard to alert the community to this crisis in legal services. Because of its efforts, the *Rationing Justice* report received news coverage, including a *Washington Post* editorial, articles in the *Washington Lawyer* and the *Washington Business Journal*, and a piece on WAMU’s *Morning Edition*. The Commission also distributed the report to City Council members, the Chief Judges of the D.C. Courts, and the Chairs of the twelve largest D.C. law firms.

**C. Law Firm and Legal Services Leaders Meeting**

In January 2010 the Commission convened an unprecedented meeting of law firm and legal services leaders to discuss how business model changes at law firms may impact pro bono and monetary support for legal services. Historically, District law firms have been among the most generous in the nation in supporting legal services. Each year District firms provide thousands of pro bono hours to support poor communities as well as millions of dollars in monetary donations and in-kind support.

The recession threatens to jeopardize this vital support. Severe drops in the level of law firm business, combined with the substantial pressure on law firms to curtail spending, may make it difficult for firms to maintain financial support
to providers at historic levels. Simultaneously, as firms downsize and reduce significantly their classes of incoming lawyers, the pool of potential pro bono attorneys is likely to shrink.

In response, the Commission convened a meeting of the Chairs of twelve of the largest law firms and the Executive Directors of six legal services providers to discuss strategies for preserving support for legal services. It was clear from the discussion that changes in law firm models present both challenges and opportunities. The Commission is following up on a number of promising initiatives that were proposed and will foster an ongoing dialogue to ensure that pro bono and monetary support are not unintended casualties of changes in the legal industry.

D. Private Funding for Legal Services

With legal needs rising and the capacity of the legal services community shrinking, it is more important than ever to shore up existing funding streams for legal services. In 2009 the Commission focused its efforts on establishing benchmarks for law firm giving. At the Commission’s request, Ernst & Young collected data from legal services organizations about the level of monetary and in-kind donations that firms provided to them during 2007. The Commission studied that data and is in the process of developing a proposed multi-tier benchmark structure. We anticipate that benchmarks will increase the net level of support by fostering healthy competition among firms. It will also give firms some guidance about giving levels across the city.

The Commission is also examining strategies to increase giving by individual lawyers. In the spring the Commission collaborated with the D.C. Bar Pro Bono Program and the Consortium of Legal Services Providers to prepare an advertisement for the Washington Lawyer seeking support for legal services. The advertisement ran in the July, August and September issues.

E. Courts and OAH

The Commission works closely with both the D.C. Courts and the Office of Administrative Hearings (OAH) to remove barriers to accessing these judicial systems. The Commission meets regularly with Chief Judge Satterfield and with OAH’s Pro Bono Committee to raise issues of concern and to work on joint projects. Our work has included:

- Commission representatives are working intensively with the court to develop a “fast-track” mechanism for tenants to seek resolution of housing code violations. The Court intends to launch a project this spring through which tenants will be able to affirmatively raise housing conditions claims in the civil division, rather than waiting for landlords to bring a case for possession in Landlord-Tenant court. This project will bring much needed relief to countless tenants who tolerate egregious housing conditions and did not previously have a mechanism to easily seek redress.
• The Commission worked with the Court to clarify its policies on the provision of interpreters in civil cases. In March 2009 it formally provided comments on the administrative order governing provision of interpreters.

• The Commission brought to the Court’s attention problems with the in forma pauperis (IFP) application and process. The Court convened an ad hoc task force to address the issue and in March 2010 promulgated a new court-wide IFP application and form for the Civil and Family Divisions. This change will make it easier for indigent residents to seek and obtain fee waivers.

• The Commission worked with the Court to remedy problems arising from the District’s failure to update the self-support reserve in child support cases. It drafted an information sheet for the Court explaining the problem. At the Commission’s urging the Court sent notices to obligors whose child support calculations might have been affected.

• The Commission is continuing to work with the Court to alert child support obligors to modify their child support orders before they are incarcerated. At the Commission’s urging, the Court alerted judges hearing criminal matters of the importance of raising child support obligations at the time of sentencing. The Commission is continuing to explore statutory and other strategies for addressing this problem.

• The Commission submitted an extensive list of recommendations to the Court regarding changes to court procedures and rules in paternity/support cases. Those recommendations are being considered by the court committee charged with developing rules for the Paternity/Support branch.

• The Commission provided comments on proposed changes to Landlord/Tenant court rules and forms.

• The Commission assisted with planning for the D.C. Court’s Resource Center Roundtable in April 2009 and created a bench card with information about each of the Court Pro Se Resource Centers for use in the December 2009 judicial training on working with pro se litigants. The Commission also made a presentation at the Court’s May 2009 pro se training.

• The Commission met with the new Chief Administrative Law Judge of OAH to apprise her of the Commission’s objectives and concerns.

• The Commission has collaborated with OAH as it develops long-range plans to assist its self-represented litigants through a resource center in the future, and as it seeks in the short-term to provide help to litigants of claims in various subject areas, including unemployment compensation and public benefits.

• The Commission assisted OAH in updating its legal services referral lists.
F. Outreach

The Commission is working closely with the Consortium of Legal Services Providers to disseminate information about the availability of legal services.

- This winter the Commission created and distributed a “Winter Emergencies” flyer that provides information about the hypothermia shelter, utility assistance and other vital emergency resources. The Commission worked with the Interpreter Bank to have the flyer translated into other languages including Spanish, Chinese, Korean and Vietnamese.

- The Commission is also providing support to a collaboration between the East of the River Casehandlers and the UDC-David A. Clarke School of Law to do a leafleting campaign this year in Wards 7 and 8. The campaign will provide information about how to access legal services.

- The Commission is in the process of compiling reference materials about legal services for use in public libraries.

- Last March, the Commission compiled and disseminated information to legal services providers about organizations that help low-income residents to file their taxes so that residents can take advantage of the earned income tax credit and the child tax credit.

- The Commission remained available to support the efforts of local clergy interested in making connections to the legal services community.

G. National

The Commission continues to be actively involved in national access to justice efforts. We made a presentation at the May 2009 National Meeting of State Access to Justice Chairs.

III. Commission Support

Support and staff for the Commission are provided through the District of Columbia Access to Justice Foundation. Foundation Board members are listed at Attachment IV. Neither the Foundation nor the Commission receives any public funds and therefore relies on local law firms and individuals to support its work. The Commission is profoundly grateful to a number of the District’s leading law firms and other donors for their generous support. A list of donors is included at Attachment V.

The Commission also is fortunate to have relationships with a number of leading firms that provide other vital support. Venable LLP provides the Commission with free office space, equipment and office services. DLA Piper is the Commission’s pro bono research counsel and provided an Interim Executive Director to the Commission, on a pro bono basis, during staff changes this fall. Steptoe & Johnson LLP is the Foundation’s pro bono general counsel and also produced this Annual Report. Goodwin Procter LLP provides space for the Commission’s general meetings. We could not carry out our mission without the generous assistance of these organizations.

OAH holds hearings and decides appeals involving 25 different agencies, including:

- Child and Family Services Agency
- Child Support Services Division of the Office of Attorney General
- Dept. of Consumer and Regulatory Affairs
- Dept. of Disability Services
- Dept. of Employment Services
- Dept. of Health Care Finance
- Dept. of Housing and Community Development
- Dept. of Human Services
- Dept. of Mental Health
IV. Conclusion

We hope this report illuminates both the challenges that lay before us and the vital work the Commission is doing to meet those challenges. There is no doubt that the recession has made the task of making access to justice a reality for poor residents more arduous. With requests for legal assistance increasing and becoming more urgent, while provider capacity is becoming more strained, the infusion of resources into the legal services network is more important than ever. The Commission is working intently to call attention throughout the legal community to the crisis in legal services, to shore up both public and private funding, and to cultivate new partnerships. It is also redoubling its efforts to remove obstacles that hinder indigent residents from seeking redress through the courts.

The Commission greatly values its close partnerships with the courts, the legal services network, the Bar and the law firm community, all of which play an integral role in increasing access to justice. We firmly believe that as a community, we can marshal the resources and the will to improve the lives of our most vulnerable community members. We look forward to forging ahead together.

Online Legal Assistance:

LawHelp.org/DC

Helping D.C. area residents find legal aid referrals and self-help resources.
ATTACHMENT 1

DISTRICT OF COLUMBIA ACCESS TO JUSTICE COMMISSIONERS

Peter Edelman  
Georgetown University Law Center  
Chair

Hon. Inez Smith Reid  
D.C. Court of Appeals  
Vice-Chair

Rawle Andrews  
AARP of Maryland

Patty Mullahy Fugere  
Washington Legal Clinic for the Homeless

Shirley Massey  
Injured Workers Advocate (Lay Member)

Jon Bouker  
Arent Fox LLP

Nathalie Gilfoyle  
American Psychological Association

Stephen J. Pollak  
Goodwin Procter LLP

Shelley Broderick  
UDC David A. Clark School of Law

Maria Gomez  
Mary’s Center for Maternal & Child Care

Hon. Hiram Puig-Lugo  
D.C. Superior Court

Joanne Doddy Fort  
Urban Service Systems Corporation

Sue Sie Ju  
Bread for the City

Hon. Vanessa Ruiz  
D.C. Court of Appeals

Jonathan M. Smith  
Legal Aid Society

STAFF

Jessica Rosenbaum  
Executive Director

Susan D. Gilbert  
Deputy Director
FY 2009 PUBLICLY-FUNDED LEGAL SERVICES GRANTS

The DC Bar Foundation awarded in April 2009 grants to 14 organizations. The funds provide continued support for the shared legal interpreter bank, and the expanded housing legal services and neighborhood/community-based services.

COMMUNITY INTERPRETER BANK

This project, funded since FY2007, has emerged as a national model for the providing interpreters to people needing legal services. The project developed a curriculum, training and deployed interpreters, and training and supported legal services organizations. The Interpreter Bank has 21 interpreters speaking 11 different languages who are meeting the needs of low-income residents seeking legal services.

LEGAL SERVICES GRANTS

Court-Based Legal Services: Grants to 4 organizations Legal Aid Society, Neighborhood Legal Services Program, Bread for the City, and DC Law Students in Court provide critical same-day service to tenants in Landlord-Tenant Court. The project leverages additional pro bono support for tenants through the Pro Bono Landlord-Tenant Resource Center. Tenants arriving without a lawyer have the opportunity to be represented that day; the partner organizations subsequently screen and accept many of the matters for extended representation.

Asian-Pacific American Legal Resource Center – Housing & Community Justice Project: The project will provide legal services, education, and language access through bilingual attorneys for LEP Asian immigrant families in Chinatown, Columbia Heights, and Mt Pleasant, focusing on critical housing needs.

Bread for the City – Southeast Community Lawyering Project: The lawyer working out of Bread for the City’s general social services office in Ward 8 has worked with the Ward 8 community to identify and meet community legal needs, including the needs of people in the Barry Farms Housing Project.

Children’s Law Center – Southeast Health Access Project: Two lawyers work with medical staff through the Children’s National Medical Center’s Southeast Clinics to address children’s non-medical barriers to health, through legal services.
DC Employment Justice Center: A bilingual lawyer will work with Spanish-speaking DC resident low-wage workers on compensation issues.

Legal Aid Society of DC – Southeast Neighborhood Access Project: Lawyers provide services through offices co-located with other services in Ward 8, to facilitate residents’ access. Sites include THEARC, Advocates for Justice & Education, and the Domestic Violence Intake Center.

Legal Counsel for the Elderly – Alternatives to Eviction: A lawyer working with low-income elderly tenants in public and subsidized housing who are at risk of eviction.

Legal Counsel for the Elderly – Project HELP: A lawyer provides housecalls to homebound low-income elders who need wills, advance directives, public benefits assistance, and help with consumer and housing issues.

Neighborhood Legal Services Program – NE/SE Expansion: Lawyers opened offices and expanded basic legal services in neighborhoods previously unserved. Local residents now have easy access to lawyers who can help them address essential needs through legal services on housing, family law issues, public benefits, and consumer matters among others.

ULS – DC Jail Project: A lawyer provides legal services and direct advocacy for inmates in the DC Jail with mental disabilities, helping to ensure for many the successful transition back to the community.

USCRI – DC Foster Children Project: USCRI will provide immigration services to children in the District’s foster care system; enabling them to, among other things, qualify for federal rather than simply local assistance.

WEAVE – NE Lighthouse Center for Healing – Legal Services Project: Three lawyers and a paralegal provide legal services to low-income victims of domestic violence, and are co-located with the DC Rape Crisis Center, the Sexual Assault Nurse Examiner Program, the Metropolitan Police Department, and others.

WWLC – Southeast Legal Services Program: Two lawyers at WWLC’s Max Robinson Center provide legal services to low-income people in Wards 7 and 8, co-located with the on-site medical services. Matters include health insurance issues, federal and local public benefits issues, health care, and employment.
Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia

A Joint Report of the D.C. Access to Justice Commission and the D.C. Consortium of Legal Services Providers

Executive Summary

Legal Assistance is a Critical Strand in the Safety Net for Low-Income DC Residents

Low-income District residents rely on legal services providers to help them secure the most basic of human needs. Without advocates, poor residents are forced to navigate intimidating and complex court processes alone, often when their homes, their children, their safety, or their only income stream is in jeopardy. For our many neighbors who are chronically ill, physically or mentally disabled, victims of violence or who struggle with literacy or English proficiency issues, this is a particularly treacherous proposition.

Anti-Poverty Legal Services Have Been Devastated by the Recession

The recession has devastated the capacity of legal services providers to meet these urgent needs. At a time when clients are seeking services in greater numbers, legal services organizations are being forced to reduce or eliminate critical programs. A rapid decline in funding due to the recession has required drastic measures, including laying off staff, closing intake sites, and reducing services: funding for legal assistance in the District is down $4.5 million, a drop of more than 25% — 21 fewer lawyers are working for legal services programs; legal services programs have lost 30 paralegals, policy advocates, social workers and others who provide critical support for clients.

Communities Living in Poverty Are In Crisis

The recession has had a severe impact on District neighborhoods with high concentrations of poverty. Unemployment in low-income neighborhoods is at shocking levels: official unemployment in Ward 8 is 28.3%, in Ward 7 it is 19.5%, and in Ward 5 it is 15.5%. The highest rates of foreclosure are in the poorest neighborhoods. Homeowners and landlords are losing their homes and families are being displaced or become homeless. Government and charities have fewer resources to assist. The increased economic despair combined with reduced services makes it harder for persons in poverty to meet basic human needs. Lawyers can often stave off the worst impacts by defending eviction actions, helping clients obtain unemployment or other benefits, or securing access to nutrition or health care or ensuring that a family is safe from domestic violence.

Critical Legal Services Have Been Cut

The reduction in legal services has widened the justice gap. Twenty-one fewer lawyers means that approximately 1050 fewer cases a year are handled before the courts or an administrative agency and 2100 fewer clients receive counseling, advice or brief services. In addition, programs have had to reduce intake hours, restrict intake criteria, reduce provision of extended representation in favor of providing brief assistance, narrow priorities, and reduce or eliminate crucial supportive and social work services.

2010 Will Be Worse

Every key funding source for legal services will decrease in 2010. District funding for civil legal services has already been cut by $700,000. Foundation funding is expected to decline due to the drop in endowment equity. Law firm and individual giving, already down by 20%, will be flat or decrease further. Legal services organizations have used up much of their flexibility. In 2009, programs went deeply into reserves, imposed salary and hiring freezes, furloughed staff and reduced and eliminated discretionary spending. There is little room to address further funding shortfalls. This means that fewer and fewer clients will receive desperately needed legal assistance.
ATTACHMENT 3

RATIONING JUSTICE: THE EFFECT OF THE RECESSION ON ACCESS TO JUSTICE IN THE DISTRICT OF COLUMBIA

A Joint Report of the D.C. Access to Justice Commission and the D.C. Consortium of Legal Services Providers
November 2009

It is the daily; it is the small; it is the cumulative injuries of little people that we are here to
protect...If we are able to keep our democracy, there must be one commandment:
THOU SHALT NOT RATION JUSTICE.

– Learned Hand, Address at the 75th anniversary celebration of the
Legal Aid Society of New York, February 16, 1951

INTRODUCTION

Legal assistance is a critical strand in the safety net for low-income individuals and families. As the
economy forces working families into poverty and social services and government resources become
scarce, more people are facing problems meeting basic human needs. Lawyers can make a difference
by keeping families in their homes, helping children get health care, securing wrongfully denied
unemployment benefits and helping persons with disabilities get Social Security.

Even before the recession, there was not enough legal aid to meet the needs of low-income District
residents. In its report, “Justice for All?” the D.C. Access to Justice Commission documented the
gaps in legal services for individuals living in poverty. In every area examined – housing, family
law, consumer, education, employment, health access, public benefits, disability, immigration –
there were vastly more clients who needed help than services available to assist them.

The recession is decreasing the availability of legal services while the need is increasing. Virtually every
source of funding for civil legal aid in the District has diminished over the last year. Programs report
losing more than 25% in revenue and have shed approximately 12.5% of their lawyers and nearly
40% of non-lawyer staff, including paralegals, social workers, case managers and administrative
support. As a result of these staff cuts, thousands of District residents who need legal help did not
get served.

There will be more cuts in services and staff in 2010. The crisis in representation will grow worse
before it gets better. District government and grant funding have already been cut for the next
year and, to sustain as many services as possible, legal assistance organizations have used reserves,
imposed hiring freezes, required unpaid furloughs, frozen or cut salaries and overworked their staffs.
As we enter another year of recession, available options are drying up, and further service cuts are
inevitable.


D.C. ACCESS TO JUSTICE COMMISSION

ANNUAL REPORT

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The District has been hit hard by the recession. Those at the bottom of the economic scale have been hit the hardest. The official unemployment rate for the District is 11.4%. But the District-wide rate masks the dramatic effect the recession has had in some parts of the city. The unemployment rate in Ward 8 is 28.3%, nearly 10 times the Ward 3 rate of 3.2%. Ward 7 has not fared much better at 19.5% nor Ward 5 at 15.5%.

Individuals living in neighborhoods with high rates of poverty are facing desperate conditions. Jobs that paid subsistence wages have disappeared, government programs have shrunk and charities have fewer resources to help. What is a recession in the rest of the District is a deep depression in Wards 5, 7 and 8.

Residents in these neighborhoods are facing new legal problems caused by the recession. Legal services lawyers estimate a 20% increase in demand for help. This probably underestimates the actual need. It is the experience of long-time legal services lawyers that many potential clients fail to seek services because they lack information about their rights, they cannot afford transportation or they are discouraged by prior experiences of not receiving services at an office that was too busy to help.

Among the new or increased needs are the following:

- **Foreclosures:** Foreclosures are on the rise and the hardest hit areas are East of the River. There were 2,353 single family homes and condos placed in foreclosure in the second quarter of 2009 alone. Very few of the homeowners had access to counsel to raise defenses or negotiate a settlement that would save a family’s home.

- **Tenancy after Foreclosure:** An increasing number of homes in foreclosure are rental properties. While tenants have a right to stay and become a tenant of the bank, the right is hard to enforce without a lawyer. Without readily available counsel, tenants are forced to bear the expense and disruption of moving and sometimes the trauma of becoming homeless while the house sits unoccupied.

- **Domestic Violence:** The incidence and severity of domestic violence is on the rise. As economic stress puts pressure on families, and women face increasing economic dependence, intimate partner violence increases. Access to a lawyer is often the only way for a woman and her children to escape from an abusive relationship. This is a specialty area of law that requires extensive training and the ability to provide representation on a broad range of collateral issues for a sustained period of time.

- **Homelessness:** Homelessness is increasing and...
prevention services are being cut. Veterans still coming to terms with their service in Iraq and Afghanistan have joined the increasing number of families who are homeless because of the economy. Homeless families face a shelter system lacking the capacity to respond to their needs. With more than 400 families on the waiting list for emergency shelter, it often takes a lawyer’s intervention before a family can secure a safe place to sleep at night. Without a lawyer, homeless families have slept outdoors, in cars and abandoned buildings.

- **Unemployment Benefits:** As more jobs are lost, unemployment benefits are an increasingly important source of income for low-income families. Unemployment disputes have generated a large number of appeals to the Office of Administrative Hearings (OAH) where having a lawyer is often necessary to argue a complex legal issue.

- **Temporary Assistance for Needy Families, Food Stamps, Disability and other Benefits:** Public benefits are the final safety net for many families. There are 16,000 families in the District that rely on TANF for basic cash support and hunger is on the rise. A bureaucratic error, language barriers, or mental disabilities can make the system challenging to navigate and mistakes impossible to correct without the help of a lawyer.

At the same time that needs are increasing, there are fewer places for clients to turn for help. Social services are less available as non-profits have fewer resources and government budget shortfalls have forced cuts. The following are illustrations of safety net cuts that increase the need for legal assistance.

- **Emergency Rental Assistance Program (ERAP):** ERAP is a District program that helps very low-income tenants — those living within 125% of poverty — to remain in their homes. If a qualified tenant falls behind in rent and is sued by her landlord, an ERAP grant can help the tenant avoid eviction. With the rise in unemployment, there has been an increased demand on the ERAP program. ERAP funds were exhausted mid-way through 2009 and no new funds have been made available six weeks into the District’s new fiscal year.

- **Local Rental Supplement:** As a result of the high cost of rental housing, very low-income tenants can often stay in their homes only with help from the District’s Local Rent Supplement program. The District cut $2 million from this program in July.

- **Food Banks and Private Charities:** Food banks, feeding programs and other charitable supports are stretched to the limit. Demand is greater but programs are receiving less funding and providing fewer services. Not only have private donations dropped, but government support is lower as well. In July, the District stripped millions of dollars from its budget that were designated for critical social services.

- **Domestic Violence Services:** Despite the increasing need for services for survivors of domestic violence, the District substantially cut funding for domestic violence services this summer. Without support, many women and their children will have no choice but to remain with their abuser.

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x [http://dcfpi.org/?p=926](http://dcfpi.org/?p=926)

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• **Homeless Services:** To help address its budget shortfall, the District cut $12 million from its homeless services budget.\(^{xvii}\) This represents a 20% cut at a time of increasing need.

Lawyers are sometimes essential for individuals and families to meet basic needs of security, nutrition, health care and shelter. The resulting savings, whether measured by the social costs or by the reduction in expenses to the District for services, far outstrip the cost of providing a lawyer who can solve a problem.

### Legal Services Providers Have Decreased Resources in the Face of Rising Needs

**Budgets Reduced by More Than $4.5 Million — a Drop of More than 25%**

The budgets of legal assistance organizations are under extreme pressure. The Access to Justice Commission (Commission) and the Consortium of Legal Services Providers (Consortium) conducted a survey of legal services programs in the fall of 2009 to determine the impact of the decreased funding. The survey results are alarming.

Prior to the recession, the combined budgets of legal assistance organizations were approximately $18 million.\(^{xviii}\) Not every program provided information about its fundraising, but among those who did the survey found that funding for legal services has decreased by more than $4.5 million.\(^{xix}\) These funding reductions represent more than 25% of the legal services network, and this figure does not even include the cut in public funding for fiscal year 2010 that occurred this past summer. Moreover, providers project further reductions in other funding sources. Unless there is a substantial change, 2010 will be an even more difficult year than 2009.

Reductions in funding were nearly universal. Small programs and large, general and specialty, free-standing organizations and those embedded in a social services agency: every corner of the sector was affected. Support declined from all sources: individual, institutional, foundation and government.

The major components of the cuts are the following:

**IOLTA:** Among the largest sources of funding for legal assistance is the Interest on Lawyers Trust Account (IOLTA) program. By rule of the D.C. Court of Appeals, lawyers who practice in the District and hold client money are currently required in most circumstances to keep nominal or short-term funds in a pooled client trust account. Unless lawyers have opted out of the District’s IOLTA program, these accounts earn interest, which is paid to the D.C. Bar Foundation to support grants to legal assistance organizations in the District.

In 2008, the D.C. Bar Foundation received over $2 million from IOLTA accounts. As a result principally of the unprecedented decline in interest rates, IOLTA revenue dropped by over 60% in 2009. The Foundation was forced to dip into its reserves to sustain grant giving at just half of the prior year’s level. These grants may well be smaller in 2010 if interest rates decrease as experts predict.

**Private Bar:** Lawyers and law firms are generous funders of legal services in the District. Each year they contribute millions of dollars in donations and in volunteer services. Programs rely on their financial support which comprises as much as

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\(^{xvii}\) [http://dcfpi.org/?p=926](http://dcfpi.org/?p=926)

\(^{xviii}\) The “Justice for All?” report found that the network was $15 million and 140 lawyers in 2005. Since that time, the District provided $3.6 million in support which added approximately 30 additional lawyers.

\(^{xix}\) Among the organizations that reported a loss in revenue are providers that deliver a range of services to their clients beyond legal services. In a few cases, reported loss of revenue includes other supportive services.
two-thirds of the funding for some organizations.

There was a large drop in law firm business in late 2008 and throughout 2009. Law firms laid off associates and staff and incoming lawyers were deferred from three months to a year because there was not enough paying work to keep them busy. Declining business also affected charitable contributions. Providers report that law firms and individual lawyers are giving as much as 20% less in 2009 than in the prior year. This represents an estimated decrease of approximately $1 million.xxx

District of Columbia Government: The District of Columbia government provides support for legal services through a grant to the D.C. Bar Foundation and grants directly to providers through the Office of Victim Services. The Bar Foundation grant, which is completing its third year, was $3,285,000. For 2010, this grant has been reduced by 20% to $2,639,000. These funds are re-granted to providers. The funding reduction will require providers to reduce their ranks of lawyers by an additional 6 to 9 lawyers.xxi

The District’s Office of Victim Services (OVS) supports domestic violence services, including legal services. The funding for OVS was cut by $340,000 for the budget year beginning in October 2009. Much of these funds came out of civil legal services, which resulted in several programs being cut, including one program that was cut nearly $90,000.xxxi

Other government agencies that provide grants for civil legal services were also cut. One program lost $50,000 in funding from the Office of Latino Affairs and another more than $20,000 from the Office of Asian and Pacific Islander Affairs.

Private Foundations: Charitable giving decreased significantly in 2008 and 2009. Nationally, giving is down $7 billion from 2007, with social services organizations taking the biggest hit.xxxii Giving for human services funding dropped by 12.7% nationwide.

Local foundations have worked hard to sustain existing grantees, especially in the legal services community. Although their assets are down, many have maintained near level funding by cutting operating costs and dipping into capital. These measures cannot continue in 2010. The Foundation Center predicts that giving will decline another 8% to 13% in 2010.xxxiv Legal services programs will not be spared as foundations are forced to reduce their grant programs.

Staff Cuts Have Been Substantial — 21 Lawyers and 30 Other Staff

In the face of this loss in income, legal assistance organizations report that they have reduced their attorney staff by at least twenty-one full-time attorney positions. Lawyers were not the only positions affected. At least thirty non-lawyer positions were cut, including sixteen paralegals, several case managers and outreach workers, two social workers, a translator, two therapists, six managers, a project coordinator and two advocacy directors. Every position was key to the effective and efficient delivery of legal assistance. Without these staff, the quality and quantity of services diminishes.

The magnitude of these cuts is staggering. The

xxxii Giving Reaches 300 billion.pdf and http://online.wsj.com/article/SB1000142405270000000000000.html?mod=WSJ_hp_sections_personalfinance
twenty-one-lawyer reduction represents more than 12% of the 170 lawyers who were representing District residents living in poverty. The thirty non-lawyer staff cut represents 37% of the non-lawyer workforce.

**Other Measures Have Been Taken — Cuts in Salary and Benefits**

Legal services lawyers are among the most poorly paid in the profession. With starting salaries hovering at $40,000 per year and only modest increases for experienced lawyers, compensation was an issue before the recession. The effects of the recession have made matters worse. To address fiscal shortfalls and sustain services, programs have:

- Cut or frozen salaries;
- Forced staff to take unpaid leave;
- Reduced or eliminated benefits including health insurance and 401(k) contributions; and
- Reduced or eliminated budgets for training and professional development.

These cuts have an impact that goes far beyond the number of staff involved. To be effective, legal services needs a corps of well-trained and experienced lawyers. Many areas of poverty law are complex. The lives of people living in poverty are highly regulated and the intersection between statutes, regulations and decisional laws is not obvious to those without experience. Many of the cases that legal services lawyers handle are in specialty courts with unique rules and unwritten customs. The ability to effectively build a trusting relationship with a low-income client takes years of practicing anti-poverty law to develop.

The effect of cuts in salary, benefits and professional development budgets will drive good lawyers from anti-poverty law practice. The impact will be felt by clients who receive a diminished level of service and less skilled counsel.

**Deferred Associates, While Helpful, Are Not an Adequate Solution**

Business has slowed during the recession for many major law firms. In response, several firms have generously made unneeded first year associates available to public interest organizations, including District legal services groups. Deferred associates are doing important work, but because they are only available for up to one year, typically do not yet have a license to practice law and are early in their careers, they cannot accomplish the results or do the work of a permanent staff lawyer.

**LEGAL SERVICES HAVE DECREASED AS A RESULT OF A SUBSTANTIAL DROP IN FUNDING AND DISTRICT RESIDENTS AND NEIGHBORHOODS ARE BEING IMPACTED**

Cuts to the budgets of legal services providers have serious effects on low-income residents and on the health and life of the District and its neighborhoods. Among the effects are the following:

**Fewer Clients are Being Served**

On average, annually each legal services lawyer can handle 50 cases in litigation and 100 matters with assistance short of litigation. The D.C. Bar Foundation collects statistical information on the work performed by grantees. These figures are an average for a legal services lawyer. Some lawyers who handle simpler matters might carry a higher caseload and those with more complex cases will handle fewer over the course of a year.
Supportive Services Beyond Legal Services are Being Eliminated

The loss of social workers, case managers and therapists within legal services organizations will be felt particularly acutely. Legal services clients present with multiple and complex issues. Legal issues are often intertwined with social problems, and the ability to benefit from counsel depends on the resolution of a social services need. A protective order for a woman escaping violence, for example, has little meaning if she has no place to live, cannot access public benefits, or has no child care so she can work. The loss of social workers and other non-legal staff from legal services organizations dilutes the impact legal remedies can have in improving clients’ lives.

Legal Services and Access Points are Being Limited

Surveyed legal services organizations reported using a range of strategies in response to reduced funding. Many of these strategies have the effect of limiting client access or the services being provided, including:

- Reduced walk-in hours for new clients to seek services. The effect is to create a barrier to access and significantly reduce the availability of services for clients seeking representation for an emergency;
- Decreased provision of extended representation in favor of increased brief services and pro se support. xxvi By taking this step, programs may help the same number of clients, but are unable to help clients reach as positive a resolution or help clients with more complex legal problems;
- Narrower scope of representation. Some programs report limiting their services to fewer types of cases. This step limits access as well as making it harder to achieve results for clients with multiple interrelated issues.
- Prioritizing cases that will resolve quickly and require fewer resources or for which there is a higher likelihood of success. This strategy makes it harder for the most needy or vulnerable clients to get help.

Law Reform and Structural Advocacy Efforts Have Been Reduced

In order to help individual clients, legal services organizations report that they have reduced advocacy, systemic litigation and the pursuit of test cases. Often, broad-based change can be the most effective strategy to address the needs of a large group of clients. There are many examples of legal services lawyers achieving large scale change by working with agencies to draft regulations, working with the Court to change its rules, working with the Council to pass a new law, developing decisional law in the Court of Appeals and bringing litigation to correct a widespread practice of an industry or the government. With fewer resources, legal services organizations are forced to focus on individuals’ emergency needs rather than on longer term, higher impact results.

Programs Have Been Eliminated

The recession has caused the loss of critical components or practice areas in larger organizations. For example:

- A program that serves domestic violence survivors dramatically reduced counseling services. The program had the only therapeutic program specifically designed for domestic violence.
- A legal services program embedded in a larger more holistic agency severely limited all but

xxvi The Pro Bono Program’s Landlord and Tenant Resource Center reports an increase of persons served from 4,687 to 5,296 over the last two fiscal years. This increase is likely the result of both an overall increase in need and a reduction of services by other providers.
internal referrals for public benefits and family law cases.

- A provider eliminated staff for a long-standing project on education reform, leaving the community with fewer tools to participate in the District government’s recent efforts to focus on improving the schools.

**Legal Services Programs Now Lack the Resources to Meet Emerging Needs**

Legal services organizations have been struggling to address the most critical needs of District residents, sustain as many of their services as possible, and deal with the loss of staff and the impact on staff morale. As a result, it has been nearly impossible to develop new strategies or adjust priorities to address emerging issues such as the foreclosure crisis or the needs of homeless veterans.

**Conclusion**

Somewhere in the District a family won’t have enough to eat tonight because of a bureaucratic mistake. A child will be hospitalized yet again because the rat droppings in her apartment caused an asthma attack. A veteran who has served in combat will sleep on the street because he could not access the public benefits, mental health services and shelter to which he is entitled. At this time of great and increasing need, lawyers could make a difference for this family, this child and this veteran — as well as the thousands of District residents who face similar problems.

Because of the crisis in legal services, there are simply not enough lawyers to help our suffering, low-income neighbors. And next year there will be even fewer. The safety net has been seriously weakened and legal services providers, which have historically been a critical component of that safety net, have fewer resources available to help the most vulnerable members of our community. The result is that justice is being rationed. And, as is too often the case, those most in need are getting too small a measure of justice.
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