



April 20, 2020

The Honorable Muriel Bowser
Executive Office of the Mayor
John A. Wilson Building
1350 Pennsylvania Avenue NW
Washington, D.C. 20004

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Executive Director

RE: FY 2021 Access to Justice Initiative Funding

Mayor Bowser:

I hope that this letter finds you safe and well. We know that you and your team face incredible pressures in these times. We are very grateful for your leadership.

I am writing about the Commission's FY21 Access to Justice Initiative budget request, which we have attached for your reference. The current circumstances would have seemed unimaginable when we wrote just over a month ago. We appreciate that you and the D.C. Council face very hard decisions as you re-envision the FY21 budget. Nevertheless, we write to you to emphasize that our request to increase FY21 funding for the Access to Justice Initiative to \$19 million is now more important than ever.

The District's Long-Standing Investment and the COVID-19 Response

The good news is that because of the District's long-standing investment in civil legal aid, we have a strong network of civil legal services providers that has mobilized to meet the needs of low-income District residents during the COVID-19 crisis. District residents continue to receive legal help through remote services created by providers in the wake of the crisis. Court-based services like resource and self-help centers were quickly converted to accessible phone lines. Walk-in clinics have been converted to virtual clinics offering one-on-one advice to District workers. *More information about how civil legal services providers are responding and anticipated future need is attached.*

How Civil Legal Aid Is Helping District Residents During the Pandemic

Civil legal aid is a critical part of the District's safety net. Attorneys on the front lines are reaching out to individual clients to assess their legal needs, but also check on their safety and welfare. They are connecting these clients with supports that go far beyond the law – food, mental health services, and other necessities. Providers are ensuring that rapidly changing information about accessing civil justice and securing supportive services are disseminated to clients and throughout the community. They are partnering with District agencies such as the Mayor's Office of Latino Affairs and the Mayor's Office on Fathers, Men, and Boys to reach underserved populations and to connect clients to information and services.

District Residents are Facing New Civil Legal Challenges

Unanticipated civil legal challenges will only continue to grow as we emerge from this crisis. Already, legal services providers report increased requests for help in areas like employment, domestic violence, and debt. Vulnerable populations like District elders, those living with disabilities, and the immigrant population are particularly susceptible to these problems. This has been particularly true with accessing unemployment insurance, as claims filed since the onset of the crisis are double that of the entire prior

year. One provider was contacted by individual with Temporary Protected Status who was laid off by a restaurant due to COVID-related closures. He was unsure whether he was eligible for unemployment benefits and on top of that, was struggling to submit a claim because he did not have access to a computer. The provider answered his questions and helped him navigate the system to file his claim.

The District Will Experience an Unprecedented Demand for Civil Legal Assistance

The spike in demand for civil legal help will continue to be overwhelming. As courts reopen, we will see more District residents facing eviction, subject to debt collection, and other civil legal challenges. In our last letter, we highlighted the stunning number of District residents who navigate our civil courts without access to a lawyer. This number will undoubtedly grow as more District residents fall into poverty at rates anticipated to be far in excess of the Great Recession. District residents who prior to this crisis managed to keep their families stable will now face unfamiliar civil legal needs that they will be unprepared to address. If the number of unemployment claims filed thus far is any guide, District workers will face unprecedented challenges and will need help navigating the unemployment compensation system and securing available benefits and protections – many for the first time in their lives.

Civil Legal Aid Is Critical to the District's Post COVID-19 Recovery

The District's recovery will be dependent on the accessibility of civil legal help for its most vulnerable residents. Civil legal aid will keep District residents on the brink of homelessness in their homes by defending against evictions or working out reasonable payment plans with landlords. Access to legal help will ensure that those District residents eligible for local and Federally expanded public benefit programs will be able to access them fully and avoid mistakes or unnecessary denials. Those vulnerable to consumer and other debt-related concerns, particularly District elders and the immigrant population, will need to be protected through legal advocacy. 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 almost certainly be greater.

Overall Civil Legal Aid Funding in the District is Already at Risk

Civil legal aid providers are at the ready to continue to serve District residents, but can only do so with the financial support of the Access to Justice Initiative. Any cuts to the Initiative would be devastating, especially when coupled with the anticipated decrease in the District's two other main sources of funding for civil legal aid: private philanthropy from local law firms and declining revenue from the District's Interest on Lawyers Trust Accounts (IOLTA) Program as banks respond to Federal Interest Rate cuts.

Equal Access to Justice and the Fundamental Role of Government

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 that most fundamental of obligations through your funding of the Access to Justice Initiative. We respectfully request that you and your team strongly consider our original FY21 budget request of \$19 million to ensure that the District's network of civil legal services providers have the resources they need to participate fully in the District's recovery from this unprecedented crisis.

Should you have any questions, please do not hesitate to reach out to me or the Commission's Executive Director, Nancy Drane.

Sincerely,



Peter B. Edelman, Chair

cc: Mr. Rashad Young, City Administrator
Ms. Beverly Perry, Senior Advisor to the Mayor
Mr. Kevin Donahue, Deputy City Administrator & Deputy Mayor for Public Safety and Justice
Ms. Betsy Cavendish, General Counsel to the Mayor
Ms. Jennifer Reed, Director of the Office of Budget and Finance
Mr. Ronald Ross, Director of the Mayor's Office of Legal Counsel
Ms. Michelle Garcia, Director of the Office of Victim Services and Justice Grants
Ms. Kirra L. Jarratt, Chief Executive Officer, DC Bar Foundation

Civil Legal Services: Snapshots on Meeting the COVID-19 Challenge

Debt and Consumer Law

Debt and Consumer legal services providers report an increase in calls by current and former clients who are worried about their financial situation as it relates to the pandemic, both now and as we emerge from the crisis. Providers have mobilized to advocate for policies that would impose temporary limits on debt collection practices that would otherwise financially devastate already vulnerable District residents, ensured that their client population was aware of these changes, and counseled them on how to address other consumer-related concerns.

One provider said that it anticipates a “tsunami” of consumer and debt-related legal issues for D.C. residents as billing cycles and wage loss create a toxic personal financial environment for many thousands of already vulnerable residents. With current unemployment projections, the number of households experiencing issues with debt collection will increase dramatically and will lead to an onslaught of consumer and collections cases as community members begin to receive medical bills, collection bills, and lose temporary debt collection protections. During the Great Recession, the seriously delinquent (90+ days) rate for credit cards increased 84%, and increases for lower-income D.C. households are likely to be even higher for the foreseeable future. Providers also expect a marked increase in bankruptcy filings where legal assistance may be needed.

As difficult as life will be for the entire lower- and moderate-income D.C. population, members of the Latino community, and especially those who are undocumented, will be in especially great need of legal services for debt- and fraud-related matters. Those who are undocumented are not only ineligible for COVID stimulus payments and many other financial assistance programs but are also at particularly high risk for scams. Many have low literacy even in Spanish, may be fearful of contact with outsiders, and there are scammers ready to exploit their neighbors.

Domestic Violence

Domestic violence legal services providers report that they are constantly inquiring of the welfare of both current and former clients, knowing that they are at high risk for being impacted by the social isolation and quarantine required by the pandemic. They are working on increasing the ways in which clients can contact them (chat, text, etc.), knowing that isn’t safe for some to use their phone to contact them. Providers are developing COVID-19 checklists to use when contacting clients to see if they are facing any crisis-related challenges. Providers report an increase in episodes of violence and abuse. There are particular concerns about custody exchange issues, since services in place to manage the dynamics of domestic violence during those exchanges such as the supervised visitation center are closed, and police stations aren’t as easily open to public. Legal services providers on both side of this practice are participating remotely in emergency court hearings to ensure that their clients’ interests are represented.

A grave concern is the fact that those involved in active domestic violence situations are sheltering in place together, with survivors not in a space to move forward with seeking a protection order. Legal services providers are helping them with safety planning and doing what they can for them in what they describe as an “impossible” situation. Providers anticipate that there will be a huge influx of people in need of help once their clients are better able to emerge from their homes, and shared that survivors of domestic violence will be particularly susceptible to other civil legal issues such as benefits, employment, and housing.

Employment

Employment legal services providers report that particularly vulnerable low-wage workers such as pregnant mothers, individuals with families, and those who may be immune-compromised are seeking legal services as they make decisions on whether they should go to work during the pandemic and if they do, what kinds of accommodations they should expect. One provider has converted its seven walk-in workers' rights clinics to a virtual clinic, with volunteers providing one-on-one legal advice and brief services, often supplemented with staff follow-up advice and service. Although workers continue to bring a wide range of employment-related issues to the clinic, 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, using the pandemic as an excuse.

Providers have produced materials in English and Spanish about the changes to the District's Unemployment Assistance, Sick Leave, and Family and Medical Leave laws and notice of how to get help. The flyers are updated promptly as the laws or agency guidelines change. Together, providers have advocated for additional protections for low-wage workers, many of which have now become law (e.g., expansion of unemployment insurance, sick leave, Family Medical Leave Act coverage). Providers are working together and with government agencies to collaborate on public trainings on these new procedures.

Providers expect a potentially exponential increase in requests for legal assistance regarding: (a) difficulties in applying for, and denials of, unemployment insurance; (b) layoffs and terminations; (c) failures to pay wages due or benefits earned; and (d) exposure of workers to unsafe/unhealthy conditions.

Family Law

Family law legal services providers are also seeing an increase in COVID-19 related concerns. Parents with strained relationships are not complying with custody orders due to the pandemic (e.g., children being taken out of the District to shelter in place elsewhere) and are seeking legal guidance on how to respond. The Family Law Assistance Network, a new joint partnership among four providers, launched a remote legal advice hotline where eligible individuals can call for legal help with questions about custody, child support, parentage, or divorce. The group is particularly targeting assisting pro se litigants with emergency family law pleadings and filings while the court's operations remain limited, at the court's request. In terms of future needs, employment changes will likely result in need to modify and review child support obligations.

Those who represent children have found responding to the crisis particularly challenging. For many already at-risk child clients, school was a safe space and lifeline. Providers have been reaching out to support child clients as best they can remotely, and have been working to ensure children and their families have food, necessities to participate in virtual learning, and are conducting many Facetime visits with child clients (sometimes daily) to ensure they are safe.

Health

Legal services providers, particularly those with active medical-legal partnerships, report that many of their clients have chronic health conditions that require daily medication. They've been helping families access telemedicine for renewals of prescriptions and helping get prescriptions delivered. Providers are also working on getting mental health support to clients in need and advocating for loosening restrictions for telephonic and video therapy. One provider is in the process of publishing an online resource guide so families, other advocates, and medical partners can locate available mental health services more quickly. With housing conditions court closed and many families

not wanting to risk COVID-19 infection from a repair person, some providers have been helping clients get dehumidifiers and air purifiers to lessen the impact of environmental health hazards that exacerbate health conditions like asthma.

Housing

Housing is an area of particular concern among legal services providers. In the wake of D.C. Superior Court's closure, the D.C. Bar Pro Bono Center immediately shifted the Landlord-Tenant Resource Center from a court-based to virtual service, and those with urgent housing needs can be referred to an attorney of the day for limited scope representation. Civil Legal Counsel Projects Program partners have also mobilized to advocate for policies that would impose stays of eviction during the crisis, ensured that the client population was aware of these changes, and counseled them on how to address other housing-related concerns. Providers have also actively engaged with D.C. Court leadership on planning around the impact of the pandemic on landlord & tenant operations.

While eviction matters are now stayed, legal services providers are very concerned about the onslaught of eviction matters that will come as we emerge from the crisis, both back-logged cases and new cases that are being 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 eviction.

Providers report beginning to hear about situations where housing providers 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 because of cash flow issues. One provider shared concerns about housing discrimination and expects to receive requests for assistance based on national origin discrimination, particularly for Asian-American tenants.

Immigration

Immigration legal services providers have similarly mobilized to serve one of the District's most vulnerable populations. One provider specializing in serving survivors of torture seeking asylum has optimized its secure phone service to be able to communicate with survivors at any time as needed, and is establishing a HIPPA compliant video line for survivors who need psychotherapy, psychological forensic evaluation and other clinical services. Providers are using social media to conduct group activities like Know Your Rights events and to provide safety updates and information to survivors, and are providing daily, multilingual updates to survivors about changes in the asylum process like new court schedules and asylum office temporary closure. Attorneys continue to work on cases that are awaiting court dates or asylum interviews as well as reviewing applications from potential new clients.

Providers in all areas of civil legal practice expressed concern about the impact of the COVID-19 crisis on the District's considerable immigrant population – something that is addressed throughout each legal area. There will be a need for targeted and specialized community outreach and education.

Language Access

The District's one-of-a-kind Community Legal Interpreter Bank has been diligently working to respond to the challenges presented by the COVID-19 health crisis and to ensure that services for limited-English proficient and Deaf clients are available to the nearly 170 organizations and law firms that rely on the program for language access so that services can continue with minimal interruptions. The program's specially trained, in-person interpreters continue to be available for assignments and can provide interpretation over the phone and video. The Bank has sent several memos, over email, to service providers and interpreters alike with instructions for holding interpreted meetings during this extraordinary time. The Bank's staff have also provided guidance and support to the D.C. Courts in ensuring that its public information is available in multiple languages, including American Sign Language.

Public Benefits

Providers report an unprecedented number of individuals seeking information on eligibility for benefits. Many clients report difficulty filling out forms because they do not have access to computers, and thus providers are identifying ways to help with facilitating submission. Providers are also working with government agencies, such as the Department of Human Services and the Department of Health Care Finance, to make sure that as they create new remote processes for applicants and recipients, these new processes are ones that the client community (for example, those who do not have access to a computer and the internet) can access. Several providers have prepared dynamic, regularly updated non-legal COVID-19 community resources guides, which include instructions on applying for/keeping benefits in a post COVID-19 world.

General

Legal services providers have come together and, with the support of the D.C. Bar Pro Bono Center, ensured there is legal information available online to serve District residents. District residents with legal questions about COVID-19 can find up-to-date information on the [LawHelp Coronavirus page](#). LawHelp also hosts a [database of District legal services providers](#) and their operating status. The D.C. Bar Pro Bono Center also maintains a 24/7 Legal Information Help Line, providing information in Spanish, Amharic and French, in addition to English – and is providing extensive assistance to area nonprofits and small businesses.