**Public Hearing on Mayor Gray’s Fiscal Year 2014 Budget Request**

**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 25, 2013**

Mr. Chairman and Members of the City Council, thank you for the opportunity to testify today. My name is Peter Edelman and I am a professor at Georgetown Law Center and Faculty Co-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 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.

I am proud to be joined today by Chief Judge Eric Washington, Chief Judge Lee Satterfield, the President of the District of Columbia Bar, and the Executive Director of the District of Columbia Bar Foundation. One of this legal community’s greatest strengths is that it stands together to advocate for equal access to justice for all members of our community. The Commission is deeply grateful for these partnerships and for the willingness of these leaders to advocate so passionately each year in support of the Access to Justice Program.

I hope that one year soon I will come before you to say that poverty in the District is waning and that the number of individuals living on the verge of legal crisis is shrinking. As you well know, we cannot say that today. While much of the country has been focused on the signs of economic recovery across our nation, indigent District residents know all too well that their lives have not improved. We need only look to the overcrowded shelters, the unemployment rates, and the tattered safety net to know that the situation is dire. Recent government data indicates that during the course of the recession, 17,500 additional District residents fell into poverty. Moreover, the number of residents living in deep poverty – defined as those living below half the poverty line – has risen by 18% since 2007. While poverty remains most concentrated in Wards 7 and 8 where approximately one out of every three residents is indigent, poverty has been rising much faster in an area made up of much of Ward 4 and parts of Wards 1 and 5. And leading indicators of poverty suggest that no dramatic shift is in sight.

Access to the civil justice system is absolutely vital for the thousands of District residents who are living on the verge of legal crisis. Economic strains have driven up the number of residents facing eviction, foreclosure, loss of employment, and increased family violence. It has also elevated the number of residents seeking support from vital public benefits programs. Every day, legal services attorneys make pivotal interventions in the lives of these residents, helping them to stave off wrongful foreclosures and evictions, seek remediation of egregious housing code violations, secure legal protection from family violence, and address illegal employment practices. They ensure that the most vulnerable members of our community – disabled children, the elderly, returning veterans – can access essential benefits and services. They ensure that those who are most in need have an advocate by their side when their most basic human needs are in peril.

While many parts of the economy have stabilized, we know anecdotally that neither the demand for services nor the urgency of the legal issues faced by District residents has abated. Poverty continues to drive many more desperate clients to the doors of legal services organizations than can possibly be served. Organizations are regularly forced to triage among urgent, meritorious cases and far too often must turn away clients who clearly need the assistance of counsel. Simply put, the legal services network remains severely underfunded at a time when low-income city residents, particularly those who reside in Wards 7 and 8, continue to struggle with poverty-related legal problems.  The IOLTA (Interest on Lawyers Trust Accounts) Program, which has traditionally been the single largest source of funding for legal services has decreased 80% since 2008 and will not recover until interest rates rebound. That alone accounts for over a million dollars each year in lost revenues.  These lost dollars translate directly into lost legal interventions in cases where the stakes are disturbingly high.

The District government appropriation is vital to ensuring that thousands of District residents have legal assistance when they are most in need. The legal services network has been fundamentally transformed by these funds, which have greatly increased the capacity, reach and expertise of these organizations. As you know, the funds support approximately thirty lawyers who represent clients in the most underserved parts of our city. The funds have also doubled the number of attorneys working east of the Anacostia River, greatly easing the transportation burden for indigent residents and becoming known and trusted parts of the safety net in those communities. In addition, the funds have made possible innovative initiatives and partnerships that serve populations – such as homebound elders – that previously struggled to access services, even in the most pressing situations.

This year alone, the D.C. Bar Foundation funded several new programs that are bringing services to deeply underserved populations. These include Ayuda’s Project END (Eradicate Notario Fraud), a groundbreaking initiative to end fraudulent practices by notaries who prey on vulnerable immigrant communities in D.C. The funds will support a new staff attorney who will help clients with immigration and civil fraud issues and also work with law enforcement to bring perpetrators to justice. The funds will also expand the D.C. Employment Justice Center’s workers’ rights clinic in Southeast D.C., shoring up a crucial community resource for low-wage workers. A full list of programs is attached.

As in previous years, I also want to highlight the extraordinary work of the two Attorney of the Day Projects funded at the D.C. Superior Court. This Committee has heard repeatedly about the tremendously successful landlord-tenant attorney of the day project which provides same-day representation to tenants at imminent risk of losing their homes. In 2011, the public funding permitted replication of this model in the Paternity and Support Branch to provide same day services in child support cases. In its first year of existence, that project benefitted over 1500 individuals. Over 80 percent of those individuals reside in the District’s four poorest wards. Both of these projects address needs that the legal services community has long struggled to meet and which the Court itself identified as damaging service gaps.

The funds also support the nationally recognized Community Legal Interpreter Bank which ensures that non- or limited-English proficient residents can communicate effectively with their attorneys. The Bank now has 109 interpreters available to provide services in 42 different languages and in fiscal year 2012 has already provided over 1631 telephonic interpretations, over 165 live interpretations, and over 50 translations. Further, the Loan Repayment Assistance Program, a critical tool for recruiting and maintaining a talented and diverse corps of legal services lawyers, supported 19 attorneys serving seven legal services organizations.

As lawyers, we are rightly focused on the value of these interventions for individual residents whose lives are deeply impacted by assistance of counsel. We should not overlook, however, the tremendous benefit the Access to Justice funds offer to the community more broadly. By keeping families economically stable, legal services attorneys reduce reliance on more costly public benefits systems. By keeping clients housed, they ease the burden on our tattered 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. Publicly funded attorneys also provide other invaluable benefits to the community by enforcing the city’s building codes, preserving safe and affordable housing, and uncovering predatory lending schemes. Their presence in courtrooms deters institutional litigants from “cutting corners” or unduly pressuring pro se litigants.

We are deeply grateful for the Mayor’s support of the Access to Justice Program. His proposed budget for fiscal year 2014 funds the program at $3.575 million, a $75,000 increase over the previous year’s level.

The Commission recognizes that all segments of the legal community must be partners in our common endeavor to ensure equal access to justice. We are all cognizant of the ongoing revenue pressures facing our city. The Commission is committed to maximizing a range of other resources to optimize support for legal services and magnify the impact of every dollar spent.

As in previous years, the Commission is working intensively to draw additional funds into the legal services network and to magnify the effectiveness of existing resources. The Raising the Bar Campaign has infused substantial additional monies into the legal services community. As the Committee may recall, the Campaign establishes revenue-based benchmarks for law firm donations to legal services organizations. The District is fortunate to have one of the most generous legal communities in the nation both in terms of financial and pro bono support. Many firms have been giving generously to the legal services community for a long time. However, that local commitment is not universal. The Campaign works hard to persuade more firms to support local legal services and to convince those already giving to do more. It publicly recognizes and celebrates firms that give .11% (platinum level), .09% (gold level), or .075% (silver level) of their D.C. office revenue per year to support the provision of legal services.

The twenty-three firms that met benchmark levels in 2011 together donated over $3 million to local legal services organizations. This represented a half million dollar increase over the previous year’s giving levels. This year the number of participating firms jumped to thirty-six. This considerable increase in the number of participating firms and the resources they are infusing into the legal services network, particularly in this time of economic uncertainty, is a great statement of the private bar’s commitment to closing the justice gap. The Commission believes that this robust private-public partnership has been greatly incentivized by the District government’s longstanding support. We all understand that government cannot and should not be expected to shoulder alone the burden of ensuring equal access to justice.

The Commission is also working in close partnership with the D.C. Bar Pro Bono Program and the Court to increase pro bono service by private attorneys. For the second year, our organizations are administering the District of Columbia Courts Pro Bono Honor Roll. The Honor roll, which recognizes attorneys who provide 50 hours or more of pro bono service – or 100 hours of service or more for a higher recognition category – honors the thousands of attorneys who donate their time and expertise to help those who cannot afford counsel. It also challenges firms and individual attorneys to increase their pro bono commitments at a time when changes to the law firm business model are testing the historic pro bono generosity of the District’s legal community. This year over 4000 attorneys registered for the Honor Roll with over 2000 qualifying for the higher recognition category. As the program relies on self-nomination, we know this is only the tip of the iceberg in terms of the number of attorneys providing pro bono service.

For many years, pro bono attorneys have been an integral part of the District’s legal services delivery system. Even in the best economic times, the demand for legal services far outstrips what legal services organizations can provide. These crucial pro bono contributions are only possible, however, when there is a stable legal services network to identify cases, and provide training and supervision. Without the Access to Justice 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 Commission also continues to work closely with the Court to identify and address barriers to self-representation. Even the most efficient and well-resourced legal services network will not be able to meet the ever-expanding need for assistance. Clients with exacerbating challenges – such as mental illness, physical disability, trauma caused by family violence, and language access issues – will have to remain a priority and providers will continue to turn away desperate clients with meritorious cases. Given that reality, it is imperative that we develop a range of pro se resources and implement practices that help self-represented litigants navigate our tribunals. The Commission is deeply grateful for the Court’s leadership on this front. Last year the Commission worked with the Court to ensure that the revised Code of Judicial Conduct clarified the steps judges can take to assist pro se litigants, consonant with their ethical obligation to remain fair and impartial. The Commission is also committed to work with the Court to bring best practices from other jurisdictions to bear in the District. Over the last year, the Commission and D.C. Bar Pro Bono Program have convened a Working Group to examine the expansion of limited scope representation, a practice that is being effectively utilized in other jurisdictions to expand the availability of counsel for low-income and modest-means litigants.

By leveraging the public funds to raise private donations, increasing pro bono service, and ameliorating barriers to self-representation, the Commission is ensuring that every public dollar allocated to the program is magnified. The Landlord Tenant Attorney of the Day Project continues to be a powerful example of the value created by each dollar of this appropriation. As you know, this highly effective program provides same day representation to tenants who are in imminent danger of losing their homes.  These attorneys are often the last line of defense in preventing homelessness. The eight publicly-funded attorneys staffing the Project provided emergency, same day services to clients facing eviction in over 700 cases in fiscal year 2011 alone.

In addition to the extraordinary work performed by the publicly-funded attorneys, the project also leverages substantial pro bono contributions.  Those publicly funded attorneys placed over 80 cases with pro bono counsel in fiscal year 2011 and provided mentoring and support to enable volunteers to handle those cases.  In doing so, they greatly multiplied the impact of each of those public dollars.  The publicly funded attorneys further extended the reach of public dollars by also working with the Landlord Tenant Resource Center to create and maintain self-help materials for litigants who cannot obtain representation.

Through this one project – which is only one of the highly effective and creative programs supported by the appropriation – over 1500 tenants and their family members were served either by legal services lawyers or by pro bono counsel in fiscal year 2011.  And all of this assistance was secured by a public investment of only $550,000.

Thank you for the opportunity to testify today about this vital program and the steps the Commission is taking to augment available resources and optimize the impact of every dollar expended. I urge the Council to provide at least $3,575,000[[1]](#endnote-1) for the program as was proposed by the Mayor. I hope the Council would also consider allocating additional funds for the program, given the tremendous unmet need for services among vulnerable District residents, and the severe financial challenges the legal services network continues to face. Each year the Bar Foundation is unable to fund critical work that would greatly increase access to justice for those most in need.  According to the Bar Foundation, in the last funding round alone well over a million dollars in sound, effective proposals for funding went unfunded, solely because of a lack of resources.  I realize that you are balancing many competing funding requests and hope you will bear in mind that the dollars spent on this initiative translate directly into expanded legal assistance, cost-savings for the city, and augmented law firm resources. We greatly value the Council’s leadership in this area and I look forward to answering any questions you may have.

1. In terms of the breakdown of funding between civil legal services grants and the loan repayment program (LRAP), we request that LRAP be funded at no more than $200,000 with the remainder of funds allocated to civil legal services grants.  For FY 2013 LRAP was funded at $350,000.  The Bar Foundation projects that $200,000 will be sufficient to meet LRAP requests in FY 2014.  That is largely because the lawyers otherwise eligible to apply for this program are moving outside of D.C. to control their housing costs, rendering them ineligible for continued participation. [↑](#endnote-ref-1)