

Public Hearing on Mayor Bowser's Fiscal Year 2019 Budget Request

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

Testimony of Nancy E. Drane, Executive Director District of Columbia Access to Justice Commission

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Chairman Allen and Members of the Council, thank you for the opportunity to testify today. My name is Nancy Drane and I am the Executive Director of the District of Columbia Access to Justice Commission. As you know, the Commission was created by the District of Columbia Court of Appeals in 2005 to address the scarcity of civil legal services for low- and moderate-income District residents and to reduce the barriers these litigants face in navigating the civil justice system. The Commission is chaired by Professor Peter B. Edelman of Georgetown University Law Center and its members include D.C. Court of Appeals and Superior Court judges, past Presidents of the D.C. Bar, Executive Directors of prominent legal services providers, members of the private bar, corporate counsel, law school professors, and other community leaders.

I am pleased to testify today in support of the Access to Justice Initiative and the new Civil Legal Counsel Projects Program alongside Kirra Jarratt, Executive Director of the D.C. Bar Foundation, and Nancy Lopez, Executive Director of the Washington Council of Lawyers. Since each program's inception, the D.C. Bar Foundation has worked with the Office of Victim Services Justice Grants to skillfully and strategically administer these programs. The Washington Council of Lawyers has a decades-long commitment to promoting the public interest and bringing together the District's legal community to advance access to justice and shrink the justice gap in our city. They are both great partners in this important work.

We are extremely grateful to the Mayor and to the Council for their long-standing support of these access to justice programs. We are pleased that the Mayor's proposed Fiscal Year 2019 budget provides for \$9.066 million in funding. This is \$743,000 less than Fiscal Year 2018 funding levels, however, and so we are seeking the Council's support in identifying \$743,000 in recurring funds to recover that difference, plus an additional increase of \$248,000 to support growing program needs, for a total of \$10.057 million.¹

¹ \$5,557,000 will go to the Access to Justice Initiative (comprised of the Access to Justice Grants Program and the District of Columbia Poverty Lawyers Loan Repayment Program) and \$4,500,000 will go to the Civil Legal Counsel Projects Program. Taken together, these complementary programs represent an integrated and cohesive investment in access to justice.

Restoring Fiscal Year 2018 funding will ensure the continuity of existing programs, while the increase will allow the programs to keep pace with the growing community need for civil legal services, as well as meet the actual demand for loan repayment assistance presented by the large network of District poverty lawyers, as detailed in the D.C. Bar Foundation's testimony today.

Our testimony will focus on the impact of these important programs on the District's low-income community and the complementary role these public funds play in the support for our legal services network.

Civil legal services are a critical strand in the safety net for District residents living in poverty. Most people would not attempt to navigate our complex court system without a lawyer, particularly when the things most precious to them – their children, their home, their physical safety, their only income stream – are on the line. Yet every day poor District residents are forced to face their legal troubles alone.

Imagine being the mother of a 7-year-old child suffering from asthma. Night after night, your son cannot sleep due to his constant coughing - flare ups of his asthma condition. You bundle the entire family up in the middle of the night to go to the emergency room, looking for help. You do everything the doctor prescribes, but your child's symptoms continue. He is too sick to attend school, and you worry whether he'll gain the critical reading skills he needs with all his lost days. You are forced to miss work to take care of him, putting your family's already tenuous economic status at risk. Your apartment is riddled with mold which you think has something to do with your child's coughing, but when you ask, your landlord doesn't remove it but rather covers the mold with new paint so that it just comes back again. Your neighbor tells you that maybe if you withhold the rent, your landlord will do something, but you're worried about being brought to court.

Here, it is a lawyer's skills that can help this child's health improve. A lawyer can file suit against the landlord to advocate that the mold and other housing conditions be addressed. If an eviction matter is brought against the tenant by the landlord, a lawyer can raise legitimate defenses like housing code violations and seek rent abatement. But success in the housing case will mean so much more – the child's health will improve and the family can find a greater sense of stability.

The District government has long recognized this critical need and for twelve years has provided vital financial support for civil legal services. These funds are used to increase services in communities and neighborhoods of highly concentrated poverty, expand representation in housing matters, address traditionally underserved populations, and maintain a legal interpreter bank. The funds include the District of Columbia Poverty Lawyer Loan Repayment Assistance Program, which enables talented lawyers to remain working in District legal services organizations through loan repayment assistance. Last year, through the District's leadership, a new program, the Civil Legal Counsel Projects Program, was created to target the provision of

legal services in eviction proceedings – an area of practice where we see some of the highest rates of lack of representation with some of the most significant life consequences.

Access to Justice Initiative

Since its inception, the District government appropriation has been vital to ensuring that tens of thousands of District residents have legal assistance. Through the important work of the Office of Victim Services Justice Grants and the D.C. Bar Foundation, the legal services network has been fundamentally transformed through these funds, which have significantly increased the capacity and reach of District legal services organizations and permitted innovations that address emerging needs.

The funds now support more than 50 lawyers who represent clients in some of the most underserved parts of our city. The funds have doubled the number of attorneys working east of the Anacostia River, easing the transportation burden for indigent residents. As organizations develop neighborhood legal services offices, they have become known and trusted parts of the safety net in those communities. The funds promote creative community partnerships such as medical-legal partnerships, which place attorneys alongside medical staff at some of the District's most high-volume providers of primary medical care. Through these programs, attorneys help meet young patients' legal needs in the areas of education, housing, and access to health care when facing urgent medical episodes. We know that investing in these community relationships is critical to connecting District residents with needed services.

Innovation has always been a hallmark of these programs, as the legal services network develops programs tailored to populations that have traditionally struggled to access services, such as children, individuals with disabilities, returning citizens, and the transgender community. In addition, several programs have worked to fill the gaps in the growing need for representation in consumer law. For example, one organization received funding in Fiscal Year 2018 to assist low-income District residents in debt-related legal matters, helping them to avoid the often-catastrophic effects of a negative court judgment and a poor credit report, such as losing their driver's license, seizure of their bank account, impossible payment plans, and the inability to obtain employment. Another program received funding in Fiscal Year 2018 to advise, counsel, and represent immigrant victims of fraud in potential immigration, civil, and criminal matters stemming from fraudulent practices by so-called 'representatives' or 'notarios' who prey on vulnerable immigrant communities.

The Commission is particularly pleased that these funds have supported important collaborations between the court and the legal services community to address unmet needs identified by both the judiciary and legal services providers. For example, the Consumer Law Court-Based Legal Services Project, funded in Fiscal Year 2018, provides same-day representation in debt collection cases to protect the limited income and assets of low-income District residents. The project places legal aid attorneys at D.C. Superior Court to serve pro se

litigants in debt collection matters before the Small Claims Court and the civil collections calendar. There are several other court-based programs that are supported by these funds.

Finally, the funds also support the nationally recognized Community Legal Interpreter Bank, which ensures that the District's large Deaf community and the District's more than 39,000 limited English proficient residents have equal access to justice. The bank provides language access services to 39 District nonprofits that provide legal assistance to low-income residents. The bank now has nearly 90 specially trained interpreters available to provide services in 25 different languages (this includes American Sign Language and Certified Deaf Interpreters). In 2017 alone, the bank provided 2,842 telephonic interpretations, 394 in-person interpretations, and 297 document translations. Over the last year, the Community Legal Interpreter Bank has been an indispensable resource to nonprofits serving and educating limited English proficient immigrants. But during a time of constant and erratic change in immigration policy, the bank has been unable to meet the growing need for services with current funding levels.

The D.C. Bar Foundation and the Washington Council of Lawyers include descriptions of other important programs that benefit from these funds in their testimony.

The D.C. Poverty Lawyer Loan Repayment Assistance Program, a critical tool for recruiting and maintaining a talented and diverse corps of legal services lawyers who live and work in the District, are also supported through these funds. The increase in funding we are seeking in Fiscal Year 2019 is necessary to meet the growing need presented by these dedicated poverty lawyers, who face levels of debt twelve times the national average. As the D.C. Bar Foundation details in its testimony, the D.C. Bar Foundation's last grant awards were 20 percent higher than the year before after a record number of applications. The D.C. Bar Foundation also projects further increases in applications due to the addition of the new Civil Legal Counsel Projects Program. We would be grateful for the Council's support in providing an increase to keep up with the need in this crucial program.

Civil Legal Counsel Projects Program

The Commission is particularly pleased that the District established the Civil Legal Counsel Projects Program in Fiscal Year 2018 to support legal services providers that provide free eviction defense legal services to low-income tenants in the District. Through the program, these legal aid providers will serve countless low-income District residents in either full representation, temporary appearances, brief service, or legal advice in landlord-tenant matters through attorney of the day programs located at D.C. Superior Court and other related projects. The D.C. Bar Foundation has worked tirelessly to successfully launch the program and bring together the eviction defense legal services community and other external stakeholders to promote collaboration and shared goals. District legal services organizations are expanding their staffs in housing-related matters and providing more comprehensive, holistic services, as well as pursuing innovative collaborations that leverage each organization's expertise, reduce overhead, and promote greater efficiency in the delivery of services.

In one existing project now supported by these funds, several legal services organizations have partnered to increase access to counsel for low-income tenants with housing subsidies who are facing eviction proceedings. These tenants and their families risk not only losing their homes but also their valuable subsidies – a lifeline for those who cannot afford to pay the District’s ever-rising market rents. The program has a pro bono component, with law firms across the city joining in the effort – legal services attorneys trained almost 400 pro bono attorneys and legal assistants at 17 law firms and the federal government. Since 2015, legal services attorneys and pro bono attorneys mentored by those attorneys have represented over 700 tenants in eviction cases, making it possible for the vast majority of these tenants to stay in their homes, hold onto their housing subsidies, and avoid long-term homelessness. The Project’s results are indeed compelling: tenants helped through this Project are *six times* less likely to face an imminent threat of eviction. The Project has received local and national attention for its innovative approach to closing the justice gap by significantly leveling the playing field for low-income tenants in eviction proceedings. However, with over 6,500 eviction cases filed against subsidized tenants each year (and 35,000 total cases filed in the D.C. Superior Court’s Landlord & Tenant Branch each year) there are many more individuals and families who need assistance. The additional funds available through the Civil Legal Counsel Projects Program are critical to making an even greater impact in the future.

The Demand and Broader Impact of these Funds

While these funds are being used effectively to serve thousands of District residents, we continue to hear from legal service providers that the demand for services, and the urgency of the problems faced by their clients, have not ebbed. Organizations are still forced to turn away clients with urgent, meritorious cases due to a lack of resources. The IOLTA (Interest on Lawyers Trust Accounts) Program, which had traditionally been the single largest source of non-public funding for legal services, has decreased 80% since 2008 and has still not recovered from the drop in interest rates. As a result, the legal services network remains underfunded at a time when low-income residents, particularly those who reside in Wards 7 and 8, continue to struggle with poverty-related legal problems. In this context, these public funds are absolutely essential to our civil justice system.

Finally, the District government’s leadership in supplying these public funds has also allowed legal services organizations to maximize a range of other resources, including pro bono service, to magnify the impact of every public dollar spent. Each year, the Commission, in partnership with the D.C. Bar Pro Bono Center, recognizes pro bono attorneys who provide 50 hours or more of pro bono service – or 100 hours of service or more for a higher recognition category – to help those who cannot afford counsel. In 2017, over 4,800 attorneys registered for the Honor Roll with over 60% qualifying for the higher recognition category of 100 plus hours. The Honor Roll includes attorneys from all segments of the bar, including more than 150 law firms and scores of solo practices, local and federal government agencies, and non-profit organizations. Pro bono contributions are indispensable to meeting client needs but are only possible when there is a stable legal services network to identify cases, develop resources, and

provide training and supervision. Without these public funds and the stable legal services infrastructure they assure, many of these important law firm resources would go untapped, and thousands more clients would be denied the assistance of counsel.

The District's commitment to civil justice also serves as a model to all segments of the community. The increase in funding from both the public and private spheres, commensurate with their joint commitment to equal access for all, is crucial. The Commission is grateful that the private bar has increasingly become an equal partner in funding access to justice work and that its contributions to direct legal services organizations have also increased. Each year, the Commission recognizes the contributions of the legal community through the Raising the Bar in D.C. Campaign. As the Committee may recall, the campaign establishes revenue-based benchmarks for law firm donations to legal services organizations. While the District is fortunate to have a generous legal community both in terms of financial and pro bono support, with many firms having given generously for years, the community can always do more. The campaign works hard to persuade more firms to support local legal services and to convince those already giving to do more. In 2016, the forty-seven firms that met benchmark levels collectively donated nearly \$5.5 million to organizations that serve indigent District residents with urgent legal issues, which represents an almost \$2.5 million dollar increase in giving by these firms since their entry into the Campaign. The Commission believes that this robust private-public partnership has been greatly incentivized by the District government's long-standing support. As a matter of principle, the legal community recognizes that the burden of ensuring equal access to justice is a shared responsibility and not one that can or should be borne by public dollars alone.

At their core, the numbers and project descriptions described in our testimony demonstrate how the District's commitment to these programs change the lives of individual District residents, many of whom have effective access to justice only because of these appropriations. However, it is also important to recognize the significant effect the funds have on the broader administration of justice, the well-being of the community, and the public fisc. By keeping families economically stable, legal services attorneys reduce reliance on costlier public benefits systems. By keeping clients housed, they ease the burden on our homeless services network. By moving clients from local to federally funded public benefits programs, they reduce the burden of these programs on the local budget. And through their work, they help enforce and strengthen District laws that have been established to protect its residents. Our civil legal services network also provides invaluable benefits to the administration of justice by helping our local courts and administrative agencies identify barriers for pro se litigants and identifying systemic issues to examine.

Thank you for the opportunity to testify today about these vital programs. The District's support of these programs has helped countless District residents secure the legal assistance they need to maintain vital human needs, like housing, family stability, and public benefits, and in doing so, helps make the District a more just, stable community.

We urge the Council to support the funding level proposed by the Mayor with an increase as described earlier in this testimony. The Commission is confident that the District's continued public investment in these sound, effective programs is as important as ever. We are extraordinarily grateful for the Council's – and this Committee's – leadership in advancing access to justice in the District.

I look forward to answering any questions you may have.