

**Agency Performance Oversight Hearing on the Fiscal Years 2008 and 2009 Budgets  
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

March 9, 2009

Chairman Mendelson and members of the Committee on Public Safety and the Judiciary: My name is Peter Edelman. I am a Professor of Law at Georgetown University Law Center and a Ward 3 resident. I am testifying today in my capacity as Chairman of the District of Columbia Access to Justice Commission. As you know, the Commission was created by the DC Court of Appeals in 2005 to address the scarcity of civil legal services available to low and moderate income District residents and to break down barriers these residents face in the civil justice system. The Commission includes DC Court of Appeals and Superior Court judges, leaders of the DC Bar and DC Bar Foundation, legal services providers, and other community leaders.

I would like to talk about the public funding for civil legal services that is included in the Office of the Attorney General's budget. Thanks to your leadership, that of the Mayor, Chairman Gray, and the rest of the Council, the District government provided \$3.6 million for civil legal services in fiscal year 2009. The funding comes at a critical time. With the economic recession, residents' legal needs are rising, and funding for these services is shrinking.

In these bleak economic times, the District's funding for civil legal services becomes even more critical. The funding (1) provides direct legal assistance to people in need and leverages private sector resources; and (2) saves the government money by avoiding social service costs and bringing in money from other sources. I will discuss both issues:

**The Public Funds Have Provide Significant Legal Assistance**

More than 3,000 people received legal assistance with the public funds in the first year of the program and many others received information about their legal rights. The providers are on track to serve many more this year. The publicly funded lawyers accepted over 950 cases for legal assistance in the most recent quarter. These lawyers also leverage private resources by serving as mentors to lawyers from private firms who provide *pro bono* legal services. In the last quarter, the publicly funded lawyers placed nearly 100 *pro bono* cases with private firm lawyers. For example, WEAVE, one of the leading legal services providers for domestic violence victims, leveraged its grant

(\$70,000 for one quarter) by getting over \$250,000 in pro bono legal services for its clients.

The funding is reaching the most vulnerable among us. The shared legal interpreter bank, for example, is permitting people who are limited English proficient to go through the justice system on an equal footing, many for the first time. It is a program that has garnered national attention. A homebound program run by the Legal Counsel for the Elderly makes house calls for people who need legal help and cannot leave their home. And Neighborhood Legal Services Program is running a foreclosure clinic so those at risk of losing their homes can get advice and assistance. The funding also places lawyers in medical clinics so that clients can receive holistic care. These are just a few of the ways District residents are getting access to justice every day.

The funding also pays for the District of Columbia Poverty Lawyer Loan Repayment Program Act of 2006, which was enacted by the Council under your leadership. It has been an invaluable program for legal services lawyers to remain in the profession. In fiscal year 2009, 37 lawyers expect to receive about \$290,000 in loan repayment assistance. The average debt level for these lawyers is nearly \$100,000. An additional 21 lawyers who live in Maryland or Virginia, but who work for legal services providers in the District, will receive over \$200,000 in loan repayment assistance using the private funds of the DC Bar Foundation. Once again, the public funds are leveraging significant private resources.

### **Legal Services Save Money**

Numerous studies from other jurisdictions demonstrate that funding legal services is a wise investment. It prevents problems from spiraling out of control (thereby reducing social service costs), and brings in other resources. Attachment One summarizes a few of these studies. We are seeing these savings in the work carried out with the public funds. For example:

- WEAVE obtained tens of thousands of dollars for their clients in the form of alimony, damages, and child support in just one quarter. These figures do not include medical costs that may have been saved from avoiding domestic violence. It also does not include the intangible benefit that a client gets from feeling protected from a batterer or being awarded custody of one's child. WEAVE generated these returns on an investment of \$70,000 in public funds.
- The Attorney for the Day Project in Landlord/Tenant Court, which received about \$575,000 in public funds last year, conservatively estimates they saved 200 people from eviction, not to mention the numerous cases in which they assisted clients in getting more favorable settlement terms. It costs about \$27,000 a year per person to provide emergency shelter so preventing 200 evictions save the city up to \$5.4 million in shelter costs. The disruption that a family goes through after being evicted, often including job loss, lost schooling, and mental health issues, is also avoided. Furthermore, the psychological trauma

of a family uprooted by an eviction, while difficult to quantify, can be avoided if counsel can prevent unnecessary evictions.

The savings are also reflected in individual cases throughout the District. For instance:

- The Children's Law Center (CLC) received a call from a pediatrician who was seeing a homeless mother with an infant. The baby was born with underdeveloped lungs and had recently been released from the neonatal intensive care unit. CLC worked with the pediatrician to get an emergency shelter placement that prevented the child from being put in foster care (thereby avoiding that expense) and being separated from the mother.
- The Legal Aid Society of the District of Columbia (LAS) assisted a client who was dually eligible for Medicaid and Medicare, but was only enrolled in Medicaid. As a result, the District was paying a large percentage of his care. By enrolling him in Medicare, the federal government pays 100% of the medical costs. Not only were there significant non-financial benefits to the client, the District saved considerable money.
- LAS assisted an adult who was relying on the DC Alliance for medical benefits to enroll in Medicare with the District subsidizing the premium through the Qualified Medical Benefits program. As a result, the cost of the medical benefits shifted from 100% DC to nearly 100% federal. The client was also able to get 100% federally funded Medicare Part D drug benefits.

Pro bono attorneys who are mentored by publicly funded attorneys can also provide cost savings to the District. For example, lawyers from a large law firm represented a single mother of four children after her landlord refused to remedy visible mold growth and rat infestation. The mold caused the children to suffer from asthma, headaches and nosebleeds, prompting numerous visits to the emergency room (paid for by the District) and posing a serious and ongoing threat to the children's health.

The law firm settled the case with the landlord after a professional mold inspector confirmed there were elevated levels of toxic black mold. The settlement included temporary housing while an independent contractor replaced the apartment's mold-infested walls and ceilings. The children's health improved dramatically after returning to the apartment.

### **Commission's FY 2010 Funding Request**

Chairman Mendelson, we will be back before this Committee for the FY 2010 budget hearings so I will not spend much time on FY 2010 right now. I do want to say a few words, however. The Commission is asking the Mayor and the Council for level funding for 2010 - \$3.6 million. A copy of our request is at Attachment Two. The increasing legal needs would justify a much larger request. However, we are mindful of

the District's own budget challenges, so we are not seeking an increase. It is critical that the government maintain this level of funding given the cutbacks we are seeing from other sources for civil legal services. Legal services providers run very lean organizations, and many have already cut back on training, imposed hiring freezes, and frozen salaries. Any further cutbacks will lead directly to service delivery cuts. We cannot let this happen in these difficult times.

Thank you for giving me the opportunity to testify. I am happy to answer any questions.

# **Attachment 1**

## Attachment One

Investing in legal services for the city's most disadvantaged residents benefits all District residents because funds allocated for civil legal services generate measurable economic benefits that can far exceed the costs.<sup>i</sup> These benefits range from bringing in funds from other sources to avoiding public expenditures.<sup>ii</sup> For example:

- Providing low-income persons with legal representation to fight eviction proceedings helps the city reduce the cost of providing shelter to homeless families.<sup>iii</sup>
- Expanding assistance to domestic violence victims reduces expenditures on medical costs and property damage.<sup>iv</sup>
- Assisting residents obtain federally funded public benefits to which they are entitled (*e.g.*, Supplemental Security Income (SSI) and Supplemental Security Disability Income (SSDI)) brings additional money into the state's economy.<sup>v</sup>

Studies in New York and Nebraska estimate that every \$1 of public funds invested in legal services generates \$4 in benefits.<sup>vi</sup>

Studies from New York City and Massachusetts are particularly illustrative:

- A cost/benefit analysis of providing legal assistance to low-income tenants in New York City's Housing Court concluded that the cost of providing legal assistance to every unrepresented tenant was far less than the cost of providing shelter to those evicted tenants who subsequently became homeless. The study concluded that if the city invested \$84 million in legal assistance, it would generate a net savings of nearly \$67 million.<sup>vii</sup>

- A 1996 study found that New York City's expenditure of \$3 million to provide legal counsel to families facing eviction (which leveraged an additional \$9 million in state and federal funds) saved the city more than \$27 million that would otherwise be spent to house families in homeless shelters.<sup>viii</sup>

- In 1983, the Massachusetts legislature created the Disability Benefits Project (DBP), which operates out of ten legal services offices throughout the state. DBP provides legal advice and representation to low-income residents who are potentially eligible for SSI and SSDI payments. Successful clients receive these payments retroactive to the date of application as well as ongoing monthly payments until they are deemed ineligible. The federal benefits often replace state benefits that a client may have been receiving.<sup>ix</sup> With \$1.2 million in state funding in fiscal year 2007, DBP generated more than \$7.7 million in federal revenue.<sup>x</sup> Since SSI and SSDI recipients stay in the program an average of 10 years, the federal funding continues long after the legal representation ends.<sup>xi</sup>

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<sup>i</sup> See generally, Timothy K. Kelso, *et al*, “The Economic Impact of Legal Aid of Nebraska 2003” (Jun. 2004); New York State Department of Social Services, Office of Program Planning, Analysis and Development and Office of Shelter and Supported Housing Programs, “The Homelessness Prevention Program Outcome and Effectiveness 1990” (1990); Liz Elwart, *et al*, “Increasing Access to Restraining Orders for Low-Income Victims of Domestic Violence: A Cost Benefit Analysis of the Proposed Domestic Abuse Grant Program” (Dec. 2006).

<sup>ii</sup> New York State Department of Social Services, *supra* note i, at 23.

<sup>iii</sup> *Id.* at 23.

<sup>iv</sup> Elwart, *supra* note i, at Executive Summary, pg. ii.

<sup>v</sup> Kelso, *supra* note i, at 5.

<sup>vi</sup> See *id.*, at 8. See also New York State Department of Social Services, *supra* note i, at 3, 23 (New York’s assessment of the legal services provided by its Homelessness Prevention Program reported that the program “returns four dollars for every dollar of public funds invested,” but noted that that amount understated the “total benefit” of the program).

<sup>vii</sup> Community Training and Resource Center and City-Wide Task Force on Housing Court, “Housing Court, Evictions and Homelessness: The Costs and Benefits of Establishing a Right to Counsel,” at iv (1993).

<sup>viii</sup> H.R. Windels, “Memorandum to the Committee on Pro Bono and Legal Services, Association of the Bar of the City of New York,” at 3 (Apr. 9, 2002) (on file with the Commission)

<sup>ix</sup> R. Granberry *et al*, “Assessing the Benefits of Provision of Legal Services Through the Disability Benefits Project” (Aug. 2006).

<sup>x</sup> Donna Southwell, “Summary of UMass Study on the Disability Benefits Project” (July 2007).

<sup>xi</sup> *Id.* See also New Hampshire Legal Assistance, “North County Civil Legal Services Appropriation, Semi-Annual Report to the Judicial Council,” at 1 (July 3, 2007) (\$540,000 in public funds for civil legal services yield more than \$1.5 million in federal disability benefits and health care coverage).

# **Attachment 2**



**D.C. ACCESS TO JUSTICE COMMISSION'S FY 2010 PUBLIC FUNDING  
REQUEST FOR CIVIL LEGAL SERVICES**

Civil legal services for District of Columbia residents living in poverty are critical to these residents' well-being and to the just operation of the judicial system. Issues involving family stability, safe and affordable housing, fair treatment on the job, and access to health care and other basic human needs are resolved in our courts every day. In many cases, a just result can only be achieved when the litigant has the assistance of counsel.

The District government has recognized this need and for the last three years has provided financial support for civil legal services. The D.C. Access to Justice Commission<sup>i</sup> requests that the District continue this commitment to equal justice by allocating \$3.6 million for civil legal services in its FY 2010 budget. This request is for the same amount that the government allocated in FY 2009.

**The Civil Legal Needs of Low-Income Residents are Extensive and Growing**

The Commission documented the extensive legal needs of low-income District residents in its 2008 report, *Justice for All?* The report found that the needs exceed available resources in each of the nine subject areas studied: consumer, education, employment, estate planning, family, public benefits, health/disability, housing, and immigration.<sup>ii</sup> Low-income residents, who were already underserved prior to the economic recession, face even greater legal needs now.

As the economic crisis deepens, civil legal services are needed more than ever. The District's Chief Financial Officer is predicting that unemployment could rise to almost 10% by 2010, the highest level in nearly 30 years.<sup>iii</sup> This job loss and reduced economic activity will increase poverty in the District.<sup>iv</sup> With increased unemployment, there is an increased need for legal counsel to assist with the consequences of a loss in income, including unemployment benefits, other government benefits, and child support.

The legal services providers are already seeing the effects of the economic downturn on their client base. For example:

- The number of people seeking legal assistance for unemployment compensation issues at the Employment Justice Center's (EJC) clinics increased from three during September – December 2007 to 28 in the same four month period in 2008. From September - December 2008, EJC has had to turn away 64 workers with legal issues due to a lack of staff and volunteer capacity. Prior to 2008, they rarely had to turn anyone away.

- The DC Superior Court's Family Court Self-Help Center reports a 30% increase in the number of people seeking help between September – December 2007 and September – December 2008.

Other legal issues arising directly out of the economic slowdown are also on the rise. For example, tenants are fighting evictions because of foreclosures against landlords; landlords are delaying repairs or abandoning buildings due to reduced access to credit; and, creditors are increasing collection efforts on consumer debt. Furthermore, as economic stress increases, incidents of domestic violence invariably increase as well.<sup>v</sup> WEAVE, one of the District's leading legal services providers for domestic violence victims, has seen a marked increase in requests for assistance. There was over a 10% increase between FY 2007 and FY 2008, and the number of people seeking assistance in the last quarter of FY 2008 was 20% greater than the last quarter of FY 2007.<sup>vi</sup>

### **The Public Funding for Legal Services is Assisting Thousands of the Most Vulnerable Residents**

The public funding resulted in over 3,000 people receiving legal assistance in just the first year. We expect even more people will benefit this year. Attachment A provides examples of the work done by legal services lawyers hired with the public funds. Attachment B shows the locations of these lawyers. Most of these lawyers are working in the wards with the highest poverty rates and in other underserved locations. They are also co-locating with social service providers who serve low-income residents. Placing lawyers near the client base and in places these clients regularly frequent has made an enormous difference in reaching people who did not even know legal services existed or who were unable to travel to a provider located downtown. For example:

- Legal Counsel for the Elderly (LCE), which hired one lawyer with the public funds to make home visits to senior citizens, reports that the majority of the homebound clients never had a lawyer before. 86% of these clients had never sought LCE's help before these public funds supported their homebound program.
- The Children's Law Center established a partnership with Children's National Medical Center in which the lawyers are on-site in medical clinics. Pediatricians often approach the lawyers directly to discuss referrals and consult on specific matters. It is not unusual for a lawyer to address legal issues in the examination room immediately after the doctor has provided medical care.
- The Legal Aid Society of the District of Columbia (LAS) has been located downtown for the past 75 years. In just one year with the public funds, LAS reports that one-third of its clients come to one of its three satellite offices that are located east of the Anacostia River. Each of these offices is co-located with another social or legal services provider. In a recent three month period, LAS lawyers hired with the public funds provided legal assistance to over 330 residents and gave legal information to hundreds more. All the residents were from Wards 7 and 8. LAS's downtown office has not seen a drop in requests for assistance, indicating that all the people who LAS serves in their Southeast offices may not have sought help otherwise.

## **The Public Funding is Critical in Order to Continue Service Delivery**

The legal services network is facing unprecedented challenges. They must respond to increasing client needs due to a rapidly deteriorating economy, while at the same time facing a significant decrease in funding. For instance, the Interest on Lawyers' Trust Accounts Program, which generated over \$2 million last year for legal services providers, will be down at least 50% this year. Two of the other primary funding sources -- foundations and law firms -- are also reducing charitable giving. Legal services providers are extremely lean organizations, so budget cuts have a direct impact on service delivery.

This impact is already being felt. Due to reduced funding and projected diminished income, some legal services programs have implemented hiring freezes and/or laid off staff. This year, we expect further shrinking of the legal services network and possibly the closing of one or more programs.

The Commission is working aggressively to encourage the private sector to dig deeper and maintain their contributions in these difficult times. However, it will take more than just the private sector to respond to this crisis. The public funding for civil legal services accounts for about 20% of the providers' budgets. We urgently request that the District maintain its financial commitment so that people in need will still have a place to turn.

## **Funding Civil Legal Services is a Wise Investment**

The lawyers hired with the public funds save the District money by reducing social service costs, bring in funds from other sources that clients use in the District, and leverage the pro bono services of the private bar. For instance, WEAVE obtained tens of thousands of dollars for their clients in the form of alimony, damages, and child support in just one quarter. During this quarter, they also received pro bono legal assistance valued at over \$250,000. These figures do not include the intangible benefit that a client gets from feeling protected from a batterer or being awarded custody of one's child.

Studies from other jurisdictions also demonstrate that funding civil legal services is a wise investment.<sup>vii</sup>

## **Breakdown of Funding Request**

The public funding supports civil legal services organizations and the Poverty Lawyers Loan Repayment Act of 2006. The statutes creating these programs require the government to provide a separate allocation for both items. See D.C. Code §§ 1-301.114(a) and 1-308.22(b). We suggest the following breakdown:

Grants for civil legal services	\$3,285,000 <sup>viii</sup>
Loan repayment program	\$315,000 <sup>ix</sup>
<b>Total</b>	<b>\$3,600,000</b>

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<sup>i</sup> The Commission was created by the D.C. Court of Appeals in 2005 to address low and moderate income residents' unmet need for civil legal services. The Commissioners include D.C. Court of Appeals and Superior Court judges, leaders of the D.C. Bar, legal services attorneys, and other community leaders. For additional information, please contact the Commission's Executive Director, Sunil Mansukhani, at (202) 344-4441 or [sunil.mansukhani@dcaccesstojustice.org](mailto:sunil.mansukhani@dcaccesstojustice.org).

<sup>ii</sup> The report is available at [www.dcaccesstojustice.org](http://www.dcaccesstojustice.org). We are extremely grateful that Mayor Fenty, Chairman Gray, Councilmember Mendelson, the Chief Judges of the D.C. Court of Appeals and Superior Court, President of the Legal Services Corporation, and President of the D.C. Bar all spoke at the release of the report. In their remarks, each one highlighted the importance of civil legal services.

<sup>iii</sup> David Nakamura and V. Dion Haynes, "Unemployment Levels in Area Highest Since the Mid-1990s, Economists Say," Washington Post, at B1 (Dec. 20, 2008) available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/12/19/AR2008121903375.html>.

<sup>iv</sup> Welfare rolls are already increasing. See Amy Goldstein, "Welfare Rolls See First Climb in Years," Washington Post, at A1 (Dec. 17, 2008) available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/12/16/AR2008121602978.html?hpid=artslot>.

<sup>v</sup> United States Department of Justice Office of Justice Programs, "When Violence Hits Home: How Economics and Neighborhood Play a Role," at 1 (Sept. 2004) ("For the individuals involved, both objective (being unemployed or not making enough money to meet family needs) and subjective (worrying about finances) forms of economic distress increase the risk of intimate violence against women.").

<sup>vi</sup> In just the fourth quarter of FY 2008, over 1,000 people sought help.

<sup>vii</sup> See, e.g., Timothy K. Kelso et al., "The Economic Impact of Legal Aid of Nebraska 2003 (June 2004) (\$1 invested in legal services generates \$4 in benefits); New York State Department of Social Services, "The Homelessness Prevention Program Outcome and Effectiveness," at 3 (1990) (New York's assessment of legal services provided by its Homelessness Program reported that the Program "returns four dollars for every dollar of public funds invested" but noted that the amount understated the "total benefit" of the Program).

<sup>viii</sup> The Commission's request is a modest one compared to the need. For example, the D.C. Bar Foundation, which administers both programs, received nearly \$4.5 million in meritorious grant applications for civil legal services when it issued its FY 2008 request for proposals, but was only able to fund \$2.79 million.

<sup>ix</sup> The amounts listed for the civil legal services and loan repayment funding includes an administrative allocation, which can be no more than 5% of the total grant pursuant to D.C. Code §§ 1-301.114(b) and 1-308.22(d)(4). The administrative allocation pays for the Bar Foundation's monitoring and support of the grant program. The Bar Foundation also uses its private funds to supplement areas that the public funding does not cover. For instance, it uses private funds to provide loan repayment assistance to attorneys living in Maryland and Virginia who work in the District for legal services providers.

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## ATTACHMENT A

### CLIENT STORIES

#### Ms. Lee

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

#### Mr. Rodriguez

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

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

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**Mr. Janzig**

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

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

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

# ATTACHMENT B

## Civil Legal Services Offices in DC 2007

