

**Public Hearing on Mayor's FY 2008 Budget Request for the Office of the
Attorney General**

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

Testimony of Peter B. Edelman

District of Columbia Access to Justice Commission

April 4, 2007

Good afternoon, Chairman Mendelson, and members of the Committee on Public Safety and the Judiciary. My name is Peter Edelman. I am a Ward 3 resident and a Professor of Law at Georgetown University Law Center. I am here today in my capacity as Chair of the District of Columbia Access to Justice Commission. The D.C. Court of Appeals created the Commission in 2005 to address the scarcity of civil legal services available to low and moderate income District residents. The Commission includes 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. Thank you for the opportunity to testify today about the Mayor's fiscal year 2008 budget request for civil legal services that is included in the Office of the Attorney General's budget.

The Mayor's FY 2008 budget continues the \$3.2 million in funding for civil legal services that the Council added in FY 2007. We commend Mayor Fenty and his administration for recognizing the critical role that civil legal services play in the lives of the most vulnerable District residents. This funding will begin filling gaping holes in the legal services network and I am pleased to tell you about some of the proposed projects. Before I do, let me make clear just how important it is that this funding remain in the budget and hopefully increase as it works its way through the City Council. I also have a few suggestions to make this funding program even more effective.

Lawyers who work on behalf of poor District residents are needed now more than ever. The number of people living in poverty rose by over 11,000 between 2003-04 and 2004-05, and the poverty rate is at its highest level since 1998-99.¹ Not a day goes by in the District without an abused person having to navigate the legal system by herself to get the legal protection she needs. Not a day goes by in which a parent appeals the denial of benefits or fights for custody of her child without legal representation. And although you or I would not dream of going into court unrepresented if we were ever in danger of being evicted from our homes, not a day goes by in Landlord/Tenant Court when dozens of people face that very real possibility without a lawyer by their side. There should be no doubt that having a lawyer makes a difference in case outcomes. A New York City Housing Court study found that low-income tenants who were given legal representation had far fewer final judgments entered against them (22% compared to 51% of tenants

¹ D.C. Fiscal Policy Institute, "New Census Figures Show Poverty is on the Rise in the District of Columbia," Aug. 29, 2006, at 1.

who did not have legal representation), and were more likely to benefit from a stipulation requiring rent abatement or repair to their apartment.² The scenarios in which a lawyer could assist are almost endless. The public funding will give many more residents a meaningful opportunity to present their case.

The funding we are seeking for FY 2008 would address the same four areas that are funded this year:

- (1) **Underserved Neighborhoods and Groups** - To place lawyers into neighborhoods that currently have little or no services, provide legal aid to underserved groups, and foster innovative collaborations with social service providers.
- (2) **Housing-related Legal Services** - To provide a range of legal services to help low-income tenants remain in their homes.
- (3) **Legal Interpreter Bank** - To train interpreters and centralize the process for requesting interpreter services, which will give limited English proficient residents access to the legal system and other institutions of government.
- (4) **Loan Repayment Program for Legal Services Lawyers**- To fund the D.C. Poverty Lawyer Loan Assistance Repayment Program Act of 2006, which will aid in recruiting and retaining legal services lawyers. The program is open to lawyers who live in the District and work for legal services organizations.

The District of Columbia Bar Foundation has completed its review of grant applications for FY 2007. The final decisions will be announced soon. The Bar Foundation received over \$5 million in grant requests for the first three areas I just mentioned, so the requests far exceeded the available funds. The grants will add about 25-30 lawyers to the legal services network. The Bar Foundation also has committed to pay out more than \$137,000 for the loan repayment program.

The legal services providers' proposals for the public funds are creative and collaborative. To give just a few examples:

- One organization has a project with the Children's National Medical Center that addresses the non-medical needs of low-income and underserved children by adding a lawyer to the multidisciplinary team that addresses a child's health needs. The organization has applied for funds to expand this project into Southeast D.C. Lawyers will work with clients from three locations in Southeast, including from a mobile medical van that travels into Wards 7 and 8. Other grant proposals seek to

² Carroll Seron *et al.*, "The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment." 35 *Law & Soc'y Rev.* 419 (2001).

place lawyers at Greater Southeast Community Hospital, THEARC, Children's Hospital clinics, the Max Robinson Center, and at Bread for the City's food pantry, among other places. In short, these are locations where residents already come for social and medical services, as well as other types of support.

- Two of the District's leading legal services providers for immigrants are proposing a joint project to increase outreach to low-income immigrants to educate them about their legal rights, provide legal services, and ensure that those limited English proficient residents who are referred to other legal services providers get appropriate language assistance.
- Three organizations will collaborate to represent *pro se* litigants in Landlord & Tenant Court in a new court-based legal services initiative. Working closely with the Court, the organizations developed a program that will allow them to represent *pro se* litigants facing eviction on the same day the litigants come into Court.

Now, I would like to talk about how we can make the grant program even better.

- (1) The Council should increase the FY 2008 funding to \$3.4 million, as we requested in our initial proposal to the Mayor. This increase will allow the grant program to keep pace with inflation and will permit enhancements to the shared legal interpreter bank. As I mentioned earlier, the FY 2007 grant requests exceeded \$5 million, so the need is certainly there.
- (2) We would like the funds dedicated to the loan repayment program to be "no year" funds, i.e., funds that do not have to be spent in the current fiscal year. The reasons for needing this change are a bit technical, but important to ensure the program's efficient operation. The requirement to spend the money in the current fiscal year interferes with the Bar Foundation's ability to have two application cycles in one year, among other things. For instance, the Bar Foundation had their first application period in November 2006 and may have a second application cycle next month. However, because the Foundation cannot distribute the money after the end of the fiscal year, they could guarantee only six months of loan repayment in the May cycle, rather than the one year that is contemplated by the loan repayment statute.

The statute also has a provision that allows law students at the University of the District of Columbia David A. Clarke School of Law to apply for the loan repayment program even though they have not started working. Because graduating law students cannot begin work until late

summer or early fall, once again they would be guaranteed only six months of loan repayment rather than one year. Both of these situations do not further the statute's intent. We think these problems could be solved if the Bar Foundation could spend a portion of the loan repayment funds after the end of the fiscal year. The loan repayment money was less than 5% of the total funds in FY 2007 so the amount in question is small. However, there will be significant benefits to the loan repayment program.

- (3) Pursuant to the memorandum of understanding that the Bar Foundation entered into with the Office of the Attorney General, all interest earned on the funds must be remitted to the District government. This requirement is burdensome on both ends. It is administratively easier and better for the program if the interest can be rolled into these grants.

The Bar Foundation will be able to run an even more effective grant program with these relatively simple adjustments. We would welcome the opportunity to work with the Committee to make these changes.

Councilmember Mendelson and members of the Committee, as you know, the District of Columbia's motto is *Justitia omnibus* or "Justice to All." By providing the requested funding in FY 2008, the District will take one more step to achieving that inspiring goal. Thank you again for permitting me to testify. I would be happy to answer any questions.