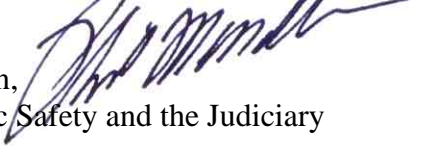


**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON PUBLIC SAFETY AND THE JUDICIARY
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

TO: All Councilmembers

FROM: Councilmember Phil Mendelson,
Chairman, Committee on Public Safety and the Judiciary 

DATE: May 13, 2010

SUBJECT: Report on the Support of Civil Legal Services for Low-Income Residents and Underserved Communities in the District of Columbia

The Committee on Public Safety and the Judiciary presents the following report to the Council regarding the District of Columbia's support of civil legal services for low and moderate income residents. During its consideration of the Mayor's Fiscal Year 2011 budget proposal, the Committee received extensive testimony and comments in support of increased funding for civil legal services for the District's underserved communities. In response, the Committee issues this report to highlight the importance of the District's continued commitment to this integral facet of our social safety net.

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I. INTRODUCTION

Equal access to justice, without regard to income, is fundamental to our system of justice and integral to our democratic society. Litigants who are represented by counsel are statistically more successful than their unrepresented counterparts, and legal assistance can be essential to an individual's ability to access necessary services and programs. The District of Columbia, as our nation's capital and the seat of democracy, should serve as a model in the provision of legal services and ensure all residents have equal access to the justice system.

The current economic climate has had a very real impact on access to justice in the District. This impact is twofold. First, across-the-board decreases in revenue have reduced the public and private contributions that fund civil legal services. The reduction in the District

government's contribution for fiscal year 2010 mirrored reductions in the amount given by individuals, institutions, and foundations. The broad scale of cuts has had a corresponding impact on the availability of civil legal services. Second, the recession has predictably exacerbated the need for legal services as residents are increasingly confronted with threats to such basic needs such as security, nutrition, healthcare, and shelter. As noted recently by two prominent members of the District's judiciary: "[t]he domino effect of the recession has created new pockets of poverty or threatened poverty in the District".¹ Whether ironic or self-evident: this increase in need for civil legal services has been met with a decrease of availability.

Further exacerbating the problem, economic factors have dictated cuts to other government programs and social services resulting in even fewer resources for underserved communities. Though they may only be one strand, civil legal services are "a *critical* strand in the safety net for low-income individuals and families."²

The Committee believes that fully funding civil legal services is not only necessary to maintain the District's safety net, but vital to closing the access-to-justice gap. The District's ability to identify adequate funding for legal assistance for our underserved communities can, for many residents, make a dramatic difference in their lives.

II. ACCESS TO JUSTICE

It is axiomatic that legal representation can dramatically affect the outcome of a matter: an attorney's assistance can be significant in navigating our complex legal system. But timely legal representation also can be significant in resolving problems before they result in litigation. The reality, however, is that many are unfamiliar with how to access legal services and cannot afford an attorney. Civil legal services attorneys are routinely called upon to help meet immediate and basic needs for their clients, such as preserving or obtaining shelter, accessing certain benefits for sustenance, or escaping from domestic violence. The help of legal counsel can be vital to resolving these issues and gaining access to justice.

In recognition of the unmet legal needs of low and moderate income residents, the District of Columbia Court of Appeals established the Access to Justice Commission ("Commission") to address this and other barriers to justice. In creating the Commission the court noted the growing complexity of civil legal services delivery and the corresponding need for leadership and effective coordination of civil equal justice efforts. The Commission was charged with the responsibility of "assuring high quality access for low and moderate income residents and others [...] who suffer disparate access barriers to the civil justice system, and with

¹ Letter from Eric T. Washington, Chief Judge, D.C. Court of Appeals, and Lee F. Satterfield, Chief Judge, D.C. Superior Court, to Phil Mendelson, Councilmember, Council of the District of Columbia, at 1 (Apr. 6, 2010).

² Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia, Joint Report of the District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers, at 1 (Nov. 2009), available at http://www.dccaccesstojustice.org/files/Rationing_Justice_Report_final_PDF_.pdf (last visited May 13, 2010) (emphasis added).

raising the profile in our community of the need for equal access to justice.”³ To accomplish this mission the seventeen member Commission works with the court, legal services providers, bar members, and other community leaders.

Since its establishment the Commission has successfully increased the funding for and coordination of civil legal services, and helped identify barriers to justice and potential solutions. In 2008, for example, the Commission issued a report that provided the District with its first comprehensive look at the civil legal service needs facing low-income residents and the capacity of legal service providers to respond to those needs.⁴ It recently followed up this study with an examination of the effects of the recession on civil legal needs, stressing the importance of continued funding of such services. *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia* (“*Rationing Justice*”),⁵ illustrates the detrimental impact of continued cuts to these services. Reduced funding, the report points out, not only means fewer attorneys and support staff, but also that remaining attorneys are seriously hampered in the services they are able to provide. The unmet legal needs of the District’s underserved suffer the brunt of this impact.

Without the aid of civil legal service providers, many District residents are at a disadvantage as they face legal issues related to housing, health care, family relations, employment, safety, and other fundamental matters. For many, the stakes could not be higher, but the worst could be avoided with the aid of legal counsel.

III. BENEFITS FROM CIVIL LEGAL SERVICES

The legal services community has estimated that the demand for legal assistance has increased by as much as 20 percent in the District as a result of the recession.⁶ The greatest increase in need tracks the areas of the city hit hardest by the economic downturn. In Ward 8,

³ District of Columbia Court of Appeals, Order Establishing District of Columbia Access to Justice Commission, Feb. 28, 2004 (as amended), available at http://www.dcaccessjustice.org/files/Court_Order_creating_DC-ATJ.pdf (last visited May 13, 2010). More specifically the Commission is charged with working to:

1. Establish a coordinated planning process that involves all members of the community who are affected by the crisis in equal access to justice in an effort to develop strategies to improve access and reduce barriers;
2. Facilitate efforts to create improved coordination and support of civil legal services programs;
3. Work with the courts, administrative agencies and lawmaking bodies to propose and promote rules and systemic changes that will open greater access to the justice system; and
4. Propose and promote strategies to generate adequate levels of public, private, and volunteer resources and funding for the District’s civil justice network and the access to justice initiatives identified by the Commission

⁴ See *Justice for All?: An Examination of the Civil Legal Needs of the District of Columbia’s Low-Income Community*, A Report of the District of Columbia Access to Justice Commission (2008), available at <http://www.dcaccessjustice.org/files/CivilLegalNeedsReport.pdf> (last visited May 13, 2010).

⁵ *Rationing Justice*, *supra* note 2.

⁶ *Office of the Attorney General: Budget Oversight Hearing Before Council of the District of Columbia Committee on Public Safety and the Judiciary*, at 4 (Apr. 30, 2010) (written testimony of Claudia A. Withers, Director of Programs, District of Columbia Bar Foundation).

for example, the unemployment rate has reached 28.3 percent, almost one-and-a-half times the 11.4 percent District-wide rate. At 19.5 percent, Ward 7 has the second highest unemployment rate, and Ward 5, at 15.5 percent, ranks third.⁷ While civil legal services are provided throughout the city, these hardest hit communities are in the greatest need.

The benefit of civil legal services for these, and other residents, spans from the simple to the complex, from helping access benefits to protecting an individual's dignity or safety. Members of the judiciary, practitioners, and organizational leaders all testified or contacted the Committee highlighting the importance of fully funding access to justice, and stressing the dramatic impact civil legal service lawyers can have on the lives of residents. Just a few of the areas where these services can be of incredible importance are described below.⁸

Foreclosures: At the end of last year, nearly 3,000 homes in the District were in foreclosure with another 8 percent in default.⁹ For many of these cases, additional defenses could be raised, or settlements negotiated, with the aid of legal counsel that could allow the individual or family to remain in their home. For example, the homeowner may not be aware of their right under District law to remain in the home after foreclosure as a tenant of the bank. Without legal counsel this tact is a difficult one to enforce.¹⁰

Domestic Violence: A family member in poverty, without economic independence, has limited options for escaping an abusive relationship. Economic pressures cause cuts in funding for the already limited options and services available for domestic violence victims. For a person seeking to escape abuse, obtaining counsel can be vital as there are specialized legal issues in this area that require knowledge on a range of issues.¹¹

Accessing Benefits: Accessing government benefits can have a dramatic benefit on the lives of low-income individuals and families. One of the primary benefits needed -- particularly in the current economic climate -- is unemployment insurance, but navigating complex legal issues before the Office of Administrative Hearings can be difficult without the aid of legal counsel. Additional benefit programs that provide access to housing, food, and healthcare,

⁷ Rationing Justice, *supra* note 2, at 2.

⁸ For a more thorough list of issues that civil legal services lawyers provide representation for, see Justice for All? Report, *supra* note 4, 5-8.

⁹ *Office of the Attorney General: Budget Oversight Hearing Before Council of the District of Columbia Committee on Public Safety and the Judiciary*, at 3 (Apr. 30, 2010) (written testimony of Kim Michele Keenan, President, District of Columbia Bar) (citing statistical information from Neighborhood DC).

¹⁰ *Office of the Attorney General: Budget Oversight Hearing Before Council of the District of Columbia Committee on Public Safety and the Judiciary*, at 2 (Apr. 30, 2010) (written testimony of Lee F. Satterfield, Chief Judge of the Superior Court of the District of Columbia).

¹¹ *Office of the Attorney General: Budget Oversight Hearing Before Council of the District of Columbia Committee on Public Safety and the Judiciary*, at 2 (Apr. 30, 2010) (written testimony of Jonathan M. Smith, Executive Director, Legal Aid Society of the District of Columbia).

are more easily attained with the help of an attorney. In many instances the services are vital to a person's continued sustenance.

Civil legal service lawyers can also help individuals maintain their own income, ensuring their continued self-sufficiency and alleviating the strain on diminishing governmental support and programs. The increase in demand for these services, however, is putting a strain on civil legal service lawyers. Consequently, less indigent clients are being served at the same time there is a greater need for service.

IV. HISTORICAL FUNDING OF CIVIL LEGAL SERVICES

Funding for civil legal services has historically stemmed from a range of public and private sources. Each of these sources, unfortunately, dramatically decreased their contributions for fiscal year 2010, with further reductions in the level of support projected in fiscal year 2011. In order to better understand the funding crisis, as well as the corresponding impact on services, several of the main contributors to civil legal services funding are examined more closely below:¹²

Interest on Lawyers Trust Accounts (IOLTA): The District's IOLTA program, created by the DC Court of Appeals in 1985, serves as an important source of funding for civil legal services. An IOLTA account is a trust account made up of client funds that are either small in amount or held for a short period of time. Interest earned on these accounts is administered by the DC Bar Foundation, which distributes funds to legal aid offices in the District.¹³

Private Bar: Both law firms and individual lawyers in the District have given generously to legal services in the past. However, with recession hurting the legal business the same as other sectors of the economy, contributions have recently fallen by as much as 20 percent, or \$1 million.¹⁴

Private Foundations: Similarly situated to their fellow contributors, charitable organizations have also seen their assets diminish as a result of the recession. Consequently, private foundations have limited their grant programs. This translates to fewer grants made to support civil legal services than in years past, with continued cuts expected in the upcoming fiscal year.¹⁵

The District: While District government is certainly cognizant of its obligation to preserve the social safety net for District residents, it has been forced -- like so many other jurisdictions around the country -- to make difficult choices in the

¹² See Rationing Justice, *supra* note 2, at 4-6 (providing more detail on the funding sources for civil legal services).

¹³ See DC Bar Foundation website, IOLTA Info, available at <http://www.dcbfoundation.org/iolta.html> (last visited May 13, 2010).

¹⁴ Rationing Justice, *supra* note 2, at 5.

¹⁵ *Id.*

provision of funding for programs and services. In the current fiscal year funding was decreased by \$900,000. An additional \$1.2 million cut was proposed by the Mayor for fiscal year 2011.

The District government's support for civil legal services comes in the form of two programs. The first is direct funding for civil legal services by way of a grant to the DC Bar Foundation. As established by D.C. Code § 1-301.114, District funding to support these services flows through, not to, the Office of the Attorney General (OAG) to the DC Bar Foundation.¹⁶ Though the Council has continued to dedicate funding for this purpose since fiscal year 2007, issues surrounding actual transfer of the funds have recently encountered efforts by the agency to redirect funding or place limitations or requirements on their use.

In addition to providing direct funding for civil legal services, the District also funds the Poverty Lawyer Loan Repayment Program (LRAP) to help alleviate burdensome law school debt for attorneys providing direct legal services to the District's low-income population. Established by the Council in 2006, and administered by the OAG, LRAP is a loan assistance repayment program created in recognition of the enormous sacrifices made by poverty lawyers so that they can perform their job. By addressing one of the financial barriers to public interest work -- the burden of educational debt -- this loan repayment program is an important and cost effective way for the District to expand access to justice for its citizens who are poor and indigent. The program not only helps civil legal services attorneys who provide such services to indigent clients, it also attracts more attorneys into the realm of public interest law.

In order to receive repayment assistance through LRAP, lawyers must work at an organization that is eligible to receive funds from the District of Columbia Bar Foundation, be residents of the District of Columbia, meet certain income restrictions, and, to ensure commitment to public interest law, work one full year of qualifying work in poverty law before loans are forgiven.¹⁷

As shown in the table below, the District's funding commitment to these programs has been historically strong.

¹⁶ Subsection (a) of that section provides: "[s]ubject to the availability of appropriations, the [OAG] shall award a grant to the District of Columbia Bar Foundation... for the purpose of the Bar Foundation providing support to nonprofit organizations that deliver civil legal services to low income and underserved District residents".

¹⁷ See Bill 16-660, the "District of Columbia Poverty Lawyers Loan Assistance Repayment Program Act of 2006," Report of the Committee on Judiciary, 2 (July 6, 2006).

**Funding for Poverty Lawyer Loan Assistance Program &
 Civil Legal Services, by Fiscal Year**

	Fiscal Year 2007	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010 ¹⁸	Fiscal Year 2010 (2 nd)	Mayor FY 2011 ¹⁹
LRAP	N/A	250,000	315,000	275,000	221,000	N/A
Civil Legal Services	3,200,000	2,950,000	3,285,000	3,010,000	2,639,000	N/A
Total Funds	3,200,000	3,200,000	3,600,000	3,285,000	2,860,000	1,800,000

Source: Access to Justice Commission.

Total funding (public and private) for District civil legal services was approximately \$18 million prior to the recession. Current funding, however, has decreased by more than \$4.5 million, or approximately 25 percent. At the start of fiscal year 2010, civil legal services organization lost 12 percent of their lawyers and nearly 40 percent of their non-legal staff.²⁰ These cuts occurred even before taking into account the additional \$900,000 reduction in funding from the District. In addition to having an effect on the numbers of clients that can be served, support services have largely been eliminated, and other programs -- such as those for domestic violence victims -- have had to be eliminated because of budget cutbacks. Without resources to keep them open, providers have also had to limit the number of access points for civil legal services, making it less likely that an attorney will be available in the area where a person in need is located.²¹

Pro bono representation from the large population of attorneys in the District can help to cope with the increase in need. Private attorneys have indeed stepped up to meet this increased need. As the President of the DC Bar has stated, however, this help is only effective if there is a “strong core of civil legal service providers who can develop cases and projects, train volunteers, and mentor lawyers throughout the *pro bono* representation.”²² But with staff and resource cutbacks, the District is losing the attorneys most suited for this role. Working in complex and highly specialized areas of poverty law, attorneys gain unique skills and institutional knowledge. Without their assistance, the District loses those best able to coordinate private practice attorneys providing services to indigent clients.

According to the Chair of the Access to Justice Commission, Peter Edelman, funds supporting civil legal services have a multiplier effect: each dollar lost in funding often requires \$4 to \$7 in government spending for other programs and services to resolve an individual’s need. By way of example, an attorney’s help to prevent eviction of a family from their home avoids an

¹⁸ Title III(24), D.C. Act 18-119, “Fiscal Year 2010 Budget Request Act of 2010” (enrolled original).

¹⁹ Title III(25), Bill 18-728, “Fiscal Year 2011 Budget Request Act of 2010” (introduced version).

²⁰ Rationing Justice, *supra* note 2, at 4.

²¹ *Id.* at 7.

²² Keenan testimony, *supra* note 9, at 2.

estimated \$25,000 cost to the District for housing the same family in a shelter for a year.²³ Likewise, a civil legal services attorney can help keep a District resident employed, allowing that individual to maintain his or her own income stream and prevent strain on limited benefits programs. As Mr. Edelman noted during his public testimony, funding for civil legal services is magnified by the *pro bono* contributions they facilitate: publicly funded organizations are able to leverage additional amounts in services from lawyers willing to donate their time.²⁴

V. FISCAL YEAR 2011 BUDGET PROPOSAL

The Mayor's proposed Fiscal Year 2011 budget includes just \$1.8 million in one-time funding to support both the civil legal services program and the LRAP program (\$1,579,000 for civil legal services, and \$221,000 for LRAP). The Mayor's previous fiscal year proposal sought to reduce funding for both programs by a total of \$700,000. In both instances funds were to be redirected to the operations of the OAG, and in both instances funds were all or partially restored for civil legal services by the Council. This prompted the Council to have these programs housed separately -- both conceptually and physically -- from the OAG, and so it directed that the:

Poverty Lawyer Assistance Program and Civil Legal Services, which are managed through the D.C. Bar Foundation, shall be listed as separate programs (Organizational Level 2) in a single paper agency (Organizational Level 1), called Access to Justice, that is separate from the Office of the Attorney General.²⁵

The Mayor's Fiscal Year 2011 Budget Request Act of 2010,²⁶ however, ignored this directive. The legislation itself, inconsistent with years past, also omitted any funding for civil legal services or the LRAP program. The Committee was assured by the Executive, however, that \$1.8 million for these two program was included in OAG's proposed budget (Object Class 41: Contractual Services - Other). Even so, the proposal would cut funding for these services by \$1,060,000, or 37 percent, from the fiscal year 2010 level.

According to Mr. Edelman, the Mayor's proposed cut would be crippling to the provision of civil legal services and would lessen the effectiveness of our system of justice.²⁷ This sentiment was shared by those who testified, as well as the 60 plus organizations that wrote the Committee.

²³ *Office of the Attorney General: Budget Oversight Hearing Before Council of the District of Columbia Committee on Public Safety and the Judiciary*, at 4 (Apr. 30, 2010) (written testimony of Peter B. Edelman, Chair, District of Columbia Access to Justice Commission).

²⁴ *Id.*

²⁵ Section 3(3)(G) of R18-337, the "Fiscal Year 2011 Budget Submission Requirement Resolution of 2009."

²⁶ Bill 18-728, *supra* note 19.

²⁷ Edelman testimony, *supra* note 23, at 2.

VI. TESTIMONY AND COMMENTS

A number of individuals testified at the Committee's April 30, 2010 public budget oversight hearing regarding the Mayor's proposed fiscal year 2011 budget for civil legal services and the Poverty Lawyer Loan Repayment Program. The testimony received at that hearing is briefly summarized below; copies of written received statements are attached to this report (*see* appendix B).

Public Hearing Testimony:

Peter Edelman, Chair, District of Columbia Access to Justice Commission:

Mr. Edelman urged the Council to fully fund the civil legal services program to address the scarcity of services available to low and moderate income District residents. His testimony focused not only on the importance of these funds for underserved communities, but also how these funds increase efficiencies to make the entire system of justice work better.

Lee F. Satterfield, Chief Judge, Superior Court of the District of Columbia:

Chief Judge Satterfield testified regarding his unique perspective on the benefits of civil legal services as the Superior Court is the tribunal of first resort for many of the litigants receiving such assistance. Chief Judge Satterfield stated the court is daily witness to the tremendous impact of civil legal services for the unrepresented litigants who appeal to courts in a legal crisis of the greatest possible consequence.

Inez Smith Reid, Associate Judge, on behalf of Eric T. Washington, Jr., Chief Judge, District of Columbia Court of Appeals: Judge Reid testified in support of the full funding request of the Access to Justice Commission. Judge Reid remarked that the courts have done much to forge a fair and accessible judicial system for residents, but that meaningful justice is inevitably impacted by such forces as economic status and language barriers. The impact of these funds, she noted, produces dividends in overcoming the barriers to justice.

Kim Michele Keenan, President, District of Columbia Bar: Ms. Keenan testified regarding the impact of the proposed funding cut on the ability of private sector lawyers to do effective *pro bono* work. Ms. Keenan noted that while the District's law firms have sustained their *pro bono* commitments during the economic downturn, the District's financial supplement to these efforts is critical. She also stated that the legal community is working diligently to address the challenge of a large increase in civil legal service needs with shrinking resources.

Claudia A. Withers, Director of Programs, District of Columbia Bar Foundation: Ms. Withers testified that supporting civil legal services programs through funding is not only the right thing to do, but is a sound investment in the

District. Ms. Withers provided real examples of such savings, noting the expediency with which a legal services attorney recoups their value in cost savings to the District. She also remarked on the value of the District's Poverty Lawyer Loan Repayment Program.

Jonathan M. Smith, Executive Director, Legal Aid Society of the District of Columbia: Mr. Smith testified to the increasing need for civil legal services, not only to battle chronic poverty but to handle cases stemming from the rise of poverty in the District. In addition to calling attention to a number of cases where civil legal service lawyers have made a difference in people's lives, Mr. Smith also commented on the need to fund the LRAP Program to ensure that poverty lawyers can continue to do their noble work.

Comments and Letters of Support:

In addition, the Committee received an extensive outpouring of support for increased funding for these programs both prior and subsequent to the hearing. Letters from members of the judiciary, civil legal service providers, community groups, the D.C. Bar and a number of voluntary bars, show a broad range of support for increased funding. Copies of these letters and comments are attached to this report (*see* appendix C).

VII. COMMITTEE RECOMMENDATIONS

As stated above, the Committee believes the District must commit to providing full funding for the civil legal services and LRAP programs. The services these funds support are vital to many low-income residents and underserved communities. To help solidify the District's support for these programs, the Committee makes the following recommendations. As these recommendations are, in-part, executed in the Committee's Fiscal Year 2011 budget report,²⁸ this report should be read in conjunction with the recommendations and findings of that document.

Recommendation 1: Divest District Civil Legal Services Funding from OAG's Budget

The Committee has long been concerned that housing the funding for these critical services within the OAG leaves the funding at risk of redirection or reprogramming. Additionally, OAG has also sought in the past to place limitations or restrictions on the funds; this despite any authority to do so. The funding for this program currently passes *through* the

²⁸ Report and Recommendations of the Committee on Public Safety & the Judiciary on the Fiscal Year 2011 Budget and corresponding Budget Support Act, Committee on Public Safety and the Judiciary (May 13, 2010), available at [http://www.dccouncil.us/mendelson/archive_pr/CPSJ%20FY%202011%20Bdgt%20Rpt%20-%20FINAL%20\(unsigned\).pdf](http://www.dccouncil.us/mendelson/archive_pr/CPSJ%20FY%202011%20Bdgt%20Rpt%20-%20FINAL%20(unsigned).pdf) (last visited May 13, 2010).

OAG, not to it. To protect the funding dedicated by the Council for this purpose it is necessary to separate the funds from the agency in which it is currently housed.

Recommendations in the Committee's fiscal year 2011 budget report realize this recommendation by creating a separate paper agency to house funding for civil legal services (however, the LRAP program, governed by a different provision in the law,²⁹ continues to be housed in OAG). More specifically, the Committee recommends creating a line item in the Budget Request Act (Bill 18-728) for civil legal services funding -- separate from OAG -- and recommends the following subtitle be added to the Budget Support Act (Bill 18-731):

SUBTITLE --. ACCESS TO JUSTICE INITIATIVE ESTABLISHMENT ACT OF 2010.

To establish the Access to Justice Initiative as a paper agency.

Sec. --. Short title.

This subtitle may be cited as the "Access to Justice Initiative Establishment Act of 2010".

Sec. --. Access to Justice Initiative.

(a) Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Council establishes the Access to Justice Initiative, as a single paper agency, for the purposes of providing support to nonprofit organizations that deliver civil legal services to low-income and under-served District residents.

(b) The Office of the Chief Financial Officer shall award a grant in each fiscal year from, from the budget of the Access to Justice Initiative, to the District of Columbia Bar Foundation ("Bar Foundation") for the purpose of the Bar Foundation providing support to nonprofit organizations that deliver civil legal services to low-income and under-served District residents, including funds for a shared legal interpreter bank. Payment shall be submitted by October 15th of each fiscal year in the amount specified by an act of the Council.

(c) The Office of the Chief Financial Officer shall permit the Bar Foundation to use up to 5% of the grant awarded in each fiscal year for reasonable administrative expenses associated with the provision of support to the nonprofit organizations.

²⁹ D.C. OFFICIAL CODE § 1-308.21 *et seq.* (2009 Supp.).

Sec. --. Conforming Amendment.

Section 3082 of the Fiscal Year 2008 Budget Support Act of 2007, effective September 18, 2007, (D.C. Law 17-20; D.C. Official Code § 1-301.114) is repealed.

Recommendation 2: Provide Long-term Commitment to Civil Legal Services in the District Budget and Financial Plan:

As stated repeatedly in testimony and comments received by the Committee, cuts to the District's contribution have far-reaching effects on the delivery of civil legal services. This funding has historically been treated as a one-time commitment from the District, with initial funding proposals appearing to dwindle each year. The uncertainty of funding -- though the Council consistently reverses, in whole or in part, proposed cuts to these programs -- makes the already difficult job of civil legal service providers even more difficult.

Identifying adequate funding for civil legal services and the LRAP program is a policy priority for the District, and rightly so. As such, future budget proposals should include greater commitment to these services. While the District is forced to make cuts to other services and programs because of budget constraints, it must be cognizant that the most poverty stricken and underserved communities rely on these services to meet some of the most basic of human needs.

As repeatedly testified to at the April 30, 2010 hearing, the District's funding helps avoid costlier expenses in other District services. The knowledge that continued funding is reliable will also permit providers of civil legal services to better plan for operations. This, for example, can help with the retention of well trained attorneys to organize the use of *pro bono* assistance from private practitioners to meet the continually growing need. This investment, integral as it is to the District's social safety net, pays dividends.

VIII. COMMITTEE MEMBERSHIP AND ACTION

The Council of the District of Columbia Committee on Public Safety and the Judiciary is comprised of the following members for Council Period 18:

Phil Mendelson, Chairperson	At-Large
Yvette M. Alexander	Ward 7
Muriel Bowser	Ward 4
Mary M. Cheh	Ward 3
Jack Evans	Ward 2

On Thursday, May 13, 2010, the Committee met to consider the Committee on Public Safety and the Judiciary's Report on the Support of Civil Legal Services for Low-Income Residents and Underserved Communities in the District of Columbia. Chairperson Mendelson called the meeting to order at 12:40 p.m.; the report was the second item on the agenda. After ascertaining a quorum (Chairperson Mendelson, and Councilmembers Alexander, Bowser, Cheh, and Evans present), Chairperson Mendelson moved the report with leave for staff to make technical and editorial changes. After opportunity for further discussion, the report was approved unanimously (Chairperson Mendelson, and Councilmember Alexander, Bowser, Cheh, and Evans voting aye). The meeting adjourned at 1:07 p.m.

IX. APPENDICES

- Appendix A:** "Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia," Joint Report of the District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers (November 2009)
- Appendix B:** Testimony before the Council of the District of Columbia Committee on Public Safety and the Judiciary, (April 30, 2010)
- Appendix C:** Letters Regarding Funding for Civil Legal Services and Poverty Lawyer Loan Repayment Programs

APPENDIX A: "RATIONING JUSTICE" REPORT

"Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia," Joint Report of the District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers (November 2009)

Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia

A Joint Report of the District of Columbia 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.¹ 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.

The Increased Need for Legal Services is Driven by the Recession

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%.ⁱⁱ 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%.ⁱⁱⁱ

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.^{iv} 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.^v

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.^{vi} There were 2,353 single family homes and condos placed in foreclosure in the second quarter of 2009 alone.^{vii} 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.^{viii} 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.^{ix} 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.^x 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^{xi} and hunger is on the rise.^{xii} 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.^{xiii} 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.^{xiv} 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.^{xv}

- *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.^{xvi} Without support, many women and their children will have no choice but to remain with their abuser.
- *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 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.^{xx}

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.^{xxii}

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.^{xxiii} 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.^{xxiv} 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 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.^{xxv} During this year, when legal needs are more acute and urgent, the network of legal services providers lost the capacity to represent 1,050 clients. In addition, as many as 2,100 low-income District residents in need of advice, brief assistance, help with representing themselves or to reach a settlement were not served.

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 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.

ⁱ <http://www.dcaccessjustice.org/files/CivilLegalNeedsReport.pdf>

ⁱⁱ <http://newsroom.dc.gov/show.aspx/agency/does/section/2/release/18391>

ⁱⁱⁱ <http://washington.bizjournals.com/washington/stories/2009/11/02/daily35.html?surround=lfm>

^{iv} <http://www.dccbarfoundation.org/documents/ProviderListeningSessionsJan09.REPORT.pdf>

^v In addition, as intake workers and other staff of social and human services agencies are cut due to the recession, fewer clients are screened and assessed for legal issues. Many legal problems are identified through screenings by non-legal providers and cuts in those organizations reduce the number of clients referred to legal services providers for help.

^{vi} http://www.neighborhoodinfodc.org/housing/DCHousingMonitor_2009_2/Table5.pdf. The highest rates of foreclosure are in Wards 7 and 8, with Wards 4 and 5 close behind. Twenty three per thousand of homes in Wards 7 and twenty-one per thousand of homes in Ward 8 are in foreclosure, while fewer than three per thousand are in foreclosure in Ward 3.

^{vii} <http://www.neighborhoodinfodc.org/foreclosure/>

^{viii} “A landlord-tenant dispute, like any other lawsuit, cannot be resolved with due process of law unless both parties have had a fair opportunity to present their cases. Our courts were never intended to serve as rubber stamps for landlords seeking to evict their tenants, but rather to see that justice be done before a man is evicted from his home.” *Pernell v. Southall Realty*, 416 U.S. 363, 385 (1974)

^{ix} <http://new.vawnet.org/category/Documents.php?docid=2187>

^x <http://dcfpi.org/?p=926>

^{xi} <http://dcfpi.org/wp-content/uploads/2009/11/11-12-09TANFreport.pdf>

^{xii} <http://www.dcaccessjustice.org/files/CivilLegalNeedsReport.pdf>

^{xiii} <http://dcfpi.org/wp-content/uploads/2009/03/erap.pdf>

^{xiv} <http://www.capitalareafoodbank.org/wp-content/uploads/2009/08/2009metropolitanareahungerconference1.pdf>. Nearly 12% of District residents are defined by the federal government as food insecure. <http://www.dchunger.org/about/facts.html>.

^{xv} <http://www.dccouncil.washington.dc.us/fiscalyear2009and2010budgetgapclosing>

^{xvi} <http://www.washingtonpost.com/wp-dyn/content/article/2009/09/30/AR2009093004837.html>

^{xvii} <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.

^{xx} Prior to the recession, individual lawyer and law firms contributed \$5.3 million.
<http://www.dcccesstojustice.org/files/CivilLegalNeedsReport.pdf> at 43.

^{xxi} The costs associated with the salary, benefits and overhead of a legal services lawyer is generally between \$75,000 and \$100,000.

^{xxii} http://cfo.dc.gov/cfo/frames.asp?doc=/cfo/lib/cfo/budget/2010/revised_071709/dc_gov_vol_2_fy_2010_budget_-_agency_budget_chapters_part_i.pdf at C-145, and <http://dcfpi.org/wp-content/uploads/2009/07/7-23-09-mayors-budget-proposal.pdf>

^{xxiii} http://www.aafrc.org/press_releases/gusa/GivingReaches300billion.pdf and http://online.wsj.com/article/SB10001424052748704500604574481773446591750.html?mod=WSJ_hpp_sections_personalfinance.

^{xxiv} http://www.foundationcenter.org/gainknowledge/research/pdf/researchadvisory_economy_200911.pdf

^{xxv} 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.

^{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.

APPENDIX B: TESTIMONY

The Committee on Public Safety and the Judiciary's heard from the following individuals at its April 30, 2010 public budget oversight hearing regarding the Mayor's proposed fiscal year 2011 budget for civil legal serves and the Poverty Lawyer Loan Repayment Program. The testimony received is summarized briefly in section VI of this report; copies of written statements are attached.

Peter Edelman, Chair, District of Columbia Access to Justice Commission

Lee F. Satterfield, Chief Judge, Superior Court of the District of Columbia

Inez Smith Reid, Associate Judge, on behalf of Eric T. Washington, Jr., Chief Judge, District of Columbia Court of Appeals

Kim Michele Keenan, President, District of Columbia Bar

Claudia A. Withers, Director of Programs, District of Columbia Bar Foundation

Jonathan M. Smith, Executive Director, Legal Aid Society of the District of Columbia

**Public Hearing on Mayor Fenty's Fiscal Year 2011 Budget Request
for the Office of the Attorney General**

**Before the Council of the District of Columbia
Committee on Public Safety and the Judiciary**

Testimony of Peter B. Edelman

District of Columbia Access to Justice Commission

April 30, 2010

Mr. Chairman and members of the Committee, thank you for the opportunity to testify this morning. My name is Peter Edelman, and I am a professor at Georgetown University Law School and Faculty Director of the University's Center on Poverty, Inequality, and Public Policy. I am here in my capacity as Chair of the District of Columbia Access to Justice Commission. As you know, the Commission was created by the D.C. Court of Appeals to address the scarcity of civil legal services available to low and moderate income District residents and to remove barriers these residents face in navigating the civil justice system. We are proud to have D.C. Court of Appeals and Superior Court judges, leaders of the D.C. Bar and the D.C. Bar Foundation, legal services providers and other community leaders working together on the Commission to improve the lives of the District's most vulnerable residents.

The District, along with 49 other jurisdictions, provides greatly needed support for legal services. The Council's vital support has greatly enhanced access to justice efforts in the District. These funds have brought lawyers to shamefully underserved communities across the city, particularly east of the Anacostia River. They have supported a shared legal interpreter bank that makes it possible for clients who are limited English proficient or deaf to communicate with their attorneys and have some measure of equal access to the justice system. They have

also helped legal services organizations to hire and retain talented and committed staff attorneys, who work at substantially lower wages and with fewer resources, to stave off legal crises for indigent District residents.

I am here because the Mayor's proposed budget would cripple this program and, in the process, make our system of justice both less effective and less efficient.

I know that these are hard times for our nation and for the District. Revenues have fallen, unemployment and foreclosures have risen, and more D.C. residents—especially children—are living in poverty. I also know every member of the Council agrees that the last thing any of us wants to do is harm the people who are in desperate need of help in this troubled time. Yet the Mayor's proposed funding cut would slash the Access to Justice budget to half of what it was in fiscal year 2009. This will force legal services organizations to cut attorneys and staff and severely reduce the number of people that they can help. Combined with the FY 2010 20% funding cut, which will hit the network next month, this cut will cost the District 18 – 20 legal services attorneys. This is on top of the 21 attorneys lost in 2009 due to the recession. As a result, thousands of District residents, many with resolvable legal issues, will not get legal assistance.

Legal services are stretched to the limit. Cuts in staff mean cuts in services. How will they choose who to help and who will be left to fend for themselves? How will they choose who to help and who will be left to fend for themselves? A returning Iraq veteran who has been denied disability benefits or a sick child who cannot get health insurance? A domestic violence victim or an elderly client being victimized by her caregiver? A single mother of three losing her

home or a single mother of three losing her food stamps? And the tragedy is that many of the people they will turn away will have fully resolvable legal problems. With counsel, the legal crises could be averted. Without counsel they will fend for themselves, usually with devastating consequences.

The excellent testimony of Judge Reid, Chief Judge Satterfield, D.C. Bar President Kim Keenan, Legal Aid Society Executive Director Jonathan Smith, and D.C. Bar Foundation Director of Programs Claudia Withers admirably describes the impact these funds are having across the city and the terrible damage that the proposed cut would cause. I will not duplicate their presentations. What I would like to focus on is how these funds are needed to make the entire system work better and what other jurisdictions have done to protect access to legal services.

Access to Justice Funds Have a Multiplier Effect

Every dollar cut from legal services does not just injure low-income individuals; it also results in greater costs elsewhere, often in public collars. Based on research studies around the country, each dollar of legal aid money lost often requires \$4 to \$7 in government spending to pick up the pieces. For example, legal services attorneys help individuals secure veterans, disability, social security, and medical benefits from federal sources. When these federal benefits replace state and local benefits, the savings can be significant. A recent report found that the Disability Benefits Project in Massachusetts generated more than \$7.7 million in federal revenue in 2007 using just \$1.2 million in state funding.

You have heard other witnesses discuss the costs to the public fisc when a family is evicted. It is estimated to cost more than \$25,000 to house a family in an apartment-style shelter for a year. And that does not account for the additional costs to the city in emergency services, public benefits, and medical care when a family falls into utter crisis, and the long term costs as a result of the interruption to education or other social consequences of homelessness for children. Given these costs, a publicly funded attorney averting evictions quickly recoups for the District the cost of her salary, while also sparing a family the trauma of losing their home. And of course the work legal services providers do benefits the District more broadly. They enforce the city's building codes, preserving property value and maintaining neighborhoods. They keep residents employed, preventing further strain on public benefit programs. They uncover predatory lending and other schemes that prey on elderly residents. They keep families self-sufficient and mitigate reliance on costly public support systems.

Access to Justice dollars are also magnified by the tremendous pro bono contributions they facilitate. District law firms are among the most generous in the nation in providing help to those most in need. But these pro bono hours simply cannot be leveraged to their maximum effect without legal services lawyers to identify cases, and provide training, supervision and quality control. One publicly funded organization with a \$3 million budget was able to leverage \$7 million in pro bono services in 2009. That means that every dollar contributed either by the District or by a private donor, multiplies itself by more than three. And that story is repeated throughout the District.

Other States Have Recognized the Importance of Public Funding for Legal Services

While revenues are down everywhere, many other jurisdictions have understood the importance of legal services and have increased public funding, or have avoided making cuts even as they were making drastic reductions in other areas. Nationwide there has been a net increase of over \$20 million in support for legal services. In the group of states that decreased support, D.C.'s 20% cut for FY2010 is among the most severe. Only four states made deeper cuts percentage-wise than the District.

California, which is suffering the worst economic crisis in the country, not only maintained its funding, it recently passed a law creating a right to civil legal aid in certain types of cases for low-income residents. Texas increased funding by over \$13 million, and Connecticut increased funding by over \$7 million, to compensate for IOLTA losses. Just two weeks ago, the Maryland General Assembly took steps to generate \$6.1 million annually for civil legal services. The Washington legislature cut approximately \$5 billion in other spending but protected all funding for indigent defense and 98% of funding for civil legal services.

District residents need these services just as desperately as the residents of these other jurisdictions. In 2008, approximately 17% of the District's population was living below the poverty level, including 25% percent of children. The D.C. Fiscal Policy Institute estimates that 11,000 additional residents fell into poverty last year due to the recession. Unemployment is at historic post-Depression levels and nearly one in four District families with children had at least one period last year during which they lacked money to buy adequate food. Even before the recession, too few low-income residents had access to legal counsel. The recession has increased

foreclosures, driven up the number of individuals who rely on income and food security programs, increased the severity and incidence of domestic violence and made homelessness more prevalent. More families are living one legal problem away from disaster and there are fewer lawyers available to help them.

Many of these jurisdictions are facing daunting budget crises, just as we are. But those jurisdictions recognize that it is simply not effective to cut legal services, which ultimately save more money than they cost.

The Access to Justice Funds Preserve and Improve the Administration of Justice

While helping individual residents and saving the District money are critically important objectives, the Access to Justice funds have yet another essential effect. They preserve and improve our system of justice, which is a fundamental measure of how we judge ourselves as a society.

Last fall, in the middle of a historic economic crisis, Governor Schwarzenegger of California signed the bill I mentioned earlier that directed new revenue to supporting civil legal services programs for Californians who cannot afford counsel. While the District does not share California's court funding structure, the findings of the legislature in the Act, AB 590, are instructive. I would like to quote just a few of them here, with my emphasis added:

(f) The doctrine of equal justice under the law is based on two principles. One is that the substantive protections and obligations of the law shall be applied equally to everyone, no matter how high or low their station in life. The second principle involves access to the legal system. **Even if we have fair laws and an unbiased judiciary to apply them, true equality before the law will be thwarted if people cannot invoke the laws for their protection.** For persons without access, our system provides no

justice at all, a situation that may be far worse than one in which the laws expressly favor some and disfavor others.

(g) Many judicial leaders acknowledge that the disparity in outcomes is so great that indigent parties who lack representation regularly lose cases that they would win if they had counsel. **A growing body of empirical research confirms the widespread perception that parties who attempt to represent themselves are likely to lose, regardless of the merits of their case, particularly when the opposing party has a lawyer, while parties represented by counsel are far more likely to prevail.** Judicial leaders and scholars also believe that the presence of counsel encourages settlements. Just as importantly, court opinion surveys show that more than two-thirds of Californians believe low-income people usually receive worse outcomes in court than others. **Unfairness in court procedures and outcomes, whether real or perceived, threatens to undermine public trust and confidence in the courts.** The sense that court decisions are made through a process that is fair and just, both in substance and procedure, strongly affects public approval and confidence in California courts. As many legal and judicial leaders have noted, the combined effect of widespread financial inability to afford representation coupled with the severe disadvantages of appearing in court without an attorney foster a destructive perception that money drives the judicial system. **Respect for the law and the legal system is not encouraged if the public perceives, rightly or wrongly, that justice is mainly for the wealthy.**

(h) Equal access to justice without regard to income is a fundamental right in a democratic society. It is essential to the enforcement of all other rights and responsibilities in any society governed by the rule of law. It also is essential to the public's confidence in the legal system and its ability to reach just decisions.

(i) The adversarial system of justice relied upon in the United States inevitably allocates to the parties the primary responsibility for discovering the relevant evidence, finding the relevant legal principles, and presenting them to a neutral judge or jury. Discharging these responsibilities generally requires the knowledge and skills of a legally trained professional. The absence of representation not only disadvantages parties, it has a negative effect on the functioning of the judicial system. **When parties lack legal counsel, courts must cope with the need to provide guidance and assistance to ensure that the matter is properly administered and the parties receive a fair trial or hearing. Those efforts, however, deplete scarce court resources and negatively affect**

the court's ability to function as intended, including causing erroneous and incomplete pleadings, inaccurate information, unproductive court appearances, improper defaults, unnecessary continuances, delays in proceedings for all court users, and other problems that can ultimately subvert the administration of justice.

What is true in California is true in D.C.: legal aid saves the District time and expense in court costs and bolsters the public's faith in the system—a faith that has been shaken by the financial crisis and press reports of Wall Street versus Main Street. The Access to Justice funds improve the administration of justice and help us all be equal, in fact and not just theory, in the eyes of the law.

Conclusion

As I said at the outset, I understand that the Council is faced with hard choices. I urge you to keep in mind that cutting these funds will leave legal services providers and clients with impossible choices. As is documented in *Rationing Justice*, the joint report released by the Commission and the D.C. Consortium of Legal Services Providers,¹ organizations have already cut their budgets to the bone. In order to serve as many clients as possible in 2009, they depleted reserves, decreased salaries, used furloughs, narrowed programs, cut intake sites, cut training budgets, and cut back on systemic advocacy. In 2010 there is little left to cut but direct services to clients. How will they choose who to serve and who to turn away? Save a home or secure health care? Protect a domestic violence victim or an exploited senior citizen? The choices are impossible.

¹ The Report and Executive Summary are included as Attachment I.

As you have heard from others, only the District can help these programs running. No other funding source is expected to recover in 2010. I urge the Committee to fully fund this program.

Thank you for giving me the opportunity to testify. I look forward to answering any questions.

**Statement of Lee F. Satterfield, Chief Judge of the
Superior Court of the District of Columbia**

**Before the Council of the District of Columbia
Committee on Public Safety and the Judiciary**

**Public Hearing on Mayor Fenty's Fiscal Year 2011 Budget Request for the
Office of the Attorney General**

April 30, 2010

Good morning Chairman Mendelson and members of the Committee on Public Safety and the Judiciary. I am Judge Lee Satterfield, Chief Judge of the Superior Court of the District of Columbia. I am joined by Judge Inez Smith Reid, Associate Judge of the District of Columbia Court of Appeals and Vice-Chair of the D.C. Access to Justice Commission, and Peter Edelman, Chair of the Commission and Professor at Georgetown University Law Center.

I am pleased to join the leaders of the Access to Justice Commission, the District of Columbia Bar, the District of Columbia Bar Foundation and the legal services community to support the Commission's funding request for civil legal services. As Chief Judge Washington and I said in the letter we sent to all members of the Council on April 6, 2010, we encourage you to restore funding at a level of \$3.2 million. As the Chief Judge of D.C. Superior Court, the tribunal of first resort for many of the litigants who receive assistance through the Access to Justice Program, I have a unique vantage point on the tremendous impact these funds have on District residents and on the administration of justice in our courts.

The Court has long been concerned by the number of unrepresented litigants who must navigate our justice system. At Superior Court we see litigants every day who are in legal crisis and whose appeal to the courts is of the greatest possible consequence. As judges we strive to reach a just result in every case; but we all know how much more difficult it is to achieve this goal when litigants do not have counsel to educate them about their legal rights and choices, and to help them present evidence and make legal arguments. For the many litigants we see who struggle with mental illnesses, physical disabilities, histories of family violence, language access challenges and literacy issues, it is all the more difficult.

The participation of counsel improves the efficiency of the judicial process, but of greater significance it improves the quality of justice. We have taken numerous steps during my tenure to make it easier for litigants to proceed without lawyers. The Court has standardized the in forma pauperis procedure and application, simplified court forms, worked with the D.C. Bar Pro Bono Program to expand resource centers, enhanced the provision of interpreters, improved our website, and continuously trained judges and staff about working with pro se litigants. These efforts have been important to making the

Court meaningfully accessible to all, but for many, it is not a substitute for having counsel.

The law and judicial procedures are often complex, and necessarily so. Consider, for example, a dispute over the custody of a child. In such matters, the Court must reach findings of facts against the backdrop of a highly charged and emotional environment and apply those facts to the statutes and case law to resolve the dispute. Procedural and evidentiary rules assist the Court to get to the truth in an orderly and reliable manner. The statutes and cases, while technical, are carefully calibrated to protect the interests of all parties – the child, the custodial parent and the non-custodial parent. Without advocates trained in the law the rules and the law are hard to apply, but where the rules and the law are abandoned, justice cannot be reliably done. No litigant who can afford counsel proceeds on their own, nor should they. Those without means require counsel as well.

One must look no further than the Court-Based Legal Services Project to see the impact of the Access to Justice funds. That program provides same day representation to litigants in landlord-tenant court who are at risk of losing their homes. Because of that project, each year hundreds of unrepresented litigants in critical stages in their cases can get immediate help. This almost always changes the outcome and increases the quality of justice. The program has vastly increased the number of litigants with counsel and greatly assisted the court to make well-informed decisions in cases where the stakes are all too high.

One example of the success of this effort is the attorneys' work on behalf of tenants who are being forced out because of a foreclosure against the landlord. The Project identified these litigants from the Court's docket and litigated the right of tenants to stay and pay rent to the bank. As a result of effective advocacy, the frequency of these cases has diminished significantly. Without counsel, most of the tenants would have been forced to move.

In addition to assuring greater access to justice for individual litigants, the program greatly enhances the administration of justice in our courts. Attorneys ensure that cases are presented efficiently. As a result, dockets move more quickly and litigants spend less precious time waiting to be heard. Attorneys ensure that defenses and legal issues are raised in a timely fashion so that dispositive issues are resolved early and proceedings are not extended unnecessarily. Furthermore, attorneys ensure that litigants have – and feel that they have – an opportunity to be heard. This is pivotal to instilling faith in our judicial system.

While Justice is blind, it is not ignorant of the consequences of its decisions. As judges we are acutely aware of the impact on the lives of litigants of the way we resolve cases. It is of heightened concern where a litigant is engaged in a complex dispute and does not have a lawyer. The recession has increased the number of individuals with legal problems while decreasing the capacity of the legal services network to meet those needs. At the Superior Court, we see the evidence of this – and the consequences – first hand.

Court users appear with serious problems often entangled with a lack of adequate income and fewer options.

A foundational proposition of our justice system is that all individuals are treated equally. As judges we strive every day to meet this standard but we cannot do it alone. Having dedicated and committed attorneys, who work full time to protect the rights of our poorest and most underserved residents, is essential. We deeply appreciate your support for the civil legal services funding and hope that the Council will make every effort to ensure that the programs that rely on this critical funds receive the greatest possible support. Thank you for allowing me to address this important issue.

**Public Hearing on Mayor Fenty's Fiscal Year 2011 Budget Request
for the Office of the Attorney General**

**Before the Council of the District of Columbia
Committee on Public Safety and the Judiciary**

**Testimony of Inez Smith Reid, Associate Judge,
on Behalf of Eric T. Washington, Jr., Chief Judge of the
District of Columbia Court of Appeals**

April 30, 2010

Mr. Chairman and Members of the Committee, I am Inez Smith Reid, Associate Judge of the District of Columbia Court of Appeals. I am here on behalf of Chief Judge Eric Washington of the D.C. Court of Appeals. He wanted very much to be present this morning with Chief Judge Satterfield and Professor Edelman to give testimony in support of the Access to Justice Commission's FY 2011 funding request for civil legal services, but a prior out-of-town commitment precludes his presence.

I have chaired the D.C. Courts Standing Committee on Fairness and Access since its creation in 1996, in recognition of the need to improve public confidence in the D.C. Courts and to provide District residents with meaningful access to justice. Through the years much has been accomplished internally in our efforts to forge a fair and accessible judicial system for residents confronted with rather complicated civil legal problems but who cannot afford a lawyer. Early in its existence, however, the Committee realized that the task of achieving access to and fairness in the courts is much too large for the courts alone to handle. As we know, the search for meaningful justice is impacted by outside forces such as low economic status, limited English-speaking proficiency, and enormous

pressures on families that spillover into deep-seated civil legal problems.

Wisely, the D.C. Courts sought collaboration with legal service providers, members of the D.C. Bar, the D.C. Bar Foundation, and others to address barriers to civil justice, and the D.C. Court of Appeals established the Access to Justice Commission in 2004. The Commission is an essential and pivotal force; it realized immediate dividends benefitting the D.C. Courts and District residents - - both through Council funding for legal service providers, and through hands on help from the D.C. Bar Pro Bono Program and attorneys in private law firms who stepped up to join the collaborative endeavor. Permit me to make the following quick points to illustrate the dividends reaped from these collaborative endeavors.

First, litigants who are not represented by counsel, for example in landlord/tenant, domestic violence and family matters, may now go to several resource centers in court buildings to gain an understanding about papers that need to be filed in court, and how to process those papers. Second, these collaborative efforts, including the Council's funding, produced an increase in the capacity of legal service providers to represent some residents who have severely limited economic means, both at the trial court and the appeals court level. Third, District residents, who have arrived recently on American soil, with limited proficiency in English, have been able to receive understandable legal assistance prior to coming to court, due to Council funding of the Community Legal Interpreter Bank; this has resulted in vast improvements in the quality of court filings and

the administration of justice. Fourth and relatedly, the quality of appeals filed by low-income residents has improved substantially, and there is a corresponding reduction in the agony of our appeals court judges because meritorious legal issues are now being raised properly in the trial court and can be considered on appeal. Fifth, the work of the Commission and the involvement of the Council in providing funding for civil legal needs has prompted more attorneys, judges, and others to embrace the goals of fair and accessible D.C. Courts and meaningful justice for District residents.

Now, however, with the possibility of enormous decreases in Council funds, cuts in the staff of legal service providers, and cutbacks by law firms, the dividends which have come after so many years of persistent work by the D.C. Courts, the D.C. Bar, legal service providers, the D.C. Bar Foundation and others are in danger of disappearing in these harsh economic times. The harshness of economic realities may be seen in two statistics that Chief Judges Washington and Satterfield highlighted in their letter of April 6, 2010, to you, Mr. Chairman: “In Ward 8, 28.3% of adults are unemployed, and in Ward 7 unemployment stands at 19.5%.” The Chief Judges noted “[t]he domino effect of the recession” as it has created “new pockets of poverty or threatened poverty” in the District, resulting in “foreclosure-induced eviction notices,” an increase in women who are subjected to severe domestic violence due to economic pressures, and bewildered residents who do not know their rights or how to tackle these new and complicated legal realities, all of which require civil legal assistance for resolution.

Mr. Chairman and Members of the Committee, let me close with a thank you. Thank you for recognizing the need for funding to help meet serious civil legal needs in the District. Please know that Council funds have made a substantial and measurable contribution and difference as the D.C. Courts attempt to achieve their goal: “Open to All, Trusted By All, Justice for All.” Thank you for allowing me to present this testimony on behalf of Eric Washington, Chief Judge of the District of Columbia Court of Appeals.

**Public Hearing on Mayor Fenty's Fiscal Year 2010 Budget Request for the
Office of the Attorney General**

**Before the
Council of the District of Columbia Committee on Public Safety
and the Judiciary**

Testimony of Kim Michele Keenan, President
District of Columbia Bar

April 30, 2010

Good morning Chairman Mendelson and members of the Committee. My name is Kim Michele Keenan, and I am the principal of The Keenan Firm and practice with The McCammon Group. I am testifying before you today in my capacity as President of the District of Columbia Bar.

On behalf of the District of Columbia Bar, I urge you to support funding for Access to Justice grants in the amount of at least \$3.2 million. These funds provide critical legal assistance to communities across the District that have been hardest hit by the recession. We recognize that the District is facing a revenue shortfall and that the Council must make tough choices. However, the Access to Justice appropriation is essential to the District justice system, saves the District money and leverages private resources to provide services to District residents. A cut to the program now would be counterproductive as the District begins to recover from the financial crisis.

The mayor has proposed an appropriation of \$1.8 million dollars for fiscal year 2011. This is a cut of over a million dollars from FY 2010 funding, and a cut of fifty percent from the level of funding just two years ago. The reduction in funding between 2009 and the proposal for 2011 means that more than 2000 District residents will not get

a lawyer for a case in the Superior Court or before an administrative body and thousands of others will be denied advice, counsel and brief assistance.

You will hear other witnesses today eloquently describe the severe impact that this funding cut would have on the ability of civil legal services providers to serve the District's low-income residents -- to keep families in their homes, to help children access health care and education, to help domestic violence victims and their children to escape dangerous homes, to protect the elderly against predatory lenders. I will focus on the impact of this funding cut on the ability of private sector lawyers to do effective *pro bono* work.

The D.C. Bar is the second largest unified bar association in the country, and more than half of our 93,000 members live and work in the D.C. metropolitan area every day. The local bar recognizes its obligation to ensure that everyone has meaningful access to justice. District of Columbia lawyers and law firms give thousands of hours and millions of dollars to legal services every year. There is a strong *pro bono* culture among members of the D.C. Bar, and the District's law firms have sustained their *pro bono* commitments during these difficult economic times. *Pro bono* lawyers are an important component of the delivery of civil legal services.

Pro bono and charitable contributions, however, cannot do it alone. The District's financial support is critical. The private bar can only be effective if there is a strong core of civil legal services providers who can develop cases and projects, train volunteers, and mentor lawyers throughout the *pro bono* representation.

Despite the private bar's efforts, there is a large gap between available services and need. That gap has grown worse with the recession. Requests for assistance have

risen dramatically as the number of foreclosures and mortgage defaults have climbed and jobs have disappeared. According to Neighborhood D.C., a partnership of the Urban Institute and the Washington D.C. Local Initiatives Support Corporation (LISC), at the end of last year nearly 3,000 homes in the District were in foreclosure, and another 8% -- one in twelve -- were in default. The unemployment rate in Ward 8 was nearly 30%, and nearly 20% in Ward 7.

As part of the D.C. Bar's commitment to equal justice, we have created the *Pro Bono* Program which strives to mobilize lawyers to become involved and offers volunteer opportunities including the Advice and Referral Clinic, Advocacy & Justice Clinic, Bankruptcy Clinic and the Community Economic Development Project. I am proud to volunteer at the Pro Bono Program's Saturday morning walk-in clinics at Bread for the City in both Northwest and Southeast. These clinics have seen a dramatic increase in demand. On a recent sunny Saturday when I volunteered, more than a hundred District residents began lining up well before these two clinics open for the opportunity to meet with a Pro Bono lawyer. I can tell you that for even a seasoned lawyer such as myself, there is a need for the infrastructure, triage, staging, and training that civil legal service providers bring to the system. Even with twenty volunteer lawyers, the bare bones staff of legal service providers is barely able to manage. Further cuts will directly result in the need for more money for police officers to resolve disputes better left to protective orders, more social workers to deal with abuse, and more shelters to address those left homeless by foreclosure or the loss of benefits. Your legal community is working diligently to address the challenge of a 20% increase in the need for civil legal services

but we cannot do it alone and we cannot do it without the partnership of a strong legal services provider network.

Civil legal service providers are struggling to meet this rising need with shrinking resources. According to a joint report of the D.C. Access to Justice Commission and the D.C. Consortium of Legal Services Providers -- *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia* -- last year the District's legal services network saw all of its traditional sources of funding decline dramatically. In one year, these organizations lost 12% of their lawyers and nearly 40% of their non-legal staff. And that was before the cut of \$700,000 in the FY 2010 Access to Justice Program grant hit the system. We will see the impact of those FY 2010 cuts in the coming months.

I can assure you that the leadership and staff of the D.C. Bar have redoubled our efforts to get law firms and individual lawyers to provide financial support for the legal services providers as well as maintain and expand their *pro bono* commitments. *Pro bono* multiplies the effect of District funding. Strong and effective providers make *pro bono* possible and thus leverage District resources to serve many more clients. But providers are the central component.

Legal service providers identify needs for *pro bono* assistance, make the links between the clients and the *pro bono* lawyers, and provide training and mentoring to volunteers. Because of this important partnership, any reduction in the number of staff attorneys working for civil legal services providers will in turn result in less service by *pro bono* lawyers.

The members of the private bar stand ready to do their part to help meet the legal needs of people living in poverty in the District, but without a strong network of legal services providers to partner with, the potential resources in the private bar simply will not be tapped nor will they be used most effectively. The impact on the clients and community will be enormous. Our goal has been and continues to be providing citizens with quality legal service.

The Bar accepts our obligation to assist individuals living in poverty who need our assistance. Right now, we have the opportunity to make a difference for those who must overcome obstacles to obtain even the most basic of human necessities, a safe place to live, a basic education, and gainful employment; without an adequate civil legal network we can add justice to the list. The Bar and the District government share the obligation to provide access to equal justice for the citizens of the District of Columbia.

Chairman Mendelson, we urge you, Mayor Fenty, the Committee, and the Council to continue your commitment to helping the communities in our city living in poverty, especially during these challenging economic times. We understand that the proposed cuts stem from the District's own financial difficulties, but this is an investment that will pay dividends. Your support of our community's legal services programs will not only protect vulnerable citizens and ensure equal access to justice, but it will also play a critical role in the District's recovery.

We offer our full support for the Commission's request for at least \$3.2 million in funding for civil legal services for fiscal year 2011.

**Public Hearing on Mayor Fenty's Fiscal Year 2010 Budget Request for the
Office of the Attorney General**

**Before the Council of the District of Columbia
Committee on Public Safety and the Judiciary**

Testimony of Claudia A. Withers

District of Columbia Bar Foundation

April 30, 2010

Good morning, Chairman Mendelson and members of the Committee. My name is Claudia Withers. I am a resident of Ward 3 and I have been the Director of Programs at the D.C. Bar Foundation since 2006. The Foundation is the largest private funder of civil legal services for the District. Since 1977, we have helped lawyers and private firms provide financial support to organizations that assist residents who cannot afford to pay for legal help. We are honored to have these responsibilities.

As one of its functions, the Foundation administers the District's Access to Justice grant funds, awarding them competitively to non-profit legal services organizations. I am here to address the devastating effect that the Mayor's proposed cuts would have on our already reeling legal services network and the vulnerable people it serves.

In our last fiscal year, which ended in June 2009, the Foundation awarded fourteen grants through the Access to Justice Program to D.C.-based service providers that support our most at-risk communities. A full list of projects, as well as a map showing program locations, is attached. They include:

- The community legal interpreter bank, which enables individuals who have limited English proficiency or who are deaf to communicate with their attorneys;

- The Court-Based Legal Services Project, through which four organizations provide same day representation to individuals in landlord-tenant court who are at imminent risk of losing their homes;
- Neighborhood expansion projects which place attorneys in neighborhood offices east of the Anacostia River, where unemployment and need are the highest but, until these grants, few service providers were located;
- Project HELP, through which an attorney makes house calls to homebound elders to help them with urgent legal problems;
- The Health Access Project, which puts attorneys in National Children’s Medical Center clinics to take referrals directly from doctors and help families whose legal problems are jeopardizing their children’s health.

These programs help thousands of our most vulnerable District residents avoid legal disaster each year. The proposed cuts to this program will drastically undermine the ability of the network to maintain these critical services. The FY 2010 cuts, which are just hitting the network now, have already led to the potential loss of an attorney who works with seniors to forestall eviction from their homes, and will surely result in fewer services being provided in the neighborhoods and to underserved communities.

I would like to emphasize that supporting these programs is not just the right thing to do. It is a sound investment for the District. For example, in 2008 the Court-Based Legal Services “Attorney for the Day” project conservatively saved 200 people from wrongful evictions. When you consider that it costs more than \$25,000 to house a family in an apartment-style shelter for a year, the work of these attorneys yielded an estimated

savings for the District of more than \$5 million in return for a public investment of \$575,000. In the first half of FY 2009 alone, the Court-Based Legal Services attorneys have taken on almost 350 cases for low income tenants. A legal services attorney doing this work quickly recoups her salary in cost savings to the District when her client is spared eviction and reliance on more costly public systems.

The Foundation also runs the District's poverty lawyer loan repayment assistance program (LRAP) which helps legal services attorneys who are living and working in the District to pay back law school loans. LRAP enables D.C. organizations to hire and retain passionate and talented staff lawyers —lawyers who are facing tremendous educational debt and could be making many times their public service salary in the private sector. In FY 2009, the Foundation was able to support 35 attorneys through the District's LRAP program. In FY 2010 we are providing LRAPs for 33 attorneys. We know that many of our LRAP recipients can only stay in their current jobs because of the support from this program. Cutting these funds will likely mean losing these valuable attorneys from the network.

The Mayor's proposal to cut the funding for the Access to Justice Program could not come at a worse time for the District's network of legal services providers. If these cuts pass the Council, their impact will be deep and lasting. I know you are aware of the situation, but let me give you a brief overview of what it looks like for organizations operating on the ground in our communities. The recession has caused unemployment and foreclosure rates in the District to soar, and even those families who still have roofs over their heads and jobs now find themselves on an economic—and, frankly, emotional—precipice. They are facing the loss of their jobs, their homes, their children,

their safety, their income—losses that could often be prevented or mitigated if they were able to access an attorney to educate them about their rights and help them navigate the legal and administrative systems.

Legal services providers estimate that the demand for their help rose by approximately 20% in the course of 2009 alone. But even as the demand rose by 20%, the resources that kept the civil legal network funded declined by 25%. Every key source of funding for legal services decreased dramatically in 2009, even as client demand for help skyrocketed. Since 1985, the Foundation has run the District's IOLTA program, which is the largest private source of funding for civil legal services in our communities. The precipitous decline in interest rates last year led to a 60% decrease—more than a million dollars—in IOLTA funds between 2008 and 2009. The Foundation was forced to take money from its reserves to cover this unprecedented shortfall. Continued record-low interest rates have decimated IOLTA: receipts are down by over 40% between 2009 and 2010. As is documented in *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, other funding sources – law firm and individual giving, foundation grants, government support – dropped dramatically as well.

This has left the legal services network to contend with a 25% -- or \$4.5 million -- loss in funding in the face of growing and increasingly urgent client need. And—this is key—that decline was measured even as the Access to Justice funding held relatively constant at \$3.56 million for FY 2009. It was measured before the \$700,000, or 20%, cut made last summer to FY 2010 funding hit the network. The Mayor's proposed \$1.8

million cut to the Access to Justice Program represents a FIFTY PERCENT cut from the FY 2009 level, and it would strip marrow from programs already cut to the bone.

The network cannot sustain another hit like this. Even before last summer's 20% cut hits the network next month, legal services providers in 2009 were forced to lay off 12% of their attorneys and nearly 40% of their non-legal staff. The proposed cut in public funding for FY 2011 would have a devastating effect on the legal services provider network, likely eliminating 18 - 20 staff attorneys. To put that in concrete terms, if each lawyer can handle 50 matters in litigation and 100 matters for assistance short of representation each year, approximately 3000 District residents will not get necessary legal help that would have been available, but for the proposed cut in funding. That is on top of the thousands of residents already deprived of assistance because of the recession-based losses.

Unfortunately, there is no sign that any of the other sources of funding are coming back in the near future. The Foundation Center, for example, reports that foundations cut their grantmaking activities by nearly \$4 billion dollars -- 8.4% -- in 2009, the largest drop in foundation given that it has ever recorded. It forecasts that we will not see an increase in grants awarded in 2010. Worse, the Washington Regional Association of Grantmakers has said that its participating organizations expect to give even fewer grants in 2010 than 2009.

At the same time, the continued low interest rates give us little hope that our IOLTA funds will rebound soon. And while many members of the D.C. legal community continue to be generous with their time and money, the hit on the private legal market has reduced the capacity of lawyers and law firms to donate money. As you will hear from

Kim Keenan, the loss of staff at the legal aid organizations will also make it harder to facilitate the thousands of pro bono hours that law firms provide.

As D.C. Bar Foundation Executive Director Katherine Garrett told the Committee of the Whole last summer, right now, the ability of organizations to provide essential legal services to our vulnerable communities is at extraordinary and unprecedented risk. The funding streams for these services are broadly diverse, but the economy right now has all but dried them up. If we let these organizations die for lack of funding this year, they are not going to just spring back up in two or three years. They will be gone. The network of legal services will be critically hurt. And the most vulnerable people in our neighborhoods -- who are already reeling with the combined effects of poverty and deep recession -- are the ones who will struggle with the consequences.

The other sources of funding may recover in the coming years; we certainly hope they do. But our most vulnerable communities are at a crisis point now. They need legal services this year. They need the help that poverty lawyers can bring them this year. Without this funding, core parts of the network will crumble and these services will go away. And we will all be worse for it.

I will be pleased to answer any questions you may have.

**Council of the District of Columbia
Committee on Public Safety and the Judiciary**

**FY 2011 Budget Request Act – Office of the Attorney General
Access to Justice and Poverty Lawyer Loan Forgiveness**

**Testimony of Jonathan M. Smith
Executive Director, Legal Aid Society of the District of Columbia**

April 30, 2010

The District of Columbia is facing an extraordinary budget crisis. With declining revenues and increasing demands for services, the Executive and the Council have a set of very tough choices to make. As the District Council confronts these tough choices we ask that the burden of closing the budget gap be spread among all residents and that cuts not be concentrated in programs that serve those most in need.¹

The Mayor has proposed cutting funding for Access to Justice and Poverty Lawyer Loan Forgiveness to \$1.8 million, just half of the amount funded in FY 2009. The cut, if enacted, will have a dramatic negative impact on the ability of persons living in poverty to have access to the justice system to help them resolve legal issues related to housing, health care, family relations, employment, personal integrity, nutrition and other fundamental matters. *We urge the Council to restore funding to at least \$3.2 million.*

1. Legal Services provides critical assistance at a time of growing need

Chronic poverty in the District has for a very long time created a need for civil legal services. Approximately one in five District residents lives below the federal poverty line. The legal needs of persons living in poverty are immense. Poor persons are more likely to encounter the legal system in cases where the stakes are high than persons of means – without a lawyer, they are in danger of losing their homes, their food stamps, their access to health care, or the custody of their children. In addition, persons living in poverty are more likely to experience language and culture barriers that keep them from meaningfully asserting their rights.

Poverty has increased with the recession. Job loss in service and construction industries has forced families that were moving up the economic ladder to fall back. The result is uneven

¹ The Legal Aid Society is a non-profit civil legal services program. We were founded in 1932 and provide legal assistance to thousands of District residents each year. We give priority to matters related to housing, domestic violence, family law, public benefits and consumer.

The Legal Aid Society is a member of the Fair Budget Coalition. We support the Coalition's budget priorities and ask that the Council fund legal services in the context of essential support for the range of social safety net programs.

Legal Aid is also a supporter of the Invest in DC Campaign and urges the Council to look at all options, including increases in revenue when considering how to balance the budget.

across the District. Communities that have historic high rates of poverty are suffering the worst. East of the River, unemployment rates have risen to depression-era levels.

There was an increase in demand in all areas effecting people living in poverty. The issues that led to legal disputes for poor persons continued to dominate the dockets of legal services organizations. In a few key areas there is an increased need and the emergence of new problems.

Foreclosure: Legal services lawyers have seen a significant increase in requests for help related to foreclosure. Foreclosure is on the rise in the District and the neighborhoods east of the river are the hardest hit. Not only are homeowners in need of assistance to maintain their homes, but tenants as well. As landlords lose properties to foreclosure, it often takes the intervention of counsel to keep the bank from evicting the tenants. The foreclosure crisis affects thousands of the District's seniors and low-income families.

Domestic Violence: Economic pressures have put enormous strain on low-income families and at the same time the recession has deprived many women living in poverty of economic independence. These pressures and the lack of options combine to increase the incidence and severity of domestic violence. Access to a lawyer is, in many cases, the only effective way for a woman and her children to escape from an abusive relationship. Quality representation is time consuming and requires expertise, experience, extensive training and the ability to provide representation on a broad range of collateral issues for a sustained period of time.

Government Support: Access to government benefits often means the difference between being housed or homeless, between nutrition and hunger, between health care and illness, between destitution and a minimum level of basic human dignity. The recession has forced more people to rely on public benefits to survive. A bureaucratic error, language barriers, or mental disabilities make the system challenging to navigate and mistakes impossible to correct without the help of a lawyer.

2. The Effects of Not Having a Lawyer

The legal needs of people living in poverty are immense, especially in times of economic turmoil. Low-income and poor people encounter the legal system at much higher rates and often in more high-stake matters than people with means. Government programs such as public and subsidized housing, income supports, unemployment insurance, government medical and nutrition programs are all highly regulated and have complex administrative schemes. The complexity leads to errors that can only be untangled by an expert who has the ability to go to court or to appeal to an administrative tribunal. The processes are riddled with opportunities for procedural defaults.

In private disputes, such as child custody, a consumer dispute or a private housing case, people living in poverty are also at a disadvantage. Decisions about important aspects of their lives and about basic human needs are being made through a complex and opaque process that they are required to face without help. No person who could afford a lawyer would go to court alone if the custody of a child or the loss of a home was at stake.

The following are illustrations from the Legal Aid docket of the types of cases that Access to Justice Funds support:

- We represented a client who had wrongfully been denied food stamps and on some days had only one meal to feed to her children. She got help in our neighborhood office a short walk from her home and got her benefits restored. The community office was critical because she did not even have the funds to pay for a bus trip down town.
- A Legal Aid lawyer assisted a domestic violence survivor afraid for her life and the lives of her children who was held as a virtual prisoner in her own home. She is now safe, able to work and collecting child support.
- Legal Aid represented a grandmother who needed our help to get out of a fraudulent loan and save her home.
- We also helped a senior who was threatened with eviction because he withheld his rent when his plumbing didn't work. His home was saved and he got the repairs.

3. Loan forgiveness is important to support lawyers who make great sacrifices to do this work

Motivated by the highest ideals of the legal profession – that the law be applied to achieve justice both in form and substance – poverty lawyers make significant sacrifices so that they can do this work. The average starting salary for a lawyer in a legal aid organization is less than \$40,000 per year, while comparable starting lawyers in large law firms earn \$160,000 or more.

The impact of low salaries is compounded by the burden of law school debt. It is not uncommon for a new lawyer to owe \$100,000 or more in student loans. This burden forces many committed graduates to forgo a public service career or to leave a non-profit position after only a few years.

The District of Columbia Poverty Lawyer Loan Assistance Repayment program has been of incalculable assistance to new lawyers. It has allowed many to enter and stay in civil legal services.

Loan Forgiveness Promotes Diversity in Legal Services

The Loan Forgiveness Program assists legal services organizations to recruit staff with diverse economic, racial and ethnic backgrounds. As a consequence of discrimination and persistent economic inequality, a disproportionate number of minority graduates either lack family resources that might assist them to pay loan debt or have financial obligations to assist other family members. Overwhelming loan debt is often an insurmountable barrier to a public interest career.

Diversity in race and in economic background is important to legal services work. A diverse staff ensures that the program has cultural competence and credibility with the community being served. The perspective of an attorney who grew up in poverty or has experienced discrimination or knows first-hand the treatment of an immigrant community is an invaluable asset.

The lack of diversity in the legal profession remains a serious concern and statistics on minority graduation from law school are not encouraging.² The program assists legal services programs to more effectively compete with more lucrative options both in hiring and retaining staff from a mix of racial, ethnic and economic backgrounds by removing one of the largest obstacles -- crushing student debt.

Loan Forgiveness Improves Retention of Experienced Staff

Legal services lawyers work in complex and specialized areas with important issues at stake. It often takes years of practice, training and mentoring for an attorney to become expert in an area. Unfortunately, the combined effects of low salary and high loan payments cause many good lawyers to leave when they begin to have families, think about purchasing homes or grow tired of worrying about their economic well-being. Loan forgiveness encourages experienced staff to remain with a program and use the expertise that they have developed over time.

The District's motto is *Justia Omnibus*, or Justice For All. It is a noble and fitting motto. However, it can only be achieved if all District residents can meaningfully assert their rights and fairly resolve their disputes without regard to their income or wealth.

² <http://www.abanet.org/legaled/statistics/charts/minorityjddegreesawarded.pdf>.

APPENDIX C: COMMENTS & LETTERS

The Committee on Public Safety and the Judiciary received extensive comments from a range of individuals and organizations regarding the Mayor's proposed fiscal year 2011 budget for civil legal services and the Poverty Lawyer Loan Repayment Program. The comments -- from nearly 60 different organizations -- universally called for the District to fully fund these programs. The organizations that contacted the Committee are listed below; copies of their letters and comments are attached.

*In addition to the groups listed, the Committee notes that two prominent members of the District's judiciary, **Eric T. Washington, Chief Judge of the DC Court of Appeals and Chair of the Joint Committee on Judicial Administration**, and **Lee F. Satterfield, Chief Judge of the DC Superior Court**, urged the Council to restore the Mayor's funding cuts to civil legal services (both were also represented at the Committee's April 30th hearing). The Committee also received a letter urging increased support of civil legal services funding from **25 former Presidents of the District of Columbia Bar**.*

AARP

Adoptions Together

Advocates for Justice and Education

Alliance for Justice

Asian Pacific American Bar Association of the Greater Washington, DC Area

Asian Pacific American Legal Resource Center

Ayuda

Bread for the City

Break the Cycle

CAIR Coalition

Carecen

Carlos Rosario International Public Charter School

Center for Responsible Lending

Children's Law Center

Columbus Community Legal Services

Community Council for the Homeless at Friendship Place

Council for Court Excellence

DC Behavioral Health Association

DC Catholic Conference
DC Coalition Against Domestic Violence
DC Crime Victims Resource Center
DC Employment Justice Center
DC Language Access Coalition
DC Law Students in Court
DC Rape Crisis Center
DC Volunteer Lawyers Project
District Alliance for Safe Housing (DASH)
District of Columbia Access to Justice Commission
District of Columbia Bar
District of Columbia Bar Foundation
District of Columbia Bar, Litigation Section
DV LEAP
The Equal Rights Center
Fair Budget Coalition
Foster and Adoptive Parent Advocacy Center
Hispanic Bar Association of the District of Columbia
Kids in Need of Defense (KIND)
Legal Aid Society of DC
Latino Economic Development Corporation
Legal Counsel for the Elderly
Martha's Table
Mary's Center
Mil Mujeres
Miriam's Kitchen
My Sister's Place
Nonprofit Roundtable of Greater Washington
ONE DC
Our Place
Quality Trust for Individuals with Disabilities
Sasha Bruce

Shared Horizons, Inc.

South Asian Bar Association of the District of Columbia

Trial Lawyers Association of Metropolitan Washington, DC

University Legal Services

University of the District of Columbia David A. Clarke School of Law

Washington Council of Lawyers

Washington Lawyers' Committee for Civil Rights

Washington Legal Clinic for the Homeless

Whitman-Walker Clinic Legal Services

Women Empowered Against Violence (WEAVE)

Woman's Bar Association of the District of Columbia

D.C. LANGUAGE ACCESS COALITION

COLLABORATION, COMMUNITY, DIVERSITY, EQUALITY, EDUCATION,
INCLUSION, JUSTICE, PARTICIPATION, VOICE

COUNCILMEMBER MENDELSON

2010 MAR 23 PM 4:08

Members

ACLU-NC
African Resource Center
American University School of Law - International
Human Rights Clinic
Asian American Justice Center
Asian American LEAD
Asian Pacific American Legal Resource Center (APALRC)
Asian and Pacific Islander Senior Center
Ayuda
Bread for the City
Central American Resource Center (CARECEN)
CentroNia
CitiWide Computer Training Center
Columbia Heights Shaw Family Support Collaborativ
D.C. Area Health Education Center
D.C. Coalition Against Domestic Violence
D.C. Employment Justice Center
D.C. LEARNs
D.C. VOICE
Ethio-American Health Center
Ethiopian Community Center
Latin American Youth Center (LAYC)
La Clinica del Pueblo
Language ETC (pending)
Latino Economic Development Corporation
Latino Federation of Greater Washington
Legal Counsel for the Elderly (AARP)
Life Skills Center
Lutheran Social Services of the National Capital Area
Mary's Center for Maternal and Child Care
Multicultural Community Service (MCS)
Neighbors' Consejo
S.T.E.P. Up D.C.
The Legal Aid Society of the District of Columbia
The Newcomer Community Service Center (NCSC)
Tellin' Stories Project - Teaching for Change
Vietnamese American Community Service Center
Washington Lawyers' Committee for Civil Rights and Urban Affairs
Washington Cathedral Literacy Program
Women Empowered Against Domestic Violence (WEAVE)

March 1, 2010

Councilmember Phil Mendelson
1350 Pennsylvania Avenue NW, Suite 402
Washington, DC 20004

Dear Councilmember Mendelson,

I am the Director of the D.C. Language Access Coalition, an alliance of 38 organizations that advocate for language access in the District of Columbia. I am writing to bring your attention to a critical program that supports and protects the low-income residents of the District – the Access to Justice Program.

For the past several years, the Council has funded an Access to Justice Program that has allowed legal services organizations to bring vital services to the poorest and most underserved communities in the District. The program ensures that all District residents, even those who are poor, ill or unable to speak English, have help securing basic human needs. This is especially important for the limited-English proficient communities in the District because they often face language barriers that prevent them from fully understanding or participating in the legal process. The lawyers funded by this program bring real and meaningful change to residents' lives. In fact, we have been fortunate enough to work in coalition with organizations in the program and they have made great strides to ensure that our community members receive the legal support they need no matter their income or what language they speak.

These lawyers and their organizations are a vital part of the social safety net. They make systems designed to help our most vulnerable neighbors – the court, District agencies charged with helping poor residents, or safety net programs such as Medicaid and Medicare—work properly. These lawyers have helped families keep their homes, secured legal protection from domestic violence, secured access to health care, and maintained income streams for the District's most vulnerable residents. We have seen the dedication of the attorneys funded by these grants, all of whom could be earning significantly higher salaries in the private sector.

It is clear that the financial crisis has created significant need in the District. In spite of this, providers are seeing a 20% increase in requests for assistance. The District has already made a substantial cut in its support of the Access to Justice Program for the current fiscal year. As you consider next year's budget, please partially restore this program to \$3.2 million for fiscal year 2011.

Sincerely,



Jennifer Deng-Pickett, Director
D.C. Language Access Coalition

3166 Mount Pleasant St, NW
Washington, DC 20010

Phone: 202.621.0001
Fax: 202.234.1118

www.dclanguageaccess.org

MANY LANGUAGES – ONE VOICE – SO ALL CAN PARTICIPATE



COUNCILMEMBER MENDELSON

2010 MAR 10 PM 5:08

March 9, 2010

Councilmember Phil Mendelson
1350 Pennsylvania Ave, NW
Suite: 402
Washington, DC 20004

Dear Councilmember Mendelson,

I am writing to bring your attention to a critical program that supports and protects low-income residents of the District. While it is not a program that directly benefits my agency, it definitely benefits our clients.

For the past several years, the Council has funded an Access to Justice program that has allowed legal services organizations to bring vital services to the poorest and most underserved communities in the District. The program makes sure that all District residents, even those who are poor, ill or unable to speak English, have help securing basic human needs.

While many of our clients have been served by legal assistance agencies helping with housing, benefit programs, or custody issues in the past, we are just entering a new relationship with WEAVE that will provide direct civil legal services to survivors of sexual violence. This is a new service becoming available in the District and will enable the unique civil legal issues encountered by survivors of sexual violence to get the critical legal assistance they need.

We have seen the difference these lawyers make when they help families keep their homes, secure legal protection from sexual or domestic violence, secure access to health care, and maintain income streams. We have seen the dedication of the attorneys funded by these grants, all of whom could be earning significantly higher salaries in the private sector.

Over the last year we have seen how much legal services organizations are struggling to provide these vital services. Already 21 lawyers and 30 staff have been laid off from legal service providers. We watched in horror as WEAVE teetered on the brink of closure, potentially losing a unique service for District residents.

This comes at a time when the financial crisis has created significant need in the District. I am not surprised that providers are seeing a 20% increase in requests for assistance.

DC RAPE CRISIS CENTER

Unemployment, foreclosure, a collapsing safety net – all of these are creating legal problems that legal services organizations are uniquely able to address.

The District has already made a substantial cut in its support of the Access to Justice program for the current fiscal year. As you consider next year's budget, please partially restore this program to \$3.2 million for fiscal year 2011.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. Snyder".

Denise Snyder
Executive Director



AARP District of Columbia T 202-424-7700
601 E Street, NW F 202-434-7710
Suite A1-200 TTY 1-877-434-7598
Washington, DC 20004 www.aarp.org/dc

COUNCILMEMBER PHIL MENDELSON

2010 MAR 22 PM 4:46

March 17, 2010

Councilmember Phil Mendelson
John A. Wilson Building
1350 Pennsylvania Avenue, Room 402
Washington, DC 20004

Dear Councilmember Mendelson:

I am writing to bring your attention to a critical program that supports and protects the low-income residents of the District ... and it is not my own.

For the past several years, the Council has funded an Access to Justice program that has allowed legal services organizations to bring vital services to the poorest and most underserved communities in the District. The program makes sure that all District residents, even those who are poor, ill or unable to speak English, have help securing basic human needs. The lawyers funded by this program bring real and meaningful change to residents' lives.

We have been fortunate enough to work with some of these organizations particularly Legal Counsel for the Elderly. They have helped our clients with issues such as public benefits, housing, medical issues, advance planning, and consumer problems. With these funds they have been able to create a program to reach out to homebound seniors serving those individuals with legal problems who cannot come to the office.

We have seen how these lawyers and their organizations are a vital part of the social safety net. They make systems designed to help our most vulnerable neighbors – the court, District agencies charged with helping poor residents, or safety net programs such as Medicaid and Medicare—work properly. We have seen the difference these lawyers make when they help families keep their homes, secure legal protection from domestic violence, secure access to health care, and maintain income streams. We have seen the dedication of the attorneys funded by these grants, all of whom could be earning significantly higher salaries in the private sector.

Over the last year we have seen how much legal services organizations are struggling to provide these vital services. As documented in *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, legal service organizations in the District are suffering severe budget shortfalls due to a drop of more than \$1 million in IOLTA funds and reduced giving from the private bar. Already 21 lawyers and 30 staff have been laid off from legal service providers.

This comes at a time when the financial crisis has created significant need in the District. I am not surprised that providers are seeing a 20% increase in requests for assistance. I

know from my own organization's experience how hard poor communities have been hit by the recession. Unemployment, foreclosure, a collapsing safety net – all of these are creating legal problems that legal services organizations are uniquely able to address.

The District has already made a substantial cut in its support of the Access to Justice program for the current fiscal year. As you consider next year's budget, please partially restore this program to \$3.2 million for fiscal year 2011.

Sincerely,

A handwritten signature in cursive script that reads "Louis Davis". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Louis Davis
Senior Director

PM/BJM

COUNCILMEMBER MENDELSON

2010 MAR 19 PM 3:55
March 18, 2010

Honorable Phil Mendelson
City Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Ave, NW, Suite 402
Washington, D.C. 20004

Dear Councilmember Mendelson:

We are writing to ask for your help protecting a vital District program that makes a real difference in the lives of its residents.

The D.C. Access to Justice program supports legal service organizations throughout the District, ensuring that all residents—even those who may be poor, ill, or unable to speak English—receive access to the public services and legal protections to which they are entitled. Most people would not go to court without a lawyer, especially if the thing they value most—their home, their children, their job, their only source of income—is on the line. Without this program, thousands of poor individuals and families would have to face their legal problems alone, often with devastating consequences.

Legal services providers help low-income District residents secure the most basic of human needs, such as:

- Keeping people in their homes and ensuring those homes are safe and habitable;
- Helping children get access to health care;
- Assisting domestic violence victims and their children escape violent relationships;
- Enabling disabled individuals to secure disability benefits;
- Ensuring that low-income workers maintain employment;
- Protecting elderly clients from predatory lending schemes; and
- Making sure families have a base level of income sufficient to feed and house their children.

Unfortunately, legal services programs are suffering from a severe budget shortfall, exacerbated by a drop of more than \$1 million—more than 60 percent—in the IOLTA funding on which they depend. As documented in *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, legal services providers have already lost 21 lawyers and 30 non-attorney staff who provide critical client support. Because of these losses, thousands of indigent District residents who desperately need legal assistance will not get help.

This is happening at a time when the need in the District is at a historic level. In the last year alone, demand for legal assistance has grown by 20%. In some wards, unemployment levels are twice the national average. Foreclosures are on the rise—2,353 single family homes and condos were placed in foreclosure in the District in the second quarter of 2009 alone—and more and more families are losing their homes. The number and severity of domestic violence incidents are growing. More clients are coming forward with legal issues. And the number of attorneys available to assist them is shrinking.

We have seen the good work that legal services organizations do. We have also seen how these organizations can save the District money: by keeping families economically self-sufficient; by helping families to stay in their homes; by supporting residents' efforts to access federal support programs; by identifying and stopping attempts to take advantage of the poor, the weak, and the elderly.

As people who focus on the "safety net" every day, we know the value of civil legal services. The District has already made a substantial cut in its support of the Access to Justice program for the current fiscal year. We urge you to support partial restoration of that cut to a total of \$3.2 million for fiscal year 2011.

Sincerely,

Adoptions Together
Advocates for Justice and Education
Alliance for Justice
Bread for the City
Break the Cycle
Carlos Rosario Int'l Public Charter
School
Center for Responsible Lending
Columbus Community Legal Services
Community Council for the Homeless at
Friendship Place
D.C. Behavioral Health Association
D.C. Catholic Conference
D.C. Coalition Against Domestic
Violence
D.C. Crime Victims Resource Center
District Alliance for Safe Housing
(DASH)

Fair Budget Coalition¹
Foster and Adoptive Parent Advocacy
Center
Kids in Need of Defense (KIND)
Latino Economic Development
Corporation
Martha's Table
Mary's Center
Miriam's Kitchen
My Sister's Place
Nonprofit Roundtable of Greater
Washington
ONE DC
Sasha Bruce
The Equal Rights Center
Washington Council of Lawyers

ⁱ The Fair Budget Coalition is a group of more than 70 social and legal services providers, consumers, advocates, faith organizations, and concerned community members that advocate for comprehensive, integrated and adequate funding to meet the human needs of District residents, particularly those who are poor.



5335 WISCONSIN AVE NW | SUITE 825 | WASHINGTON, DC 20015 | (202) 448-1450 | (202) 448-1451 FAX
WWW.DCQUALITYTRUST.ORG

COUNCILMEMBER MENDELSON
2010 MAR 22 PM 4:48

PM/DM

Powering Change
Through Partnership

Councilmember Phil Mendelson (At-Large)
John A. Wilson Building
1350 Pennsylvania Ave., NW, Suite 402
Washington, DC 20004

Dear Councilmember Mendelson:

I am writing on behalf of Quality Trust for Individuals with Disabilities, an independent non-profit advocacy organization working on behalf of District residents with developmental disabilities. I ask for your attention and support to preserve critical programs that assist and protect the low-income residents of the District.

For the past several years, the Council has funded an Access to Justice program that has allowed legal services organizations to bring vital services to the poorest and most underserved communities in the District. The program makes sure that all District residents, even those who are poor, ill or unable to speak English, have help securing assistance to meet their basic human needs. The lawyers funded by this program bring real and meaningful change to residents' lives. This program is critical to the many District residents living with developmental disabilities as well as the families of residents with developmental disabilities.

We have been fortunate to work with excellent lawyers on issues who have helped the people we represent to address housing discrimination, family law matters, public benefits issues, and other crucial issues. We have seen how these lawyers and their organizations are a vital part of the social safety net. They help to ensure that the systems designed to help our neighbors in need – the court, District agencies charged with helping poor residents, or safety net programs such as Medicaid and Medicare—work properly. We have seen the difference these lawyers make when they step in to address housing discrimination or a loss of SSI benefits on behalf of our constituents.

We are impressed with the dedication of the attorneys funded by these grants, all of whom could be earning significantly higher salaries in the private sector.

Over the last year we have seen the extent to which legal services organizations are struggling to provide these vital services. As documented in *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, legal service organizations in the District are suffering severe budget shortfalls due to a drop of more than \$1 million in IOLTA funds and reduced giving from the private bar. Already 21 lawyers and 30 staff have been laid off from legal service providers.

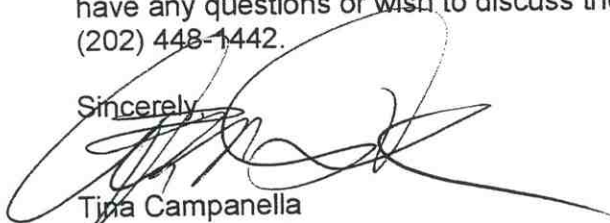
This comes at a time when the financial crisis has created significant need in the District. I am not surprised that providers are seeing a 20% increase in requests for assistance. I know from my own organization's experience how hard poor communities have been hit by the recession. Unemployment, rising health care costs and a severely compromised local safety net – all of these are creating legal problems that legal services organizations are uniquely able to address.

The District has already made a substantial cut in its support of the Access to Justice program for the current fiscal year. As you consider next year's budget, please partially restore this program to \$3.2 million for fiscal year 2011.

We also ask your support to ensure that funding for the other critical safety net programs is not cut further. We work most closely with the Developmental Disabilities Division of the Department of Disability Services. The agency has absorbed numerous cuts over the past year and we are very concerned that additional cuts this coming year will result in threats to the health and safety of the people who depend on this assistance. We are tracking the budget planning for this agency and will provide additional detail to you on specific cuts that are of greatest concern.

Thank you very much for your attention to these important budget matters. Your support will mean a great deal to the over 2000 individuals and their families who depend on assistance from city services, and the many others who do not currently receive services, but who are represented by Quality Trust for Individuals with Disabilities. If you have any questions or wish to discuss these issues, please do not hesitate to call me at (202) 448-1442.

Sincerely,



Tina Campanella
Executive Director
Quality Trust for Individuals with Disabilities
5335 Wisconsin Ave. NW
Suite 825
Washington, DC 20015
(202) 448-1442
Tina818@aol.com



Shared Horizons, Inc.

Trust and Fiduciary Services for People with Disabilities

5335 Wisconsin Avenue, NW, Suite 910 ♦ Washington, D.C. 20015

202-448-1460 ♦ fax 202-448-1461 ♦ info@shared-horizons.org ♦ www.shared-horizons.org

COUNCILMEMBER MENDELSON
2010 MAR 25 PM 4:04

March 23, 2010

Phil Mendelson– Councilmember At Large
John A. Wilson Building, Suite, 402
1350 Pennsylvania Ave, NW
Washington, DC 20004

Dear Councilmember Mendelson:

I am writing to bring your attention to a critical program that supports and protects the low-income residents of the District ... and it is not my own.

For the past several years, the Council has funded an Access to Justice Program that has allowed legal services organizations to bring vital services to the poorest and most underserved communities in the District. The program makes sure that all District residents, even those who are poor, ill or unable to speak English, have help securing basic human needs. The lawyers funded by this program bring real and meaningful change to residents' lives.

Since our inception in 2004, we have had a number of opportunities to work with these organizations. Their commitment to ensuring that **ALL** D.C. residents have access to basic services is unwavering and crucial, especially to the individuals with disabilities.

We have seen how these lawyers and their organizations are a vital part of the social safety net. They make systems designed to help our most vulnerable neighbors – the court, District agencies charged with helping poor residents, or safety net programs such as Medicaid and Medicare—work properly. We have seen the difference these lawyers make when they help families keep their homes, secure legal protection from domestic violence, secure access to health


care, and maintain income streams. We have seen the dedication of the attorneys funded by these grants, all of whom could be earning significantly higher salaries in the private sector.

Over the last year we have seen how many legal service organizations are struggling to provide these vital services. As documented in *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, legal service organizations in the District are suffering severe budget shortfalls due to a drop of more than \$1 million in IOLTA funds and reduced giving from the private bar. Already 21 lawyers and 30 staff have been laid off from legal service providers.

This comes at a time when the financial crisis has created significant need in the District. I am not surprised that providers are seeing a 20% increase in requests for assistance. I know from my own organization's experience how hard poor communities have been hit by the recession. Unemployment, foreclosure, a collapsing safety net – all of these are creating legal problems that legal services organizations are uniquely able to address.

The District has already made a substantial cut in its support of the Access to Justice Program for the current fiscal year. As you consider next year's budget, please partially restore this program to \$3.2 million for fiscal year 2011.

Sincerely,



Yolanda Mazyck
Executive Director
Shared Horizons, Inc.
5335 Wisconsin Avenue, NW, STE 910
Washington, DC 20015
ymazyck@shared-horizons.org
www.shared-horizons.org



District of Columbia Courts

500 Indiana Avenue, N.W. Room 1500

Washington, D.C. 20001-2131

202 879-1700 Office

202 879-4829 Fax



LA/PM

April 6, 2010

The Honorable Phil Mendelson
John A. Wilson Building, Suite 402
1350 Pennsylvania Avenue, N.W.
Washington, DC 20004

Dear Councilmember Mendelson:

We write in support of the Access to Justice Commission's request to restore funding for civil legal services in the District of Columbia to its requested funding level of \$3.2 million. As you are aware, high unemployment rates in the District and increasing rates of poverty require greater civil legal services for District residents. A recent article published in the March, 2010 edition of the Washington Lawyer entitled, "Rationing Justice: The Need is Up and the Money is Down," pointed out the increased need for legal resources to help those most impacted by the recession. Specifically, the article noted that "in East of the River Neighborhoods, unemployment rates have risen to Depression-era levels." In Ward 8, 28.3% of adults are unemployed, and in Ward 7 unemployment stands at 19.5%.

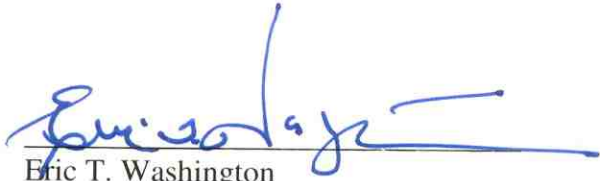
The domino effect of the recession has created new pockets of poverty or threatened poverty in the District as marginal tenants attempt to cope with foreclosure-induced eviction notices, requiring legal intervention with banks and before the courts. Further, recession-related frustrations have hit families hard. Women, in particular, increasingly have become victims of domestic violence. As the Washington Lawyer article noted, "access to a lawyer is, in many cases, the only effective way for a woman and her children to escape from an abusive relationship." Finally, new entrants into the ranks of poverty, especially those from immigrant communities, will require access to interpreter and translation services as they face legal issues.

Unfortunately, just when District residents need more access to civil legal services, funding resources managed by the D.C. Bar Foundation also have been hit hard by the recession, resulting in a \$4.5 million loss in funding for civil legal services and a 25% decrease in staff attorneys and paralegals dedicated to providing these services. Likewise, the proposed funding of \$1.8 million, along with the \$700,000 cut in funding this year, would amount to a 50% cut in funding for the Commission from FY 2009, at a time when things are very bleak for those with life-altering civil legal needs.

It is with this in mind, along with our appreciation of the consequences to the citizens of the District of Columbia if sufficient funding is not achieved, that we encourage you to restore funding to the Access to Justice Commission at a level of \$3.2 million.

Please feel free to contact either of us in the event you would like to discuss this further, and we thank you for your assistance.

Sincerely,



Eric T. Washington
Chief Judge, D.C. Court of Appeals
Chair, Joint Committee on Judicial Administration



Lee F. Satterfield
Chief Judge, D.C. Superior Court

cc: Members, D.C. Council

Peter Edelman, Chair
D.C. Access to Justice Commission

LA/PM

COUNCILMEMBER MENDELSON

2010 APR 22 PM 4: 04

April 21, 2010

The Honorable Phil Mendelson
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Suite 402
Washington, D.C. 20004

Dear Councilmember Mendelson:

We, the undersigned legal services providers, are writing to urge you to fund the Access to Justice Program in the amount of \$3.2 million. These funds are used to provide legal help to the poorest and most vulnerable District residents, and they have brought lawyers to underserved communities across the city, particularly east of the Anacostia River. They also fund a Community Legal Interpreter Bank to improve access to legal assistance for limited English proficient and deaf clients, and they fund the Poverty Lawyer Loan Repayment Assistance Program, which helps providers to recruit and retain highly qualified staff. Although only some of our programs receive funds through the Access to Justice program, we **all** are concerned about the impact the proposed cuts will have on the vulnerable clients we serve.

The Mayor has proposed cutting the program to \$1.8 million in FY2011. This is in addition to a \$700,000 cut that already was made for FY2010. Together these reductions slash the program to 50% of its FY 2009 level.

Legal services are a crucial part of the safety net for indigent District residents. Legal services organizations help residents secure the most basic of human needs, including:

- keeping families in safe and affordable housing,
- helping children get access to health care,
- assisting domestic violence victims and their children to escape violent relationships,
- enabling disabled individuals to secure disability benefits,
- helping low-income workers to maintain employment, and
- helping families to access food and income security programs.

The clients who come to legal services providers' doors each day are in danger of losing those things they most treasure – their homes, their children, their jobs, their safety. Without help, many are forced to navigate our court system alone, often with devastating consequences.

Even before the recession, the demand for legal services far outstripped available resources. In the aftermath of the economic downturn, the need for assistance has skyrocketed. The recession has brought unemployment to historic levels, forced thousands of families into foreclosure, increased the severity and incidence of domestic violence, and made more families homeless. More clients are seeking help with emergent issues, but the network's capacity to meet these critical needs is shrinking.

Legal Services Providers
April 21, 2010
Page Two

Last year, every key source of funding for legal services – IOLTA, private donations, foundation support, government funding – dropped dramatically. In 2009, the District's legal services network lost over 25% of its funding. This has already led to the loss of 12% of legal staff and nearly 40% of non-legal staff who provided critical client support. The Mayor's proposed cut, combined with the FY2010 cuts that are hitting the legal services network now, will mean a loss of 18 - 20 additional lawyers. Many providers have already had to reduce intake hours, curtail services, eliminate programs, and turn away desperate clients. The loss of these funds will mean that thousands of clients who need legal help will not receive it.

We recognize that the District is facing enormous budget pressures and that there are many needs. We hope you will keep in mind that dollars spent on legal services benefit the District broadly. Legal services often avert legal crises and keep clients from having to rely on costly public support systems. By helping clients secure child support orders and obtain federal benefits, legal services providers reduce pressure on TANF and locally funded programs. Moreover, public funds are used to leverage pro bono and other contributions. The effect of the Access to Justice funding is greatly magnified by the partnerships it supports between providers and the law firm community.

The network cannot sustain further cuts without substantially curtailing service provision to residents struggling with acute legal issues. We urge you to restore funding to \$3.2 million for fiscal year 2011.

Sincerely,

Advocates for Justice and Education
Asian Pacific American Legal Resource
Center
Ayuda
Bread for the City
CAIR Coalition
Carecen
Children's Law Center
D.C. Crime Victims Resource Center
D.C. Employment Justice Center
D.C. Law Students in Court
D.C. Volunteer Lawyers Project
DV LEAP
Kids in Need of Defense

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Legal Counsel for the Elderly
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Our Place
Quality Trust
UDC David A. Clarke School of Law
University Legal Services
Washington Lawyers' Committee for
Civil Rights
Washington Legal Clinic for the Homeless
Whitman-Walker Clinic Legal Services
Women Empowered Against Violence
(WEAVE)

Saving legal aid

The District's austerity budget shouldn't threaten services crucial to the city's most vulnerable.

THERE ARE few entities spared in the budget proposed this month by Mayor Adrian M. Fenty (D). Hundreds of city employees might lose their jobs, pay has been frozen, and countless programs are being asked to do more with less. Everyone is hurting.

The same is true for many District residents. Unemployment in the poorest parts of the city has reached nearly 30 percent. Many households are struggling to forestall foreclosure. People who have never before relied on public assistance desperately need it now.

That is why the administration and city council should reconsider proposed funding cuts for legal aid organizations. Such groups help represent the homeowner who is on the brink of losing a house or the tenant who may be days away from living on the streets. They also, in many instances, serve as liaisons for people in need of food stamps, unemployment benefits or tempo-

rary shelter. They find help for the battered woman and the sick child. They are, in short, gateways to a number of services already provided by government but which many residents would not know existed or would have no clear idea how to obtain.

Legal aid budgets have shrunk even as the demand for their services has soared. Revenue from lawyers' trust accounts has plummeted due to low interest rates. Law firms, traditionally big donors of time and money, have cut back. And now the District proposes to prune its funding by roughly 40 percent. During the most recent fiscal year, the District provided \$2.9 million to the city's legal aid groups. Mr. Fenty has proposed slashing that to \$1.8 million for the coming year. The \$1.1 million cut is tiny in proportion to the city's \$5.3 billion budget, but it is huge for the legal aid groups and the clients that rely on them.



D I S T R I C T O F C O L U M B I A C O U N C I L M E M B E R M E N D E L S O N B A R

2010 MAY -3 PM 3:36

May 3, 2010

Mr. Phil Mendelson
Councilmember (At-Large)
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Suite 402
Washington, D.C. 20004

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Cynthia D. Hill
*Assistant Executive Director,
Programs*

Joseph P. Stangl
*Assistant Executive Director,
Administration and Finance*

Dear Mr. Mendelson:

On behalf of the more than 90,000 members of the D.C. Bar, over half of whom live and work in the D.C. metropolitan area every day, I urge the District of Columbia Council to fund the Access to Justice Program with an appropriation of at least \$3.2 million.

These funds are used to provide critical services to low-income residents throughout the District. Since its inception, the program has supported the creation of legal services offices in communities of poverty or unmet need and was used to assist tenants facing eviction or displacement. In addition, the program has provided critical grants to create a shared interpreter bank that has made every legal services program linguistically accessible to clients who are limited English proficient or deaf. Finally, to assist programs to attract and retain high quality and diverse staff, the smallest portion of the funds supports the District's Poverty Lawyer Loan Repayment Assistance Program.

The local bar recognizes its obligation to ensure that everyone has meaningful access to justice. Lawyers and law firms give thousands of hours and millions of dollars to legal services. There is a strong pro bono culture among members of the D.C. Bar, and the District's law firms have sustained their pro bono commitments during these difficult economic times. Pro bono lawyers are an important component of the delivery of civil legal services. I can assure you that the leadership and staff of the D.C. Bar have redoubled their efforts to get law firms and individual lawyers to provide financial support for the legal services providers as well as maintain and expand their pro bono commitments.

Pro bono and charitable contributions, however, cannot do it alone. The District's financial support is critical. The private bar can only be effective if there is a strong core of civil legal services providers who can develop cases and projects, train volunteers and mentor lawyers through the litigation.

The District's support of civil legal services has been especially important throughout the recession. Legal assistance programs not only helped the individuals involved, but protected communities from instability and reduced the drain on the public. Legal services lawyers prevented tenants from being evicted after landlords lost properties to foreclosure, reducing homelessness and displacement. They helped women escape domestic violence and overcome barriers to leaving abusive relationships caused by shrinking economic options. They helped parents secure child support orders, reducing the strain on TANF. They helped clients access federal benefits instead of locally funded programs.

The recession has cut deeply into the ability of legal assistance organizations to obtain other financial support. The D.C. Access to Justice Commission and the D.C. Consortium of Legal Services Providers surveyed legal services about the impact of the economic downturn. The results were alarming. The legal services community has lost approximately 25% of its funding. See, "Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia." <http://www.dcaccesstojustice.org/rationing.html>.

This loss of funding had an impact on these organizations and their staff, but of greater significance, it affected their clients. Cuts to staff and program have left thousands of District residents without counsel at a time of increasingly urgent need. Unemployment and foreclosures are rising and families are in greater need, but there are fewer advocates available to step in and avert disaster.

The District has good laws and effective courts -- it is a community strongly committed to the ideals of justice. But justice is not self executing. It takes an advocate learned in the law and available to take on the cause. Too few District residents have access to a lawyer. This problem existed before the recession, but has grown dramatically worse. The proposed cuts to civil legal services funding moves us as a community another step away from our shared ideal.

Sincerely,



Kim Keenan
President
District of Columbia Bar

- cc: Hon. Adrian M. Fenty
Mayor, District of Columbia
Neil O. Albert
City Administrator, District of Columbia
Ronald S. Flagg, Esq.
Katherine A. Mazzaferri, Esq.

COUNCILMEMBER MENDELSON

2010 MAY -6 PM 4:41

May 5, 2010

Councilmember Phil Mendelson
Chairperson, Committee on the Judiciary
1350 Pennsylvania Avenue, N.W.
Suite 402
Washington, D.C. 20004

Via First Class Mail and Facsimile

Re: Access to Justice funding cuts

Dear Councilmember Mendelson:

We write to express our concern over the proposed funding cuts in the fiscal year 2011 budget for the Access to Justice Program, which provides legal services for low-income D.C. residents, a community legal interpreter bank, and a loan repayment assistance program for lawyers serving people living in poverty. Mayor Adrian Fenty's proposed 37% cut from \$2.86 million in FY2010 to \$1.8 million in FY2011 pose the threat of far-reaching negative effects for the legal services community and the low income individuals served.

These cuts could not be proposed at a worse time. Interest on Lawyers' Trust Accounts, which also fund legal services, fell by nearly 60% in 2009. The legal services network lost \$4.5 million, more than 25% of its total funding, in 2009 alone, which led to the loss of 12% of legal staff and nearly 40% of non-legal staff. The 2009 funding losses translated into a thousand fewer cases being handled before a court or administrative agency and over two thousand fewer clients receiving counseling, advice or brief services. The Mayor's FY2011 proposed cuts, combined with the FY2010 cuts, would result in the loss of 18-20 additional legal services lawyers, at a time when the need for their services has skyrocketed.

The Council should appreciate that these legal services save the District money. Studies from other jurisdictions found that for every dollar spent on legal assistance, the government saves between four and seven dollars. For example, access to counsel in domestic violence cases may result in domestic violence survivors being less likely to be victimized, saving the city funds for public safety, medical treatment, job loss, and interruption of education for minor children in the home. Preventing avoidable evictions reduces homelessness, shelter and other costs.

We respectfully urge that the Council of the District of Columbia modify the Mayor's recommendation to cut funding for civil legal services and loan forgiveness programs for public service lawyers to preserve these vital services for the people of the District.

Councilmember Phil Mendelson
May 5, 2010
Page Two of Two

Sincerely,

Kenias Seoane Lopez, Esq.
Hispanic Bar Association of the District of Columbia

Consuela Pinto, Esq.
Women's Bar Association of the District of Columbia

Anita Khushalani, Esq.
South Asian Bar Association of the District of Columbia

Tacie Yoon, Esq.
Asian Pacific American Bar Association of the Greater Washington, D.C. Area



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(202) 659-3532 | fax (202) 775-9040 | dctrilawyers@tla-dc.org | www.tla-dc.org

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2010 MAY 10 PM 4:44

May 5, 2010

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Christina Figueras

Honorable Phil Mendelson
Chair, Committee on Public Safety and the Judiciary
District of Columbia Council
1350 Pennsylvania Avenue, NW, Suite 402
Washington, DC 20004

RE: Access to Justice Budget Cuts

Dear Chairman Mendelson:

While many jurisdictions have faced difficult decisions in order to balance budgets for 2011, Mayor Fenty's proposed budget for 2011 goes too far in the cuts to civil legal services for those in need. The Mayor's 2011 budget proposal for the Access to Justice Program is \$1.8 million, down significantly from the \$2.86 million in fiscal year 2010 and from the \$3.6 million in fiscal year 2009. These cuts will seriously harm residents and cost the city much more in social services spending.

The economic downturn has affected most residents of the city, but the underserved communities are hardest hit and need these services now more than ever. This budget cut leaves the legal service network with half of the operating budget of just two years ago – leaving thousands of clients without counseling, advice or representation.

Access to legal services by the residents can save the District money. Preventing avoidable evictions reduces homelessness and shelter costs; assisting children who receive medical treatment through Alliance (fully funded through DC funds) to enroll in Medicaid (funded primarily through federal funds) saves District money; and providing counsel in domestic violence cases helps to reduce victimization, thereby further reducing costs for medical treatment, job loss and interruption of education for minor children in the home.

Access to Justice is a critical program for the residents of the District. While some cuts may be expected, a 50 percent cut in funding in 2 years is excessive. We urge the Council to reject such a draconian cut in the budget for the Access to Justice program.

Respectfully yours,

By Laurie Amell
Laurie Amell
President

James W. Taglieri
James Taglieri
Legislative Chair

James Nathanson
James Nathanson
Legislative Counsel

cc: all members of the DC Council

May 6, 2010

COUNCILMEMBER MENDELSON
2010 MAY -6 PM 3:49

Honorable Phil Mendelson
City Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Ave, NW, Suite 402
Washington, D.C. 20004

Dear Councilmember Mendelson:

As former Presidents of the District of Columbia Bar, we are writing to urge you to support \$3.6 million in funding for the Access to Justice program for fiscal year 2011, which represents a restoration to the FY 2009 level. Mayor Fenty's proposed budget would reduce funding for this vital program to \$1.8 million. This would be a 50% cut from the fiscal year 2009 level, at the very time when the recession-driven need for legal services is skyrocketing. We recognize that the District is facing extreme budget pressures and that the Council must make difficult choices. The right choice here is to sustain this program that both addresses the urgent legal needs of the District's low-income residents and saves the District money.

Even before the economic downturn, the demand for civil legal aid far outstripped the network's capacity. The economic crisis has brought unemployment to historic highs, caused widespread foreclosures, increased the incidence of domestic violence, exacerbated the vulnerability of low-income workers, and made more families homeless. Providers estimate that requests for assistance rose by 20% in 2009 alone.

Financial support for legal services has plummeted. Every key funding source decreased in 2009. According to the *Rationing Justice* report of the D.C. Access to Justice Commission and the D.C. Consortium of Legal Services Providers, the legal services network lost \$4.5 million in 2009 alone, more than 25% of its total funding. This has led to the loss of 12% of legal staff and nearly 40% of non-legal staff. Providers have had to cut intake sites, curtail services, and turn desperate people away. The Mayor's FY2011 proposed cuts, combined with the FY2010 cuts, would result in the loss of 18-20 additional poverty lawyers.

Reducing support for legal services is an imprudent strategy, not only because of the toll on indigent residents but because legal services save the District money. Legal services attorneys enforce the City's building codes, preserving property values and maintaining neighborhoods. They help parents secure child support orders, reducing the strain on TANF. They help clients access federal benefits instead of locally funded programs. By averting problems before they become crises, legal services prevent individuals from having to rely on public support systems. For example, last year attorneys in the publicly funded Court-Based

Legal Services Project saved at least 200 people from wrongful evictions. Since it costs more than \$25,000 to house a family in an apartment-style shelter for a year, a publicly funded attorney averting evictions quickly recoups for the District the cost of his or her salary.

Cutting funding is also unwise because moneys spent on legal services leverage pro bono and other contributions. Each year lawyers and law firms contribute millions of dollars and tens of thousands of hours to ensuring that people living in poverty have access to lawyers and courts. Healthy legal services providers are necessary for an effective pro bono system. They provide cases, training, supervision and quality control. One program with a \$3 million budget leveraged \$7 million in pro bono services in 2009. For every dollar contributed by the District or a private donor, \$3 of services was delivered.

Since the Council created it in 2006, the Access to Justice program has made great strides. The proposed cuts will jeopardize these gains in access to justice for indigent and vulnerable residents. No other funding source – IOLTA, private donations, foundation grants – will fill the gap. Only the District can keep this vital legal services program running.

Respectfully submitted,

John Cruden
D.C. Bar President 2005 – 2006

Sara-Ann Determan
Hogan & Hartson LLP
D.C. Bar President 1990 – 1991

Jamie Gorelick
WilmerHale
D.C. Bar President 1992 – 1993

Shirley Ann Higuchi
American Psychological Association
D.C. Bar President 2003 – 2004

David B. Isbell
Covington & Burling LLP
D.C. Bar President 1983 – 1984

George W. Jones, Jr.
Sidley & Austin LLP
D.C. Bar President 2002 – 2003

Robert E. Jordan III
Steptoe & Johnson
D.C. Bar President 1987 – 1988

John C. Keeney, Jr.
Hogan & Hartson LLP
D.C. Bar President 2004 – 2005

Philip Allen Lacovara
Mayer Brown
D.C. Bar President 1988 – 1989

Carolyn B. Lamm
White & Case LLP
D.C. Bar President 1997 – 1998

Myles Lynk
Arizona State University
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Crowell & Moring LLP
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Marna S. Tucker
Feldesman Tucker Leifer Fidell LLP
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Mark H. Tuohey III
Vinson & Elkins LLP
D.C. Bar President 1993 – 1994

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D.C. Bar President 1978 – 1979

Melvin White
The Law Office of Melvin White
D.C. Bar President 2007 – 2008

Charles R. Work
McDermott, Will & Emery
D.C. Bar President 1976 – 1977

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May 7, 2010

The Honorable Vincent Gray
Chair
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

The Honorable Phil Mendelson
Chair, Committee on Public Safety and the Judiciary
Council of the District of Columbia
1350 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Chairman Gray and Councilmember Mendelson:

We write on behalf of the Council for Court Excellence to encourage you to support the District of Columbia Access to Justice Commission's request for the District government to provide \$3.2 million in the fiscal year 2011 budget for civil legal services to the poor. The current FY 2011 budget proposal cuts the program to \$1.8 million. Combined with a \$700,000 cut made to the Access to Justice Commission's FY 2010 budget, the Commission confronts a 50% reduction in funding from its FY 2009 level.

The Access to Justice Commission helps to ensure that poor District residents have access to attorneys to help them with urgent legal issues, including safe and affordable housing, protection from domestic violence, access to health care, protection from illegal employment practices, and access to vital food and income benefits. Without these attorneys, poor and vulnerable residents are too often forced to navigate our complex and intimidating legal system alone. Most do not know their rights or about legal protections that may help them; the consequences are often devastating.

Because of the recession, the need for legal assistance has increased dramatically. The recession has brought unemployment to higher levels, forced families into foreclosure, made more families homeless, and likely has increased the incidence of domestic violence. At the same time, the ability of the legal services network to meet these urgent needs has decreased sharply. According to *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia* – a joint report issued by the Access to Justice Commission and the DC Consortium of Legal Services Providers – in 2009, the District's legal services network lost over 25% of its funding, 12% of its legal staff, and nearly 40% of non-legal staff who provided critical client support. The proposed FY 2011 budget cut, combined with those in FY 2010, means the loss of 18 – 20 attorneys and legal representation for far too many DC residents.



COUNCIL FOR COURT EXCELLENCE

Chairman Vincent Gray and Councilmember Phil Mendelson
May 7, 2010
Page two

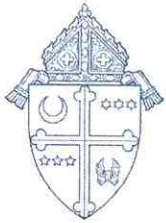
We recognize that the District is facing enormous budget pressures. However, we urge you to consider that dollars spent on legal services are greatly magnified by pro bono and other contributions. The legal community in the District is deeply committed to issues related to access to justice. It contributes time and funding, providing clients with access to legal assistance. Legal service providers are pivotal to harnessing these pro bono resources. They provide cases, training, supervision, and quality control. They make it possible for the larger legal community to advance access to justice efforts. Insofar as part of CCE's mission is to improve public access to justice, we believe the relevance of this appropriation issue to our work is evident.

We strongly support the work of the Access to Justice Commission and again encourage you to restore the Commission's funding to \$3.2 million for fiscal year 2011.

Sincerely,

Earl J. Silbert
President

June B. Kress
Executive Director



ARCHDIOCESE OF WASHINGTON

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447
Mailing Address: Post Office Box 29260, Washington, DC 20017-0260
301-853-4500 TDD 301-853-5300

Council of the District of Columbia
The Honorable Phil Mendelson
The John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 402
Washington, D.C. 20004

May 10, 2010

Dear Council Member ^{Phil} Mendelson,

The D.C. Catholic Conference urges increased support for civil legal services within the District of Columbia.

Our faith teaches us that the true test of any society is how it treats its poor and vulnerable citizens. Given the increasing disparities of wealth in our city, it is imperative that our city continues to provide the necessary services for our poor and vulnerable residents which include access to civil legal services.

Without these critical civil legal services, low-income residents would bear another unfair and undue burden and likely receive poor legal representation which is contrary to our civic values.

Moreover, it could compound any injustice that they may experience in the first place or even block them from receiving basic human services such as cases involving domestic violence, eviction, foreclosure, homelessness, and immigration.

Therefore, the D.C. Catholic Conference requests that you include at least a \$3.2 million appropriation for civil legal services in the city budget for FY 2011 to help those who really need these services.

With Kindest Regards, I Remain

Sincerely,

Ron Jackson
D.C. Catholic Conference, Executive Director

2010 MAY 10 PM 3:27
COUNCIL MEMBER MENDELSON



Asian Pacific American Bar Association
of the Greater Washington DC Area, Inc.

**ASIAN PACIFIC AMERICAN BAR ASSOCIATION
OF THE GREATER WASHINGTON, D.C. AREA, INC.**

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May 11, 2010

Councilmember Phil Mendelson
1350 Pennsylvania Avenue, N.W.
Suite 402
Washington, D.C. 20004

Dear Councilmember Mendelson:

We are writing to urge you to fund the Access to Justice Program in the amount of \$3.2 million. These funds are used to provide legal help to the poorest and most vulnerable District residents and have brought lawyers to underserved communities across the city, particularly east of the Anacostia River. They also fund a Community Legal Interpreter Bank to improve access to legal assistance for limited English proficient and deaf clients, and fund the Poverty Lawyer Loan Repayment Assistance Program which helps providers to recruit and retain highly qualified staff.

The Mayor has proposed cutting the program to \$1.8 million in FY2011. This is on top of a \$700,000 cut already made for FY2010. Together these reductions slash the program to 50% of its FY 2009 level.

As lawyers, we understand how critical it is to have legal representation in court. Most people would not attempt to navigate our complex legal system alone, particularly when those things they most value – their homes, their children, their jobs, their safety – is at stake. Research shows that regardless of the merits, a party without legal representation is likely to lose, especially when litigating against a party with a lawyer. Yet every day in the District, poor residents, many of whom struggle with mental or physical illnesses, traumatic experiences of family violence, and literacy or language access challenges, try to represent themselves. Most do not know their rights or about legal protections that may help them; the consequences are often devastating.

The lawyers funded by the Access to Justice program help residents to secure the most basic of human needs, including:

- keeping families in safe and affordable housing,
- helping children get access to health care,
- assisting domestic violence victims and their children to escape violent

Councilmember Phil Mendelson

May 11, 2010

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relationships,

- enabling disabled individuals to secure disability benefits,
- helping low-income workers to maintain employment, and
- helping families to access food and income security programs.

Because of the recession, the need for legal assistance has skyrocketed. The recession has brought unemployment to historic levels, forced thousands of families into foreclosure, increased the severity and incidence of domestic violence, and made more families homeless. At the same time, the ability of the legal services network to meet these urgent needs has decreased sharply.

According to *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia* -- a joint report issued by the D.C. Access to Justice Commission and the D.C. Consortium of Legal Services providers -- in 2009, the District's legal services network lost over 25% of its funding, 12% of its legal staff, and nearly 40% of non-legal staff who provided critical client support. The Mayor's proposed cut, combined with the FY2010 cuts that are hitting the legal services network now, will mean a loss of 18-20 additional lawyers. As a result, thousands of clients who urgently need legal help will not receive it.

We recognize that the District is facing enormous budget pressures. However, we urge you to consider that dollars spent on legal services are greatly magnified by pro bono and other contributions. The legal community in the District is deeply committed to equal justice and to support for the legal services community. Each year lawyers and law firms contribute millions of dollars and tens of thousands of hours to ensuring that indigent clients have access to legal assistance. Legal services providers are pivotal to harnessing these pro bono resources. They provide cases, training, supervision and quality control. They make it possible for the larger legal community to advance access to justice efforts.

As lawyers, we strongly believe that equal access to the courts is a fundamental component of our justice system. The Access to Justice funds are critical to ensuring that poor residents get help with urgent legal needs. We urge you to restore funding to \$3.2 million for fiscal year 2011.

Sincerely,



Tacie H. Yoon
President, APABA-DC



DISTRICT OF COLUMBIA BAR
Litigation Section

COUNCIL MEMBER MENDELSON
2010 MAY 14 PM 5:03

May 13, 2010

VIA EMAIL AND HAND DELIVERY

The Hon. Phil Mendelson
John A. Wilson Building, Suite 402
1350 Pennsylvania Ave, NW
Washington, DC 20004
pmendelson@dccouncil.us

Steering Committee
David D. Fauvre, Co-chair
Moxila A. Upadhyaya, Co-chair
Theresa A. Coetzee
Charles C. Lemley
Joshua A. Levy
Lucy E. Newton
David T. Ralston, Jr.
Mary L. Smith
Bruce V. Spiva

Board of Governors Liaison
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Kim Michele Keenan
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Ronald S. Flagg
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Executive Director

Cynthia D. Hill
*Assistant Executive Director,
Programs*

Joseph P. Stangl
*Assistant Executive Director,
Administration and Finance*

Candace Smith-Tucker
Director, Sections

Re: Public Statement Opposing Proposed Cuts to Civil Legal Services Funding

Dear Council Member Mendelson:

Please find enclosed a Public Statement issued by the Litigation Section¹ of the District of Columbia Bar² urging the D.C. Council to oppose Mayor Fenty's proposed cuts to civil legal services funding.

The Litigation Section is the largest Section of the D.C. Bar with over 3,400 members. The following Sections (with approximate membership totals in parentheses) joined the statement as co-sponsors: Administrative Law and Agency Practice (1,300 members), Antitrust and Consumer Law (1,100 members), Corporation, Finance and Securities Law (2,500 members), Courts Lawyers and the Administration of Justice (300 members), Criminal Law and Individual Rights (900 members), Family Law (500 members), Government Contracts and Litigation, Health Law (1,000 members), Labor and Employment Law (1,800 members), and Tort Law (300 members).

Please feel free to contact any of the members of the Steering Committee listed in the footnote below if we can be of any assistance.

Sincerely,

David D. Fauvre

Moxila A. Upadhyaya

Co-Chairs of the Litigation Section of the D.C. Bar

Enclosure

¹ Members of the Steering Committee of the Litigation Section of the D.C. Bar are: Theresa A. Coetzee, David D. Fauvre, Charles C. Lemley, Joshua A. Levy, Lucy Newton, David T. Ralston, Mary L. Smith, Bruce V. Spiva, and Moxila A. Upadhyaya. Lucy Newton and Mary L. Smith recused themselves from this matter.

² The views expressed herein represent only those of the Litigation Section of the District of Columbia Bar and the other co-sponsoring Sections and not those of the D.C. Bar or of its Board of Governors.



DISTRICT OF COLUMBIA BAR
Litigation Section

COUNCIL MEMBER MEMBERS ONLY
2010 MAY 14 PM 5:03

**Public Statement of the Litigation Section of the District of Columbia Bar
Opposing the Mayor's Recommendation to Cut \$1 Million in Civil Legal
Services and Loan Forgiveness Funding**

Note: *The views expressed herein represent only those of the Litigation Section of the District of Columbia Bar and not those of the D.C. Bar or of its Board of Governors.*

Steering Committee

- David D. Favre, Co-chair
- Moxila A. Upadhyaya, Co-chair
- Theresa A. Coetzee
- Charles C. Lemley
- Joshua A. Levy
- Lucy E. Newton
- David T. Ralston, Jr.
- Mary L. Smith
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- Kim Michele Keenan

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Assistant Executive Director, Programs

- Synthia D. Hill

Assistant Executive Director, Administration and Finance

- Joseph P. Stangel

Director, Sections

- Janet E. Carlisle

On April 13, 2010, the Steering Committee of the Litigation Section¹ of the District of Columbia Bar voted, without dissent and with two recusals, to issue the following Public Statement, on behalf of the Section, opposing District of Columbia Mayor Adrian M. Fenty's recommendation to cut more than \$1 million for fiscal year 2011 for civil legal services for low-income people and loan forgiveness for legal services lawyers.

Cosponsoring this statement are the following D.C. Bar Sections: Administrative Law and Agency Practice; Antitrust and Consumer Law; Corporation, Finance and Securities Law; Courts, Lawyers and the Administration of Justice; Criminal Law and Individual Rights; Family Law; Government Contracts and Litigation; Health Law; Labor and Employment Law; and Tort Law.

On April 1, 2010, Mayor Fenty released his proposed budget for fiscal year 2011, which cuts funding for the Access to Justice Program to \$1.8 million, from \$2.86 million in fiscal year 2010 and from \$3.6 million in fiscal year 2009.² The Access to Justice Program provides legal services for indigent D.C. residents, a community legal interpreter bank, and a loan repayment assistance program for lawyers serving people living in poverty.

¹ Members of the Steering Committee of the Litigation Section of the D.C. Bar are: Theresa A. Coetzee, David D. Favre, Charles C. Lemley, Joshua A. Levy, Lucy Newton, David T. Ralston, Mary L. Smith, Bruce V. Spiva, and Moxila A. Upadhyaya. Lucy Newton and Mary L. Smith recused themselves from the vote on this matter.

² Mayor Adrian M. Fenty, Government of the District of Columbia FY 2011 Proposed Budget and Financial Plan, at A-187 (available at http://cfo.dc.gov/cfo/frames.asp?doc=/cfo/lib/cfo/budget/fy2011/volume_2_agency_chapters_part_i.pdf).

This proposed cut would have far-reaching negative effects for the legal services community and for the indigent individuals it serves. The proposed cuts come at a time when unemployment and foreclosures in the District are reaching historic levels and options for legal services support have shrunk. Interest on Lawyers' Trust Accounts ("IOLTA") funding fell by nearly 60% in 2009.

According to a joint report of the D.C. Access to Justice Commission and the D.C. Consortium of Legal Services Providers, *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia*, the D.C. legal services network lost \$4.5 million – or more than 25% of its total funding – in 2009 alone.³ This loss of funding has already led to the loss of 12% of legal staff and nearly 40% of non-legal staff. The 2009 funding losses translate into a thousand fewer cases being handled before a court or administrative agency and over two thousand fewer clients receiving counseling, advice or brief services. The Mayor's FY2011 proposed cuts, combined with the FY2010 cuts, would result in the loss of 18-20 additional legal services lawyers.

In addition to assisting District residents in dire need, legal services save the District money. Studies from other jurisdictions found that for every dollar spent on legal assistance, the government saves between \$4 and \$7. The following are a few examples of why this is the case:

- Access to counsel in domestic violence cases improves safety. As a result, domestic violence survivors are less likely to be victimized, saving costs for public safety, medical treatment, job loss, and interruption of education for minor children in the home.
- Preventing avoidable evictions reduces homelessness, shelter and other costs.
- Legal Services providers often assist children who are receiving medical treatment through the Alliance (a 100% DC funded program) enroll in Medicaid (a 70% federally funded program). Each time someone switches from the Alliance to Medicaid, the District saves money.

Accordingly, the Litigation Section urges the D.C. Council to reject the Mayor's recommendation to cut funding for civil legal services and loan forgiveness programs.

³ District of Columbia Access to Justice Commission and DC Consortium of Legal Services Providers, *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia* (available at http://www.dcaccesstojustice.org/files/Rationing_Justice_Report_final_PDF_.pdf).