



December 21, 2020

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The Honorable Muriel Bowser
Mayor of the District of Columbia
1350 Pennsylvania Avenue NW
Washington, D.C. 20004

RE: FY 2022 Access to Justice Initiative Funding

Dear Mayor Bowser:

I hope that this letter finds you safe and well. I am grateful for your leadership and for your team's hard work during these challenging times.

The District has long recognized that public investment in civil justice is an essential tool in supporting our most vulnerable residents. The fact that we have a strong network of civil legal services providers mobilized to help District residents during the COVID-19 pandemic is a direct reflection of that vision. Civil legal aid is and will continue to be a critical part of the District's safety net, and will allow us to build a more just, equitable community.

Nevertheless, the mounting legal needs of low-income District residents far outpace the resources available to meet them. Last year, we came to you asking for a significant increase in the Access to Justice Initiative, from \$11M to \$19M, to address the staggering justice gap our community experienced. That need was demonstrated in part by the high rates of litigants appearing in court without a lawyer, as high as 97% in some legal areas. We told you that providers regularly turned away District residents seeking help maintaining safe housing or saving a family home from foreclosure, accessing public benefits and addressing consumer rights, navigating family issues, combatting immigration concerns, and more. These urgent concerns were outlined in the Commission's December 2019 report, [*Delivering Justice*](#).

That was where our community was *before* the pandemic, and those problems have not gone away. In fact, they've worsened. The pandemic has led to increased need in all these legal areas. This makes our call for greater resources – a call we would have made with or without the pandemic – all that more urgent. Greater resources are needed to ensure District residents are equipped to address these civil justice problems. As you said during a recent event celebrating the work of the D.C. Bar Foundation, which administers the Access to Justice Initiative: "*We know that [the legal needs of District residents] are greater now even more than ever, as our lowest income residents bear the brunt of this public health crisis. Affording them the legal representation and assistance they need is fundamental to upholding our D.C. values.*"

In order to meet this pressing need, we request that the District increase the Access to Justice Initiative in FY 2022 to \$20 million, as outlined in the attached narrative. These additional funds will play a critical role in allowing our community to build on its strong foundation, address the large gap in services that preceded the pandemic and the expected increase in legal cases as a result of the pandemic, pursue new and progressive solutions to ensure D.C. residents are aware of and can more efficiently access the legal services and rights available to them, and to continue to measure the impact of these services.

This is an important moment. The Commission and the DC Bar Foundation are working together to transform our civil justice system to meet the urgent need, and the District's partnership is critical to this effort. Thank you for your support and consideration.

Best wishes for a happy and healthy New Year.

Sincerely,

A handwritten signature in cursive script that reads "Peter Edelman".

Peter B. Edelman, Chair

cc: Mr. Kevin Donahue, Interim City Administrator
Mr. John Falcicchio, Chief of Staff
Dr. Roger Mitchell, Interim Deputy Mayor for Public Safety & Justice
Ms. Beverly Perry, Senior Advisor to the Mayor
Ms. Betsy Cavendish, General Counsel, Executive Office of the Mayor
Mr. Eugene Adams, Director, Mayor's Office of Legal Counsel
Mr. Ronan Gulstone, Director, Mayor's Office of Policy and Legislative Affairs
Ms. Jennifer Reed, Director, Office of Budget and Performance Management
Ms. Michelle Garcia, Director, Office of Victim Services & Justice Grants

**FY 2022 Public Funding Request for the Access to Justice Initiative:
Ensuring Access to High Quality Civil Legal Services**

SUMMARY:

Civil legal aid is a critical part of the District's safety net and will allow us to build a more just, equitable community. As vulnerable, low-income District residents face life-changing challenges such as potential eviction, unemployment, improper termination of benefits, domestic violence, or family concerns, civil legal services allow them to avoid unjust outcomes and seek fair treatment through legal solutions. The District government has long recognized the need to make legal services available to those unable to afford them by supporting the Access to Justice Initiative ("ATJ Initiative"). The DC Bar Foundation ("DCBF"), working with the D.C. Office of Victim Services and Justice Grants, has thoughtfully administered the ATJ Initiative since its inception in fiscal year 2007.

The ATJ Initiative is a valuable public investment. Civil legal services make government systems more effective for residents and are part of the critical safety net for District residents living in poverty. It is hard to imagine attempting the daunting task of navigating the District's complex court system without a lawyer, particularly when the things most precious to you are at stake – your children, your home, your physical safety, your only income stream. With civil legal services, vulnerable D.C. residents have access to court-based and community-based legal services and are more likely to remain in their home, avoid being cheated out of wages for time worked, keep their benefits, and resolve family conflicts. When D.C. residents have greater access to justice, this means greater family stability and economic opportunity and a better overall quality of life in the community.

The critical importance of civil legal help has always been profound, but the emergence of the COVID-19 pandemic has made addressing the need all the more urgent. Attorneys on the front lines have reached out to District residents to assess their legal needs, set up virtual clinics and accessible phone lines to provide help, connected their clients with legal and non-legal supports, and ensured that rapidly changing information is available to District residents. Legal services providers have partnered with the Mayor's Office of Community Affairs, Mayor's Office of Latino Affairs, the Mayor's Office on Fathers, Men, and Boys, and other non-government community stakeholders to offer this support. With DCBF's support, [providers have launched networks that have eased community access to legal services during a critical time](#).

As we emerge from this crisis, unanticipated civil legal challenges will add to those we already faced as a community. Providers report increased requests for help in areas like housing, employment, domestic violence, and debt, with vulnerable populations like District elders, those living with disabilities, and the immigrant population particularly susceptible. As courts reopen, we will see more District residents facing eviction and foreclosure, subject to debt collection lawsuits and attempts to garnish their wages and attach to their bank accounts, and other civil legal challenges. These new challenges arise when pre-pandemic, [we already had a stunning number of District residents who navigated our courts without access to a lawyer](#). And the number of clients seeking help – already large – will likely grow. District residents who prior to this crisis managed to keep their families stable will now face unfamiliar civil legal needs they will be unprepared to address, many for the first time in their lives.

Without the civil legal aid necessary to help District residents navigate these complicated issues and secure these protections, the problems we will face as a community will certainly be greater. Indeed, our recovery will be dependent on the accessibility of civil legal help for the District's most vulnerable residents.

FUNDING REQUEST:

The ATJ Initiative includes three programs: (1) the *Access to Justice Grants Program* that supports a wide array of civil legal services aimed at increasing services in communities and neighborhoods of highly concentrated poverty, expanding representation in housing matters, and maintaining a legal interpreter bank; (2) the *Civil Legal Counsel Projects Program*, providing representation in eviction proceedings; and (3) the *D.C. Poverty Lawyer Loan Repayment Assistance Program* to assist lawyers with student loan debt. DCBF has administered and guided the development of each program from its beginning.

The D.C. Access to Justice Commissionⁱ requests that the District build upon its commitment to equal justice for low-income D.C. residents by increasing the ATJ Initiative to \$20 million in FY 2022.

Increasing funding will address longstanding shortfalls in available civil legal services and allow the program's resources to keep pace with the District's growing need for services (particularly in light of the pandemic), accommodate the expansion of successful, existing programs to meet the need, support the evaluation of services for impact and improvements, and help ensure that community feedback is considered and incorporated into program changes. Increased resources will also foster other progressive strategies to connect District residents with the vital legal help that they need through the pursuit of integrated community partnerships and communications strategies, the expanded use of technology, and attention to a more coordinated entry point for accessing legal services through expansion of existing hotlines. DCBF is fully prepared to manage this increase and support areas of need where increased funding would be beneficial.

We respectfully suggest the following breakdown:

Access to Justice Initiative - \$20 million in recurring funds

- \$12.5 million for the Access to Justice Grants Program. This is an increase of \$5.311 million from FY21 funding. This increase will allow program grants to meet the demand for current and new civil legal services, including the expansion of successful, existing programs; to evaluate practices and assess community need in more detail; to support the development of coordinated intake and other technological innovations and infrastructure to deliver legal services more efficiently; and to pursue other strategies to better serve District residents.
- \$7.2 million for the Civil Legal Counsel Projects Program. This is an increase of \$2.6 million from FY21 funding. This increase will provide for more eviction defense legal services to a higher volume of D.C. residents and will support practice improvements identified through an evaluation of the existing program.
- \$300,000 for the DC Poverty Lawyers Loan Repayment Program. This is level funding to FY21.

THE ROLE OF THE ACCESS TO JUSTICE INITIATIVE:

The ATJ Initiative has transformed the legal services network by increasing the capacity and reach of District legal services organizations to address District residents' needs.ⁱⁱ Increased funding will allow us to multiply successful interventions at a time when the need is more profound than ever before. Our community, including the courts, have become reliant on the availability of these services, particularly during the pandemic. DCBF is committed to ensuring that the funded programs and services continue to effectively and efficiently serve District residents and have the desired impact.

Below please find some examples of the work being done in the community through the ATJ Initiative and some of the anticipated expanded need.

1. Access to Justice Grants Program (“ATJ Grants Program”)

Vulnerable District residents have a fairer shot at civil justice when they have access to legal assistance and representation through the *ATJ Grants Program*. Examples of how these funds increase service access for vulnerable District residents, protect consumers in the marketplace, and keep District families in their homes are described below, as well as a sense of the pandemic-related need providers are seeing in the community.

Increasing Service Access for the Most Vulnerable District Residents.

- **Keeping Families Safe.** These funds have long supported services to domestic violence survivors, the vast majority of whom access the courts without legal representation. These individuals are particularly at risk now due to the social isolation and quarantine required by the pandemic. Providers have mobilized to offer support in the form of emergency legal services and crisis safety planning. Busy before the pandemic, some providers now report a 300% increase in calls for assistance, with an increase in episodes of violence, harassment, stalking and lethality – a circumstance they expect to continue.
- **Managing Health Crises.** Medical-legal partnerships that place lawyers alongside staff at some of the District’s highest-volume primary care providers are also supported through these funds. The District was already facing significant public health challenges before the pandemic, but health-related concerns have taken on a heightened state of urgency due to the vulnerabilities brought on by COVID-19. Legal services providers continue to help low-income D.C. residents stay stable and healthy by pursuing and maintaining local and Federal benefits and gaining access to housing, food, and medications, and they continue to identify legal remedies for health problems, such as uncontrolled asthma due to mold-infested homes.
- **Assisting Seniors Aging in Place.** These funds support attorneys who help low-income seniors to draft wills and advance directives, review public benefits and fight scams, and deal with housing-related issues. This is a long-standing gap in our civil legal services network, with only one legal services provider able to serve low-income D.C. elders in estate administration, for example. Now, the need for this help has increased among the low-income, Black, and Latinx populations that are most at-risk for COVID-19. These communities were already less likely to have wills and estate plans, leading to complex probate proceedings after a death in the family and threatening intergenerational transfer of property. Legal help to navigate these complicated systems is essential.
- **Modeling Language Access.** These funds help low-income residents who are limited English proficient and Deaf to access services from 42 nonprofit legal services providers through the District’s one-of-a-kind Community Legal Interpreter Bank (“Bank”). Language access has always been a priority due to the District’s diversity, but equity in accessing legal services is more critical during the pandemic when information is vital, services are more difficult to access, and so much is constantly changing. Residents continue to receive interpretation over the phone and video, the Bank has provided special training to providers on holding interpreted meetings remotely, and the Bank has pivoted to holding interpreter trainings online. During the first 11 months of 2020, there were 214 requests placed through the Bank for its interpreters (trained to work with lawyers and their clients in out-of-court settings). The 3 languages with the highest number of requests are Spanish, Amharic, and American Sign Language. During those first 11 months, the Bank also translated 463 documents and provided on-demand telephonic interpretation on 4,022 instances. One provider said that the Bank has been “indispensable” in its outreach and community engagement during the COVID-19 pandemic, including allowing it to conduct ‘Know Your Rights’ trainings over Zoom using simultaneous interpretation.

Protecting District Consumers in the Marketplace and Workplace.

- **Stabilizing Credit for Low-Income Residents.** Funded programs help residents fight predatory lending and illegal debt collection schemes and avert negative court judgments and credit reports, which can affect housing and employment opportunities. The District saw an alarming number of these consumer problems before the pandemic, and providers anticipate a tsunami of new consumer and debt-related legal issues as billing cycles and wage loss create a toxic personal financial environment for thousands of already vulnerable D.C. residents. The expected onslaught of consumer and collections cases as community members begin to receive medical bills, collection bills, and lose temporary debt collection protections will add to the already crushing volume of individuals needing legal help. These concerns are particularly acute for the undocumented, who have always been highly susceptible to exploitation and fraud, and are not eligible for many pandemic-related assistance programs. Providers also expect a marked increase in bankruptcy filings where legal assistance will be needed.
- **Protecting Wages and Jobs.** These funds help teach low-income workers their rights, ensure they receive the wages they have earned and help them recover stolen wages, and fight discrimination and harassment. Unemployment in the District has always been high, with a disproportionate impact on people of color. Although workers continue to bring a wide range of employment-related issues to now virtual clinics, requests have clustered around difficulties accessing, and questions about, unemployment insurance, terminations, and layoffs due to the pandemic, and failures to pay wages or other benefits. Over 161,000 people applied for unemployment insurance in the District between March 13, 2020 and December 14, 2020, compared with about 37,000 *total* claims filed in 2019. Before the pandemic, litigants in unemployment-related matters at the D.C. Office of Administrative Hearings were unrepresented by counsel the vast majority of the time. Now, that tribunal is experiencing four times the typical number of unemployment appeals, expected to grow as additional claims are processed. This remains a continued, and growing, need.
- **Ensuring Access to Benefits.** Helping District resident secure benefits for which they are entitled has always been an important part of this program. Even before the pandemic, lawyers provided essential, on the ground support to District residents to ensure they had access to crucial benefit programs. While this system was already challenging to navigate, with the pandemic, many qualified applicants for crucial safety net programs lack the ability to complete online benefits applications or recertifications and are more likely to face improper benefits terminations or denials due to unfamiliarity or system errors as an overwhelming number of new applications are processed. Providers have worked with government agencies, such as the Department of Human Services and the Department of Health Care Finance, to ensure that they create new processes that are accessible to the client community. Several providers have also created dynamic, regularly updated resource guides to assist clients and the larger District community. Yet, we continue to need lawyers on the ground to help District residents in this area.

Keeping District Families in Their Homes.

- **Preserving Affordable Housing.** These funds help low-income residents challenge unlawful rent increases, building condition violations, and voucher terminations – preserving existing affordable housing stock. During the pandemic, legal services providers are fielding more calls from tenants whose landlords are failing to take reasonable steps to protect tenant health and safety during the pandemic and expect to see an increase in requests for assistance regarding housing conditions as the pandemic continues and landlords decrease maintenance.

- **Preventing Foreclosures.** These funds help low-income homeowners who are unfamiliar with the court process defend against foreclosures that are based on deed theft, mortgage fraud, equity stripping scams, or tax sales.
- **Safeguarding Low-Equity Housing Cooperatives.** These funds also help tenant groups develop and maintain the administrative infrastructure, governance, and regulatory compliance of tenant-owned limited equity cooperatives in order to prevent problems that cause these affordable housing cooperatives to convert to market rate housing.

During the first six months of 2020, ATJ grantees served about 31,000 District residents, accepted almost 4,000 cases, placed 555 cases with pro bono lawyers, and conducted 147 community legal education sessions. These critical services continue to be outpaced by the growing need for free legal services in the District.

2. Civil Legal Counsel Projects Program (CLCPP)

The urgent need for representation in eviction-related cases led to the creation of the *Civil Legal Counsel Projects Program* in fiscal year 2018. The program supports six legal services providers that provide free eviction defense legal services to low-income tenants in the District. The funds 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 benefit from legal representation while the vast minority of tenants do not. Three of the most notable accomplishments of the program identified through robust evaluation include: (1) the creation of a multi-organization collaboration to create a centralized point of entry; (2) the sharing of resources and best practices across members of the network; and (3) with additional staff, expanded capacity for eviction defense in the District.

The impact of the program thus far is compelling. From January through June 2020, the CLCPP network served a total of 1,114 low-income tenants across a total of 1,194 cases.ⁱⁱⁱ Because of the D.C. Courts closing in March, the number of tenants served has been severely curtailed: CLCPP served 873 tenants between January and March 15, and 241 tenants between March 16 and June 30. Across the 283 cases with outcome data that were closed before the public health emergency period, 82% of tenants retained possession of the unit—50% retained possession outright and 32% had to comply with certain terms in order to stay. However, this is only a fraction of low-income D.C. residents at high risk of evictions – we know that there are approximately 30,000 evictions filed every year, and the pandemic will only exacerbate that challenge.

Though a current eviction moratorium is reducing immediate need, our civil justice system will be overwhelmed when the moratorium eventually lifts. Census survey data indicates that as of the end of November 2020, over 70,000 households in D.C. are behind in their rent, and a similar number had little or no confidence in their ability to pay December rent on time. Over 80 percent of these households are headed by a person of color. A recent National study shows the direct relationship between eviction and subsequent COVID infection, arguing that eviction prevention is a critical intervention to address racial health inequity.^{iv}

Our community, including our courts, is relying on a well-resourced legal services network to deal with the onslaught of eviction matters that will come as we emerge from the crisis, both back-logged cases and new cases that are brought against tenants whose financial circumstances have been impacted by the economic consequences of the pandemic. In an environment where landlords are represented 95% of the time and tenants only 12% of the time, civil legal aid will be critical to even the playing field and

ensure that tenants have the ability to present defenses and negotiate terms with their landlords that might avoid a devastating and health-altering eviction. The District investment in eviction defense also recognizes that it is more cost effective for our community to try to keep families in their home than for families to become homeless. We must work towards all low-income D.C. residents faced with eviction having access to legal representation. Increased funding will support the Civil Legal Counsel Projects Program towards this goal.

3. DC Poverty Lawyer Loan Repayment Assistance Program

The *DC Poverty Lawyer Loan Repayment Assistance Program* (“DC LRAP”) is a critical tool for recruiting and maintaining a talented, passionate, and diverse corps of legal services lawyers. These poverty lawyers work at nonprofit legal services providers and have a salary range from \$45,000 to \$89,000, with an average debt of \$205,563. DC LRAP provides each eligible attorney a one-year, interest-free, forgivable loan, of up to \$12,000 per year. The District’s LRAP continues to be one of the most generous publicly-funded LRAPs in the country. This year, it will provide 39 attorneys living in the District with the opportunity to pay their monthly student loan debt, thereby supporting their commitment to provide free, high-quality legal assistance to the D.C. community.

CONCLUSION:

There is no higher function of government than to ensure that all of its residents, no matter their economic status, have equal access to justice. As Thomas Jefferson said, “The most sacred of the duties of a government is to do equal and impartial justice to all its citizens.” You and the District government have embraced this most fundamental of obligations through the funding of the ATJ Initiative.

Civil legal aid providers have always been, and will continue to be at the ready to serve District residents at this challenging time and into the future, but can only do so with the financial support of the ATJ Initiative. While we appreciate you face difficult budget decisions, we respectfully request that you and your team strongly consider our FY22 request of \$20 million to ensure that the District’s network of civil legal services providers have the resources they need to serve the District’s most vulnerable residents and enable them to participate fully in the District’s recovery from this unprecedented crisis.

ⁱ The Commission was created in 2005 by the D.C. Court of Appeals to address low- and moderate-income residents’ unmet need for civil legal services. Commissioners include judges, past Presidents of the D.C. Bar, Executive Directors of leading legal services providers, and other community leaders.

ⁱⁱ The Commission’s December 2019 report, *Delivering Justice*, documents the important work being done by the District’s civil legal services community to address documented legal needs - efforts impossible without the ATJ Initiative. www.dcaccessjustice/reports.

ⁱⁱⁱ These CLCPP numbers are in addition to those cited above regarding the Access to Justice Grants program.

^{iv} Benfer, Emily and Vlahov, David and Long, Marissa and Walker-Wells, Evan and Pottenger, J.L. and Gonsalves, Gregg and Keene, Danya, *Eviction, Health Inequity, and the Spread of COVID-19: Housing Policy as a Primary Pandemic Mitigation Strategy* (November 1, 2020), *Journal of Urban Health* (2020), Available at SSRN: <https://ssrn.com/abstract=3736457> or <http://dx.doi.org/10.2139/ssrn.3736457>