

**Performance Oversight Hearing, D.C. Office of Victim Services and Justice Grants
Before the D.C. Council Committee on the Judiciary & Public Safety**

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

February 27, 2020

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. 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, D.C. Superior Court and D.C. Office of Administrative Hearings judges, past Presidents of the D.C. Bar and other private bar leaders, representatives of legal services organizations, members of legal academia, and business and community leaders.

It is my honor to testify today to discuss the impact of the Access to Justice Initiative, which is under the purview of the Office of Victim Services and Justice Grants. The Office of Victim Services Justice Grants, led by Director Michelle Garcia, has worked with the D.C. Bar Foundation to skillfully and strategically administer these important funds. I am pleased to be testifying today alongside D.C. Bar Foundation Chief Executive Officer Kirra Jarrett and thank her for the Foundation's leadership in guiding the development of this program.

The Commission is extremely grateful to the Mayor and to the D.C. Council for their long-standing support of the Access to Justice Initiative, and in particular to this Committee, which has championed its work for so many years. The District's fiscal year 2020 budget includes over \$11 million in funding to promote access to justice in our community through the Access to Justice Grants program, the District of Columbia Poverty Lawyers Loan Repayment Assistance Program, and the Civil Legal Counsel Projects Program. These FY20 funds are distributed as follows: \$6,257,000 to the Access to Justice Grants Program (including the Community Legal Interpreter Bank); \$300,000 to the District of Columbia Poverty Lawyers Loan Repayment Assistance Program;

and \$4,500,000 to the Civil Legal Counsel Projects Program. Taken together, these programs represent an integrated and cohesive investment in access to justice.

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

The Impact of the Access to Justice Initiative

In December 2019, the Commission released a report entitled *Delivering Justice*. In that report, the Commission examined the legal needs facing low- and moderate-income District residents, the barriers they experience in addressing them, and how the District's community of civil legal services providers has evolved to serve them. In the report, the Commission explains how the circumstances experienced by thousands of low-income District residents – poverty, disability, homeless status, and beyond – increase the likelihood of experiencing civil legal problems and impede a person's ability to address and recover from them. The report explores the areas where these District residents experience the most problems – issues like consumer protection, disability, education, employment, probate, family/domestic violence, housing, immigration, public benefits, and beyond.

Delivering Justice details the important work being done by civil legal services providers in the District – most of whom receive funding from the Access to Justice Initiative. The Commission is incredibly grateful for the support and leadership of the Council in promoting this annual appropriation, which has helped transform our civil justice system. Through the important work of the Office of Victim Services and Justice Grants and the D.C. Bar Foundation, the legal services network has:

- increased the capacity and reach of District legal services organizations and permitted innovations that address emerging needs;
- enabled legal services providers to increase the delivery of services where they are most needed, in communities and neighborhoods of highly concentrated poverty;

- supported legal services in a wide variety of substantive legal areas, particularly housing, and enabled providers to address the unique legal needs of traditionally underserved populations;
- funded a community interpreter bank, which helps low-income limited English proficient and deaf residents access services from 40 nonprofit legal services providers, meeting an increased demand that in the first six months of 2019 alone saw requests for in-person interpreters more than double from the prior year; and
- kept experienced legal services lawyers working in our community through the D.C. Poverty Lawyer Loan Repayment Assistance Program, which provides loan repayment assistance that makes it possible for them to remain working in District legal services organizations and serving District residents, which is critical knowing that these lawyers have an average debt of \$191,000.

In *Delivering Justice*, the Commission found that providers have leveraged Access to Justice Initiative and other support through innovations in practice, service delivery, and operations including: the growth of existing practice areas and establishment of new organizations and projects; adoption of diverse and creative practice models; collaboration with partners and engagement of clients; work on systemic advocacy; and staffing changes for sustainability and growth.

Last year, Access to Justice Grants Program grantees provided referrals and legal assistance to close to 30,000 low-income D.C. residents. The grantees handled close to 9,500 cases, placed more than 401 cases with pro bono lawyers, and conducted more than 425 community legal education sessions in legal areas including, but not limited to:

- keeping District families in their homes through legal work preserving affordable housing, preventing foreclosure, and safeguarding low-equity housing cooperatives;
- protecting District consumers in the marketplace and workplace by stabilizing credit for low-income residents and protecting wages and jobs;
- increasing service access for the most vulnerable District residents by keeping families healthy, assisting seniors aging in place, and helping at-risk youth stay in school; and

- pursuing collaborations across the community, including with the courts, medical providers, libraries, schools, and beyond.

Through the Civil Legal Counsel Projects Program, six legal services providers provide free eviction defense legal services to low-income tenants in the District. Funding legal assistance in this area is a cost effective because it keeps families in their home rather than becoming homeless. The funds have increased the presence of free legal services at the courthouse to help address inequities in representation in eviction proceedings, where the vast majority of landlords (95%) benefit from legal representation, as opposed to the 88% of tenants who go without representation. Over one two-month period, the grantees served 759 residents of whom 54% were from Wards 7 and 8, 68% identified as female, and 82% identified as Black or African American. During the two-month period, of 159 closed cases, 50% of the tenants maintained their housing. Yet – this is only a fraction of low-income D.C. residents at high risk of evictions.

Delivering Justice includes national and local data that demonstrate that giving individuals greater access to legal information and opportunities for representation leads to better individual and community outcomes. Highlighted studies show that represented tenants were more likely to avoid an eviction judgment; non-detained immigrants with legal counsel prevailed at a far greater rate; and benefits claimants were much more likely to succeed when represented by a lawyer. In addition, *Delivering Justice* profiles systemic advocacy efforts that resulted in improvements more broadly benefiting the District’s low-income community, from addressing building-wide housing code violations, to promoting justice-related policy changes, to decreasing the load on medical institutions by combatting health-harming legal barriers through medical-legal partnerships, to identifying other systemic obstacles to justice.

The Need for Civil Legal Assistance

Despite this important work and existing resources, the need experienced by low- and moderate-income District residents and the urgency of the problems they face, is still profound and persistent. In *Delivering Justice*, providers noted that their current capacity is simply inadequate to

meet the needs of the District residents who reach out to them for legal help. Organizations are still forced to turn away clients with urgent, meritorious cases due to a lack of resources. 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. This underscores how absolutely essential these public funds are to our civil justice system.

The report includes data on the need from the vantage point of our local courts and administrative tribunals. Despite the current investment in funding civil legal services, we see thousands of District residents with legal problems go unrepresented in civil justice matters – percentages like 83-93% of those dealing with child custody or other family law issues; 75% of those trying to address housing conditions; 88% of those facing eviction, and beyond. At the D.C. Office of Administrative Hearings, we see even higher percentages. For example, no party was represented in 88% of student discipline appeals, 86% of appeals related to public benefits determinations, and 91% of disputes concerning unemployment compensation benefits.

How does this relate to the Access to Justice Initiative? Consider probate practice. Court data reflect that 97% of plaintiffs in small estate probate matters lack counsel. For a low-income family member navigating the extraordinarily complex procedure and law around estate administration after the death of a loved one, access to a lawyer can mean keeping an inter-generational home and family living in the District, or losing not only that family's perhaps sole source of wealth but being forced to leave their community.

Take a case featured in *Delivering Justice*: Mr. Jackson faced foreclosure on the house that he had lived in for decades. A reverse mortgage became due when his wife, the borrower, passed away. Mr. Jackson was now facing two legal issues: the foreclosure and the need to probate his wife's estate. A legal services attorney helped Mr. Jackson avoid foreclosure by probating his wife's estate and transferring the title into Mr. Jackson's name. In addition, the attorney was able to help Mr. Jackson identify a long-term solution to maintaining the home by using applicable U.S. Department of Housing and Urban Development surviving spouse rules to assume the loan and maintain his homeownership.

In the area of probate, FY20 Access to Justice Initiative funding has allowed Legal Counsel for the Elderly – one of if not the only legal services organization providing probate assistance – to hire one additional attorney to provide legal representation in probate matters. This will mean that they have not one, but two FTEs dedicated to probate. While a start, it leaves behind so many other District residents who need help.

The Broader Impact of these Funds

The larger community impact of the Access to Justice Initiative is significant. Programs funded through the Access to Justice Initiative help form the safety net in many District communities. For example, since its inception the number of attorneys working east of the Anacostia River has doubled. This not only eases the transportation burden for low-income residents needing legal help, but it also has resulted in these organizations becoming known and trusted parts of the community.

The funds promote creative community alliances 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 meet young patients’ legal needs in the areas of education, housing, and access to health care when facing urgent medical episodes. Legal services providers have developed numerous partnerships with trusted community partners to deliver legal information and better connect District residents to legal services. One grantee organization, for example, conducts community outreach on debt-related matters by partnering with a community organization in Ward 7. Another organization partners with and supports tenant groups’ work on the preservation of affordable housing. There are countless other examples of this important community work.

The District Government’s leadership in supplying these public funds has also allowed legal services organizations to maximize a range of other resources. For example, legal services providers magnify the impact of every public dollar invested through the recruitment, training, and support of private lawyers performing pro bono service in the District. 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. Each year, the D.C. Courts, in partnership with the Commission and the D.C. Bar Pro Bono Center, recognize 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 2018, over 5,900 attorneys registered for the Honor Roll, with over 3,000 qualifying for the higher recognition category of 100 plus hours. The Honor Roll includes attorneys from all segments of the bar, including more than 168 law firms and scores of solo practices, local and federal government agencies, and non-profit organizations. 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 a partner in funding access to justice work and that its contributions to direct legal services organizations also have 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 2018, the forty-three firms that met benchmark levels collectively donated just shy of \$6 million to organizations that serve low-income District residents with urgent legal issues, which represents a \$2.6 million dollar increase in giving by these same firms since they joined the Campaign. Significantly, these figures do not include the millions of additional dollars in individual philanthropy provided by private law firm attorneys annually to the legal services network. The Commission believes that this robust

private-public partnership has been greatly incentivized by the District government's long-standing support.

At their core, the numbers and project descriptions described in our testimony demonstrate how the District's commitment to these programs changes 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. Keeping clients housed lessens the need for homeless services. By moving clients from local to federally funded public benefits programs, they reduce burdens on the local budget. And through their work, they help enforce and strengthen District law that has 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 and eliminate systemic barriers that deny unrepresented litigants access to justice and build faith among constituencies in the functioning of the justice system.

CONCLUSION

Thank you for the opportunity to testify today about these vital programs. The District government's leadership in establishing and supporting the Access to Justice Initiative has helped countless District residents secure the legal assistance they need to meet vital human needs, like housing, family stability, and public benefits, and in doing so, helps make the District a more just, stable community. The D.C. Bar Foundation should be commended for its role in expertly guiding the development of the program and employing strategies to ensure the funds are being used wisely. The Commission is grateful for its partnership with the D.C. Bar Foundation, and in particular looks forward to working hand-in-hand to chart a future path for access to justice in the District.

That said, we know that the scope of unmet civil legal needs in our community is vast. We depend on our continued collaboration with the District government to adequately fund legal services and promote strategies for change. Along with other stakeholders who make possible the provision of civil legal services, we can take on the challenges identified in this report and move closer to achieving access to justice for all.

I look forward to answering any questions you may have.