

# District of Columbia Access to Justice Commission Proposal for Public Funding to Ensure Justice for All in the District of Columbia

## Executive Summary

The District of Columbia Access to Justice Commission was established by the District of Columbia Court of Appeals in 2005 to address the scarcity of civil legal services available to low and moderate income District residents.\* People charged with crimes that may result in incarceration have a right to a lawyer if they cannot afford one. There is no similar guarantee for people needing civil legal assistance. A nationwide study by the Legal Services Corporation concluded that 80% of low-income individuals' legal needs are unmet. The situation is even worse in the District, where 90% of low-income residents' legal needs are not met. The unavailability of legal services has especially dire consequences now due to rapidly rising housing costs and displacement of the District's poorest residents.

Substantial District funding would enable major progress. Forty-three states, including Maryland and Virginia, fund civil legal services. The District provides only modest support. The Commission recommends that the District appropriate \$6.2 million annually for legal services in three areas that will benefit thousands of residents. First, \$3.1 million of this funding would be used to hire about 30 additional lawyers to work in underserved parts of the city. Second, \$2.6 million would be allocated to provide about 25 more lawyers for housing-related matters, such as eviction proceedings and supporting tenant ownership. The remaining \$500,000 would create a shared legal interpreter bank so District residents who do not speak English well can have equal access to the justice system. The Commission requests that the District appropriate the \$6.2 million to the D.C. Bar Foundation, which will make grants to community based organizations in these three program areas.

The District of Columbia's motto is *Justitia omnibus*, or Justice to All. Funding this proposal will bring the District one important step closer to achieving that inspiring goal.

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\* The Commission includes D.C. Court of Appeals and Superior Court Judges, former D.C. Bar Presidents, Executive Directors of leading legal services providers, and other community leaders. The Commission is chaired by Georgetown University Law Center Professor Peter Edelman. The Court created the Commission in response to a request from the D.C. Bar, D.C. Bar Foundation, and the D.C. Consortium of Legal Service Providers. The Commission represents the first time that all segments of the community – judges, bar members, community leaders, and legal aid providers – have come together to develop a comprehensive solution to the crisis in civil legal services. Twenty states have similar commissions, an increase of fifteen in just the past five years.

## I. Why Are We Asking for Public Funding?

The District has undergone rapid transformation in recent years, and has become a better place to live for many. Some of these changes are the consequences of thoughtful government planning, which merits credit and recognition.

But not all District residents benefit equally. One in five residents lives below the federal poverty line, and many more earn too little to make ends meet. Life has become even harder for many of these individuals and families. The gap between the District's rich and poor is as wide as, or wider than, any other major city in America.<sup>1</sup> The cost of living in the District has increased, and the shortage of affordable housing is truly a crisis. In 2004, 12,000 affordable housing units were lost and replaced by 15,000 high cost rentals or high value homes.<sup>2</sup> The number of neighborhoods in which poor and moderate income families can live has shrunk, economic integration has declined, and the concentration of poverty has increased.

These changes put lower-income families under increasing economic pressure. They are more and more likely to have legal problems. Lawyers can avert crises and prevent families from getting pushed out of their homes. A lawyer can prevent:

- homes from being lost due to predatory practices or inability to navigate the probate system;
- families from being evicted despite important defenses that would preserve their right to remain;
- low-income consumers from being exploited and forced deeper into debt;
- public benefits recipients from being wrongfully denied benefits, including necessary medical treatment;
- children from being wrongfully denied an education;
- battered women and their children from continued mistreatment.

Forty-three states provide financial assistance to legal services providers. Twenty-seven states provide a direct appropriation. Twenty-nine states provide money for civil legal services through filing fees or other court fees. A number of states, including Maryland and Virginia, use both approaches. State appropriations and court fees totaled over \$160 million nationwide in 2005, representing nearly a \$24 million increase in one year. Arkansas and Connecticut provided state money for the first time in 2005. In contrast to these nationwide trends, the District provides only very limited support, for emergency domestic violence related matters and for the elderly.

Years ago, legal services for low-income people received significant funding from the federal Legal Services Corporation (LSC). Major budget cuts forced providers to look elsewhere for support. States have taken a lead role in filling this gap. Ten states provide more in state funding than they receive in LSC funding. The District is not one of them.

The estimated combined budget for civil legal services groups in the District is \$15 million from all sources, including federal and private money. By contrast, the Public Defender Service and attorneys paid under the Criminal Justice Act received \$56 million in public funding. Lawyers' *pro bono* work supplements the efforts of civil legal services groups with services worth at least \$15 million annually. Despite the work of dedicated legal aid attorneys and significant volunteer efforts by D.C. Bar members, a 2003 study by the District of Columbia Bar Foundation concluded that only about 10% of the legal needs of low-income residents are met.<sup>3</sup> Nationally, a recent LSC study concluded that only about 20% of low-income individuals' legal needs are met.<sup>4</sup> District support is necessary so that thousands of the city's low-income residents can get needed legal assistance.

Supporting civil legal services is a sound investment. A recent Nebraska study concluded that every dollar Nebraska invested in the provision of civil legal services generated five dollars for the state's economy.<sup>5</sup>

## II. What are We Proposing?

The funding will address the greatest challenges created by the changing face of the District:

**First, it will remove barriers to legal assistance exacerbated by displacement and the high concentration of poverty in certain neighborhoods.** The funding will place about 30 lawyers in poor neighborhoods, implement innovative collaborations between legal and social services providers, and increase the capacity of legal aid programs to serve limited English proficient (LEP) clients. Removing these barriers, together with an enhanced legal services network, will help thousands of District families and often obviate expenditure of taxpayer funds to pick up the pieces down the road.

- ***Barrier I: Legal help is hard to get because many programs are not in poor communities.*** Most programs that provide legal assistance are located downtown, making it hard for many clients to seek help. Legal aid programs have not had the resources to set up additional offices in their client communities, thus creating a barrier to service. We will add new lawyers to work in high poverty neighborhoods, and in convenient locations near courts and administrative tribunals.
- ***Barrier II: The existing legal services network is small and lacks the resources for effective coordination.*** Many existing civil legal programs assist a specific population or work only on a specific issue. Coordination among programs is weak and it is hard for clients to find the right provider or get the whole problem attended to. We will take services to clients by nurturing co-location, enhancing coordination and referrals, creating a shared intake capacity, and supporting cross training of staff. We will bring intake to clients through shelter-based clinics, places of worship, community centers, and school and hospital-based programs.

- **Barrier III: Providers are not readily accessible to LEP residents:** Immigrant communities have been especially hard hit by the District's changing housing patterns. Traditional immigrant neighborhoods like Chinatown and Columbia Heights have been at the leading edge of redevelopment and have experienced the greatest effect of increased housing costs. Legal aid groups are limited in their capacity to serve LEP residents because language assistance is often unavailable. We will create a bank of qualified interpreters and translators and a pool of resources to pay for them.

Through these efforts, the legal service system will become significantly more geographically and linguistically accessible.

**Second, it will provide counsel to assist in preserving and creating affordable and stable housing.**

This funding will add up to 25 lawyers to help preserve and create affordable housing, and promote housing stability. These lawyers will provide representation in Landlord and Tenant Court, before the Rental Accommodations and Housing Commission, before the District of Columbia Housing Authority, and in areas such as tenant purchasing. The Commission selected housing as a priority because of the rapid loss of affordable housing in the District and the instability it is causing.

### **III. Who Would Benefit?**

This proposal addresses the harshest consequences of displacement and poverty in the District. Approximately 127,000 District residents – nearly 25% of the population – fall below 125% of the poverty line.<sup>6</sup> The poverty rate in the District is higher than any state other than Alabama and Mississippi,<sup>7</sup> and the District is one of only two major metropolitan areas in the country where poverty concentrations rose between 1990 and 2000.<sup>8</sup> The number of high-poverty neighborhoods in the District more than doubled during this period.<sup>9</sup>

The burden of poverty is borne disproportionately by minorities and children. Eighty-four percent of residents in high poverty neighborhoods are African American compared with 60% of the District-wide population. Whites, who make up 30% of the District population, are only 8.7 % of the population in high poverty areas. Latino and Asian representation is also increasing in poverty areas, with Latinos making up 5.3% of these communities and Asians 2.1%.<sup>10</sup>

Children experience poverty at a higher rate than any other age group with 31.7% of all children under 18 being poor.<sup>11</sup> African American children have the highest rate of poverty at 45% in 2003.

## **IV. How are Lawyers a Solution?**

Lawyers address problems that interfere with people's ability to carry on their daily lives, and provide assistance when there is nowhere else to turn. Persons living in poverty encounter problems in areas such as consumer protection, employment, family law, housing, immigration, probate, and public benefits. Poor people who do not have counsel often waive rights or forgo claims solely because they do not have the means to pursue them. Studies consistently demonstrate that a lawyer's assistance substantially improves a person's chance of receiving fair treatment and a favorable outcome.

The shortage of lawyers for low-income people has more severe consequences now, because the issues facing families in poverty increasingly entail meeting such basic human needs as safe and adequate housing. If legal aid lawyers are not available to address these issues, more low-income residents will be forced out of the city, and those who remain will see their struggles intensify further.

## **V. Why Neighborhood Offices?**

### **A. Very Few Legal Services Lawyers Work in Poor Neighborhoods**

The difficulties that poor District residents have in obtaining legal services are compounded by the shortage of poverty lawyers located in the city's most impoverished areas. Clients seeking help may have difficulty identifying the organization best suited to meet their needs and it might be difficult to travel to the organization's office. For a single parent with no child care, it might be impossible to get legal help. Offices located in the neighborhood or in locations already frequented by potential clients will reduce these barriers.

In the 1970s, the Neighborhood Legal Services Program had satellite offices in areas throughout the city. But significant federal budget cuts in the 1980s and 1990s forced the closure of all but two of these offices.

There are over 30,000 members of the District of Columbia bar working in Washington, D.C. Of these tens of thousands of lawyers, approximately twelve provide free legal assistance in offices east of the Anacostia River, and there are no full-time, general practice legal services lawyers working in Northeast.<sup>12</sup> The vast majority of these residents must look elsewhere for help. In many cases, they get no help at all.

Providers have increasingly recognized the importance of locating near or along with other legal and social services providers so that clients can receive holistic services and know where to go for assistance. High rents and lack of available properties hamper providers' ability to form these partnerships.

## **B. Commission's Proposal and Resulting Benefits**

The Commission recommends that the District appropriate \$3.1 million to fund legal services lawyers located in underserved neighborhoods and near our institutions of justice. This allocation will support the work of approximately 30 lawyers, as well as the corresponding overhead, support services, and grant administration costs. These lawyers can represent over 2,700 low-income individuals annually in a variety of legal issues. The lawyers will be deployed flexibly, so that while some attorneys will be stationed in a particular location, others with expertise in a specific area will rotate throughout the city. Providers will also be able to station lawyers near the Superior Court and the Office of Administrative Hearings so that lawyers are accessible to those residents who enter the judicial system without legal representation.

Legal services providers will be required to show how their program collaborates with social services providers, other legal services groups, and the neighborhood in which they are located. Co-location with other legal and social services providers will be encouraged. Efforts at neighborhood accessibility can take many forms, such as manning booths outside places of worship, sitting in a small office in a neighborhood health clinic, or presenting a know your rights workshop at a community meeting. In short, our goal is to bring lawyers to the people rather than relying on the people to find the lawyers.

To ensure efficient delivery of services, some of the funds will be used to develop a collaborative intake system among legal services providers. Once this system is developed, clients will be able to present their issues to the legal services provider closest to them. If an issue is outside of that provider's area of expertise, the attorney can use the shared intake system to find an available attorney with the necessary experience and availability. The intake information could be electronically transferred to the available attorney, who can then contact the client.

A recent project of the Superior Court proves that placing services in the neighborhood increases access. In response to a finding that a high percentage of domestic violence filings were from wards 7 and 8, the Court established the Domestic Violence Intake Center at Greater Southeast Hospital (DVICSES). According to Court statistics, the Center has had the expected effect—women who would otherwise have been unable to obtain services can get help at the DVICSES. In 2002, approximately 4,900 persons sought services from the Court, and in 2003, that number jumped to 6,050. New filings for civil protection orders increased by 8%. The only material change to explain the increase was the creation of DVICSES, which served 1,442 persons (1,254 women and 188 men) in 2003. While some women who would have gone to the main courthouse obtained services at DVICSES, many who were served at the site would have been unable to get help had the Center not been there.

Locating legal services in underserved neighborhoods will also advance the District's New Communities Initiative. The Initiative is designed to improve the quality of life for people living in distressed neighborhoods. These neighborhoods face many challenges such as poor education, lack of quality job training, high unemployment, lack

of housing opportunity, and an inability to support businesses and institutions needed to sustain the community. The Initiative also focuses on meeting social needs through linkages to job training, asset building, counseling, and other supportive human services.<sup>13</sup> Having accessible legal counsel would help achieve the District's goal of linking residents to supportive human services.

Legal needs studies in other states consistently demonstrate that few low-income individuals are aware that free legal assistance exists.<sup>14</sup> Given that very few legal services providers in the District are located near poor neighborhoods, there is every reason to believe that the District's low-income residents are similarly unaware of the availability of free legal services. Creating neighborhood offices and having these lawyers partner with existing social service and community groups will help address the lack of awareness of these services.

## **VI. Why More Lawyers for Housing?**

### **A. Rising Housing Costs Create Significant Legal Needs**

The needs of poor families are compounded by the crisis in safe, decent and affordable low-income housing. Throughout the 1990's, the District lost 6% of its rental housing stock, largely from low-income neighborhoods.<sup>15</sup> That trend has accelerated in recent years. Rents have dramatically increased as well.

Despite increases in the cost of living, wages for many hourly and low-wage workers have not increased and welfare benefits have been level for many years. As a result, low-income District residents must use more of their income on housing costs. The resulting economic strain makes it increasingly likely they will face a housing-related legal issue. Almost 50 percent of low-income households in the District paid housing costs that exceeded the federal standard of affordability (*i.e.*, more than 30 percent of their income) in 2004.<sup>16</sup> Nearly 60% of District residents are renters and one-fourth of renters live below the federal poverty line. For every ten very low-income families living in the District, there are only eight affordable housing units.<sup>17</sup>

The displacement of low and moderate income residents from mixed income neighborhoods has also created an opening for unscrupulous investors who seek to capitalize on poor residents' lack of knowledge about their legal rights. The newspapers are filled with stories of long-time tenants being pushed out as a result of questionable practices. The Washington Post recently recounted a situation where tenants were removed from their apartment because of alleged lead paint and asbestos concerns.<sup>18</sup> The article reported that these tenants might have been forced out as a way to turn affordable housing into luxury units. Having lawyers available to represent tenants in these situations would ensure that repairs and renovations are conducted pursuant to law. In 2005, the District received requests to vacate 13 buildings, totaling 443 units. It is unknown how many of these requests to vacate were made for legitimate purposes.

