

# **District of Columbia Access to Justice Commission**

## **FY 2012 Public Funding Request for Civil Legal Services**

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This document represents the FY 2012 budget request for the District of Columbia Access to Justice Program.

Civil legal services are a critical strand in the safety net for District residents living in poverty. Advocates help the most vulnerable members of our community to address basic human needs including housing security, protection from domestic violence, access to health care, protection from illegal employment practices, and access to vital income and food security programs. 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, many of whom struggle with mental illnesses, physical disabilities, literacy issues, or language access challenges, are forced to face their legal troubles alone.

The District government has recognized the critical needs of its low-income residents and for the last five years has provided vital financial support for civil legal services. The appropriation is used to increase services in communities and neighborhoods of highly concentrated poverty, expand representation on housing matters and maintain a legal interpreter bank (Legal Services) and to help lawyers working in D.C. legal services organizations to repay their law school debt (Poverty Lawyer Loan Repayment Assistance Program (LRAP)). The D.C. Access to Justice Commission<sup>1</sup> requests that the District continue its commitment to equal justice by including in its FY 2012 budget request \$3.5 million for Access to Justice funding (\$3.26 million for Legal Services and \$240,000 for LRAP) in its FY 2012 budget. This would restore funding to the level originally appropriated for FY 2011. In recognition of the severe budget pressures the District is facing, the Commission has reduced its funding request below the levels initially appropriated by the Council in FY 2009 and 2010. This level of funding will stem the loss of essential services that resulted from the FY 2010 and 2011 budget cuts and preserve the critical initiatives that the Access to Justice Program has supported since its inception.

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<sup>1</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, past Presidents of the D.C. Bar, Executive Directors of leading legal services providers, and other community leaders. For additional information, please contact the Commission's Executive Director, Jess Rosenbaum, at (202) 344-4441 or [jess.rosenbaum@dcaccesstojustice.org](mailto:jess.rosenbaum@dcaccesstojustice.org).

## Client Need for Services Remains at Urgent Levels

The hints of economic recovery across the country have yet to materialize in certain parts of the District. In October, 2010, the *Washington Post* reported that the recession has driven D.C. poverty rates to startling levels. More than one in four District children – and more than one in three residents East of the River – now live in poverty. Moreover, more than one in ten District residents – over 60,000 people – live below half of the poverty line which is just under \$11,000 for a family of four. This represents an increase of 14,000 residents living in deep poverty since 2007.

Economists may have declared the recession over, but certain District neighborhoods remain immune from the recovery. After peaking at a record-high 12.1% at the end of 2009, D.C.'s unemployment rate lowered to 9.7% at the end of 2010 but the jobless rate is much higher in neighborhoods east of the Anacostia River. Other economic indicators show a similar distress.<sup>2</sup> Thousands of families have lost their homes to foreclosure, with the greatest concentration of foreclosures occurring in the eastern half of the city.<sup>3</sup> Homeowners and landlords are continuing to lose their homes and families are being displaced or becoming homeless, increasing dependency on an emergency shelter safety net that is, at best, threadbare. According to the D.C. Public Service Commission, 8,400 households had their electricity shut off in 2009, an increase of 43% since 2007.<sup>4</sup> With the increase in economic pressure on families, the incidence and severity of domestic violence are elevated. For more and more families, TANF, Food Stamps and disability and other benefits are the last lifeline for feeding and housing their children. Each of these issues can become a serious legal problem that threatens the family with a catastrophic legal crisis.<sup>5</sup>

Legal services attorneys provide critical services in this time of economic crisis. Attorneys prevent wrongful evictions and the displacement of tenants when landlords default on loans. They help workers to maintain employment and obtain unemployment and other benefits if they lose their jobs. They help domestic violence victims and their families to obtain protection orders and other legal remedies to protect them and their children from violence. They ensure that children, individuals who are ill or disabled and elderly residents retain critical health care and drug benefits. In this time of increasing

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<sup>2</sup> According to the U.S. Bureau of Labor Statistics, the District's seasonally adjusted unemployment rate was 12.1% in December 2009 and 9.7% in December 2010. However, 2009 ward-based data from the D.C. Department of Employment Services shows a 28.3% unemployment rate in Ward 8, nearly 10 times the 3.2% rate in Ward 3. Ward 7 has not fared much better at 19.5% nor Ward 5 at 15.5%. The department is expected to release updated data in March 2011.

<sup>3</sup> There were 3,102 single family homes and condos placed in foreclosure in the second quarter of 2010. The areas hardest hit by foreclosure are wards 4, 5, 7 and 8. See [www.neighborhoodinfodc.org](http://www.neighborhoodinfodc.org).

<sup>4</sup> D.C. Fiscal Policy Institute, "The Recession is Creating Hardship for Many DC Residents," May 2010. <http://www.dcfpi.org/wp-content/uploads/2010/05/5-1-9-10recessionimpactupdate.pdf>.

<sup>5</sup> In late 2009, the Commission and the D.C. Consortium of Legal Services Providers released a report, *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia*, that documents the effects of the recession on the nature and quantity of legal issues emerging from low-income communities and the decline in funding for legal services. The growing gap between the need for help and available assistance is alarming. The report is available on the Commission's website at [www.dcaccessjustice.org](http://www.dcaccessjustice.org).

demands on TANF, Food Stamps and other benefits, they ensure that bureaucratic errors, language barriers, mental disabilities and other challenges do not prevent poor residents from getting help from these vital programs. In 2010, legal services providers reported that the demand for these types of services had increased by approximately 20%. The need continues to rise. This winter, one provider reported to the Commission that traffic to the Landlord Tenant Resource Center had risen from 5200 to 5600 litigants in the last fiscal year, including litigants referred by legal services providers who had already surpassed their capacity. Activity in the Consumer Law Resource Center increased by a stunning 87%. Providers across the city report that client needs – and the urgency of problems that client report – have only intensified.

### **Available Legal Services are Shrinking as a Result of Lost Funding**

All funding sources for legal services were undermined by the economic downturn. In the first year of the downturn alone, the legal services network lost over \$4.5 million, which represented a loss of more than 25% of funding.<sup>6</sup> This forced the network to shed 12% of its legal staff (21 lawyers) and nearly 40% (30 staff) of its non-legal staff, even as rising numbers of desperate clients streamed into legal services offices urgently seeking help. Providers had to reduce intake hours, restrict intake criteria, curtail service provision, eliminate programs, and reduce or eliminate crucial supportive and social work services. Thousands of District residents did not receive help with essential legal issues. The clients who were not served by a legal services program had to navigate the complex legal system on their own. Often, they simply abandoned their rights, claims or defenses with devastating consequences.

### **District Support is Imperative to Keep Programs Functioning**

Funding for legal services in the District is in serious difficulty. No key funding source has fully stabilized and the largest source of funding has continued to decline precipitously. Law firm and individual giving, which dropped by an estimated 20% in 2009, is expected to remain flat or increase only marginally. Foundation funding has remained depressed due to decreased endowment equity. IOLTA (Interest on Lawyers Trust Accounts) income – which has traditionally been the greatest source of non-public funding for legal services nationally – remains in freefall, having already dropped over 50% from FY 2009 levels and over 80% from FY 2008 levels. This critical funding source will not recover until interest rates, which are still at historic lows, begin to recover. The public appropriation was cut by 20% -- \$700,000 -- for FY 2010, a loss that brought funding levels below what was appropriated at the program's inception. The 10% cut in the FY 2011 appropriation, which was passed during the budget gap closing process this winter, will place FY 2011 funding at somewhat above its FY 2010 level.

Legal services organizations are reeling from the combined funding losses. Over the last two years, organizations have already cut their budgets to the bone. In order to preserve client services, they depleted reserves, decreased salaries, used furloughs, narrowed programs, eliminated intake sites, slashed training budgets and cut systemic

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<sup>6</sup> See the *Rationing Justice* Report for further details.

advocacy. There is nothing left to cut other than direct services to clients. Further cuts would severely undermine the progress we have made in closing the justice gap. The Commission and the legal services community are aggressively seeking assistance from the private bar but prospects for a significant increase in support are uncertain. Only the District can keep these vital programs running.

### **Supporting Legal Services Builds Strong Communities and Saves the District Money**

We recognize that the District's budget is facing enormous and ongoing revenue and spending pressures and that there are many needs. Critical housing and human services safety net programs bore crushing cuts in the FY 2011 budget and the pressure on those programs in FY 2012 will be even more brutal. It is essential to keep in mind, however, that the Access to Justice Program does even more than protect our city's most needy residents from legal disaster; it also builds stronger communities and saves the District money.

An investment in legal services brings a financial return to the District. Virtually every case not only serves the individual, but the community and the District's fisc as well. For example, legal services attorneys help individuals to secure veterans, disability, social security and medical benefits from federal sources. The savings generated by that work can be substantial. The Disability Benefits Project in Massachusetts generated more than \$7.7 million in federal revenue in 2007 using only \$1.2 million in state funding. Similarly, legal services lawyers keep clients housed and mitigate reliance on the shelter system. Given that it costs more than \$25,000 to house a family in an apartment-style shelter for a year, a publicly-funded lawyer averting evictions quickly recoups for the District the cost of her salary, while sparing families the trauma of eviction. The savings go far beyond saving the District the cost of shelter. Evictions increase the need for public support such as TANF and Medicaid, disrupt the schooling of children, put parents at risk of job loss, and diminish the quality of life in a neighborhood whenever a tenant's belongings are put out on the street. In this way, dollars spent on legal services have a multiplier effect. By averting problems before they become crises, legal services prevent countless individuals from having to rely on more costly public support systems.

Moreover, the work that legal services providers do promotes the stability of neighborhoods more broadly. By enforcing the city's building codes, they help to preserve property values and maintain neighborhoods. They uncover predatory lending schemes that prey on elderly and other vulnerable residents. They help parents secure child support orders which can help keep those families from having to rely on TANF and other state government benefits. They protect employees from wage theft, keeping families economically viable.

In addition, Access to Justice funds also make it possible to leverage significant pro bono contributions and maximize support from law firms for poor communities. The

District has a very generous legal community that gives millions of dollars in free legal help each year. At the end of last year, eleven firms agreed to infuse substantial pro bono resources into the legal services network by institutionalizing Senior Lawyers Programs at their firms. However, these invaluable pro bono contributions are dependent on a stable network of providers to identify and mentor cases and provide training, supervision, and quality control. By enabling and promoting these partnerships with the private bar, the Access to Justice funds greatly magnify their own impact.

### **Breakdown of Funding Request**

The Access to Justice funds support civil legal services organizations and the Poverty Lawyers Loan Repayment Act of 2006. The statutes creating those programs require the government to provide a separate allocation for each item. See D.C. Code §§ 1-301.114(a) and 11-308.22(b). We suggest the following breakdown:

Grants for civil legal services	\$3,260,000
Loan repayment program	\$240,000
<b>Total</b>	<b>\$3,500,000<sup>7</sup></b>

### **Conclusion**

Many poor district residents live their lives one legal problem away from disaster. One bureaucratic error at a TANF or Food Stamps office, one act of wage theft by an unscrupulous employer, one medical intervention wrongly denied by health insurance, is all it takes to drive a vulnerable family over the edge. Sadly, many of the thousands of individuals who find themselves in legal jeopardy each year simply cannot get help. Even before the recession only 10% percent of low-income residents had access to legal counsel. Now the number of individuals who desperately need assistance – and the urgency of the problems with which they present – has increased dramatically.

Many of the people who will become homeless, lose their only source of income, be denied critical medical coverage, lose their disability benefits, and be victimized in violent homes have resolvable legal issues that, if addressed, could change their lives. The Access to Justice funds position lawyers to avert these crises. The District government has become an instrumental source of funds to keep these lawyers available for those who most desperately need them. With all other financial support for legal services imperiled due to the recession, the District's support is more crucial than ever.

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<sup>7</sup> The amounts listed for the civil legal services grants and the loan repayment funding include an administrative allocation, which can be no more than 5% of the total grant pursuant to D.C. Code §§ 1-301.114(b) and 11-308.22(d)(4). The administrative allocation pays for a portion of the Bar Foundation's monitoring and support of the grant and LRAP programs. 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.

We respectfully ask that the District continue its commitment by providing \$3.5 million in FY 2012.

## APPENDIX A: HISTORY OF APPROPRIATION

In 2006, the District government recognized the urgent need to support civil legal services for its most vulnerable residents and appropriated \$3.2 million for FY 2007. The Access to Justice funding was used to hire more than 30 legal services attorneys who provide services in some of the most underserved communities in the District. It doubled the number of attorneys working east of the Anacostia River and created unique collaborations to bring services to District residents in the greatest need. The funding was also used to create a Community Legal Interpreter Bank which provides vital interpretation services to non- or limited-English proficient residents. The LRAP grant helps to reduce the staggering loans that many legal services lawyers have and has become an important tool for providers to recruit and retain a dedicated and diverse corps of anti-poverty lawyers. The District maintained the \$3.2 million funding level in FY 2008.

The initial grants were very successful, but the gap between need and available services remained too large. In a continued commitment to ensure that all District residents have meaningful access to the justice system, in FY 2009 the District expanded funding to \$3.6 million. In FY 2010, the funding was slightly decreased to \$3.56 million because the Bar Foundation was able to use LRAP repayment funds from FY 2009 to partially support the FY 2010 LRAP cycle.

Facing an unexpected and dramatic revenue shortfall, the District was forced to make significant budget cuts in the summer of 2009. The cuts fell particularly hard on programs serving poor residents and the Access to Justice funding was no exception. The appropriation was reduced by \$700,000, which represented a more than 20% cut. This loss was a serious blow to the ability of the legal services community to meet emergent client needs. Recognizing the vital importance of legal services, particularly as other parts of the safety net are undermined by ongoing budget pressures, the Council restored Access to Justice funding to \$3.5 million for fiscal year 2011.<sup>1</sup> Again in the face of severe budget shortfalls, the appropriation was decreased by 10% to \$3.1 million for fiscal year 2011. Although this cut is far less drastic than the 50% cut initially proposed by Mayor Fenty, it will continue to deplete the capacity of the legal services network at a time when clients are more and more desperate for help.

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<sup>1</sup> In May, 2010, the Committee on Public Safety and the Judiciary took the unusual step of publishing a separate Committee Report on the importance of funding for civil legal services, and highlighting the overwhelming support expressed for this program across all segments of the legal community. The report can be found at [http://www.dcaccessjustice.org/files/CPSJ\\_Report\\_on\\_Support\\_for\\_Civil\\_Legal\\_Services\\_-\\_5.13.10.pdf](http://www.dcaccessjustice.org/files/CPSJ_Report_on_Support_for_Civil_Legal_Services_-_5.13.10.pdf).

The Council made an important change to the administrative placement of the Access to Justice Grants Program in the FY 2011 Budget Support Act. The Council recognized that existing agency budget pressures might adversely affect the Access to Justice Grants Program, and sought to ensure that proposed changes to the funding be clearly presented so the Council could fairly weigh their impact. The Council thus established the Access to Justice Program as a “paper” agency for the purposes of the budget. As a result, the Access to Justice Grants Program appropriation is now managed through the Office of the Chief Financial Officer (OCFO), which grants the funds to the District of Columbia Bar Foundation. The Bar Foundation, in turn, continues to administer the competitive process for awarding sub-grants under the program, and monitors the sub-grants. OCFO is responsible for the grant relationship with the Bar Foundation with respect to the Access to Justice Grants. The LRAP program, which is governed by separate legislation and regulations, remains the responsibility of the Office of the Attorney General.

## APPENDIX B: IMPACT OF ACCESS TO JUSTICE PROGRAM

The Access to Justice Program is a pivotal force in ensuring access to the courts for thousands of vulnerable District residents. Because of these funds, indigent residents across the District have received critical interventions, often to avert a legal disaster. In FY 2009 alone, lawyers funded by the Access to Justice Program assisted over 15,000 District residents. Since many were cases that helped an entire family, thousands more benefitted from the assistance.

The Court Based Legal Services Program is a powerful example of the impact these funds have had. The eight attorneys staffing the Attorney of the Day Project provided emergency, same-day services to clients facing eviction in over 600 cases in 2009 alone. In approximately half of those cases, representation extended beyond the emergency court appearance. In roughly 80% of the cases, issues were either resolved the same day, or the case was accepted by a legal services provider or matched with pro bono counsel for further representation. This is a phenomenal increase in representation in an area where the stakes could not be higher. Before the public funding, it was estimated that only 3% of tenants had the assistance of counsel. Now that percentage is climbing steadily. There is no doubt that but for this program, countless residents with meritorious eviction-defense cases would be doubled up, sleeping in shelters, or braving the cold streets.

The Court Based Legal Services Program is just one of many vital initiatives supported by these funds. Other essential projects include the following (a fuller description is attached):

- One explicit goal of the program was to increase services in underserved communities in the city. Because of the funding, five organizations – Bread for the City, the Children's Law Center, the Legal Aid Society, the Neighborhood Legal Services Program, and Whitman Walker Clinic -- now serve clients through neighborhood offices and Children's National Medical Center Clinics East of the River.
- An attorney from Legal Counsel for the Elderly now provides legal services to home-bound seniors in their homes. The lawyer provides critical services to this extremely vulnerable population, many of whom are unable to leave their homes to secure assistance.
- WEAVE now has attorneys at the Lighthouse Center for Healing to assist domestic violence victims. The attorneys collaborate with co-located victims services agencies to provide holistic interventions for victims and their children.

The funding has also supported the creation of a Community Legal Interpreter Bank, which is a critical tool for making legal services and the justice system accessible for residents who do not speak English. In FY 2009 alone the bank – which has become a national model – provided over 800 hours of free interpretation services in over 1300

sessions. It now has over 70 interpreters who speak 29 different languages, including American Sign Language, available to legal services organizations.

The LRAP funds have provided essential support to young lawyers facing crushing debt. Starting pay for legal services lawyers is, in most cases, around \$40,000 per year, while law school debt can be \$80,000 or more. Too often in the past, passionate and talented advocates could simply not afford to take legal services jobs. The LRAP program, which provided approximately \$269,000 to 34 lawyers in 2010, has enabled organizations to recruit and maintain a diverse and talented legal staff.

## FY 2010 Access to Justice Grants

### Community Interpreter Bank

1. **Ayuda** was funded to continue the ongoing development of a legal interpreter bank to provide assistance to legal service providers using community legal interpreters. This establishes a centralized, cost-efficient means makes for DC legal services organizations to serve clients that have limited English proficiency. Ayuda is the lead organization, complemented by an Advisory Board that includes founding members APALRC, La Clínica del Pueblo, and American University, along with newer member Legal Aid Society of D.C. The project serves as a national model for coordinated, point-of-service legal interpreter services.

### Housing Related Services

#### 2. **Court Based Legal Services Project**

A collaborative including the Legal Aid Society of D.C. and Bread for the City received continued funding to maintain lawyers in the Landlord Tenant Court to provide both same-day and extended legal services to low income tenants in DC through an "attorney-of-the-day" project. The project enjoys strong support from the Superior Court judges serving in Landlord-Tenant Court. Tenants receive same-day representation in matters they have in court, and long-term help on housing matters. By increasing representation in Landlord Tenant Court, lawyers help keep families in housing, address code violations, and keep housing affordable. There are currently 7 lawyers working full-time on this project, and two additional lawyers devoting part of their time to the project. The service providers have launched a pro bono component to the project, securing pro bono assistance in selected long-term matters.

#### 3. **DC Law Students In Court**

DC Law Students in Court (DC LSIC) received continued public funding to support an attorney to work at the Landlord Tenant Court in collaboration with the Court Based Legal Services Program. This grant leverages additional legal assistance from law students on matters residents bring to Landlord-Tenant Court.

#### 4. **Asian Pacific American Legal Resource Center --- Housing and Community Justice Project**

The Asian Pacific American Legal Resource Center is the region's legal advocate for the legal and civil rights of Asian Americans in the Washington metropolitan area. APALRC's Housing and Community Justice Project provides a critical bridge between

low income and LEP Asian immigrant families and communities in the District, and will provide both housing and community development legal services. The project as a whole will focus on the provision of legal services, education materials, activities to protect affordable housing, and language access for Asian immigrants, largely clustered in Ward 1 neighborhoods. Public funding will provide reduced partial support for a staff lawyer.

### **Neighborhood and Underserved Community Grants**

#### **5. Bread for the City --- Community Lawyering Project**

Bread for the City has received continued funding for its innovative community lawyering work, which has added legal services to the other services it provides at its facility on Good Hope Road, SE (border of Wards 7 and 8). Community lawyering in civil legal services is based on the same successful premise implemented by the Community Prosecution model of the DC US Attorney's Office: lawyers who engage the community in problem-solving, using tools including but not limited to traditional direct representation, develop long-term solutions to otherwise chronic problems. The public grant continues to fund one of the lawyers on this project, who works directly with the community, helps identify options to address concerns, and provides substantial direct representation to individuals in the community, including significant numbers of public housing residents.

#### **6. Children's Law Center ---- Southeast Health Access Project**

Children's Law Center (CLC) receives continued funding to support the expansion of the Health Access Project (HAP) into Southeast DC. In this innovative medical-legal collaboration, the 2 and 1/3 lawyers funded in the HAP SE project provide services through the three SE Clinic offices of the Children's National Medical Center (CNMC). The lawyers work with families of CNMC patients to identify and resolve non-medical solutions to children's health issues.

#### **7. Legal Aid Society --- Southeast Neighborhood Access Project**

Legal Aid Society has received continued public funding for the equivalent of 4 lawyers to work with clients from offices co-located with other service organizations in Wards 7 and 8. Lawyers work out of the Domestic Violence Intake Center in Southeast, the Children's Health Project located at THEARC, and near Advocates for Justice and Education in Anacostia, and provide a range of civil legal services.

#### **8. Legal Counsel for the Elderly --- Project HELP**

Legal Counsel for the Elderly (LCE) was awarded continued public funding for an attorney to assist low income homebound elders in need of wills, advance directives, and public benefits audits, as well as those affected by consumer scams, and experiencing housing related issues. The attorney brings legal services directly to those low-income seniors who cannot get out to meet with an attorney. The Project HELP lawyer also draws on and support a growing pool of pro bono lawyers and other volunteer professionals to provide increased legal services to homebound seniors.

**9. Neighborhood Legal Services Program --- Community Expansion**

NLSP received continued funding to provide neighborhood based legal services in housing, family law, public benefits, consumer, employment, education, guardianship, and wills/estates with 5 attorneys in satellite offices opened in Wards 5 and 8, including one on Nannie Helen Burroughs Ave., NE.

**10. University Legal Services --- Jail Advocacy Project**

University Legal Services (ULS) serves as DC's federally mandated protection and advocacy organization --- charged with working for the rights of people with disabilities. ULS received continued funding to support a staff attorney to provide legal services and direct advocacy for inmates in the DC Jail and other DC correctional facilities with mental disabilities. The staff attorney has established good relationships, and works closely, with DC Department of Corrections and DC Department of Mental Health to secure the successful return of former inmates to our community.

**11. WEAVE --- Lighthouse Center for Healing**

Women Empowered Against Violence (WEAVE) received continued funding to provide legal services to low income victims of domestic violence through co-located services in Fort Totten at the Lighthouse Center for Healing, which opened in the spring of 2008, on the border of Wards 4 and 5. This funding supports the work of 2.5 lawyers and portion of the time of a paralegal who coordinates pro bono legal services. The Center provides "one-stop" services for victims of sexual assault and domestic violence, and survivors of homicide, by co-locating an office of the MPD, US Attorney, Victim Services, and counseling and relevant legal services.

**12. Whitman Walker ---- Max Robinson Center, Southeast DC**

Whitman Walker Legal Clinic received continued funding to provide legal representation, counseling and outreach to people living with HIV/AIDS through two lawyers based at its Max Robinson Clinic to individuals living in Wards 7 and 8. This grant has added legal services to the medical services provided at the Max Robinson Clinic.