

**Council of the District of Columbia
Committee of the Whole
Vincent C. Gray, Chair**

**Fiscal Year 2011 Revised Budget Request Act of 2010 and
Fiscal Year 2011 Supplemental Budget Support Act of 2010**

**Testimony of Eric Angel
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The District of Columbia is facing a serious budget crisis. With declining revenues and increasing demands for services, the Executive and the Council have a set of tough choices to make. As the District Council confronts these difficult choices, we ask that the burden of closing the budget gap be spread among all residents, that appropriate revenue enhancements be adopted, and that those cuts that must take place not be concentrated in programs that serve those most in need.¹

The Administration's proposed cuts rely heavily on the reduction of services to individuals, families, and communities living in poverty. We urge the Council to take a different path and spare programs that are necessary for very low-income District residents to meet basic human needs, including access to civil legal assistance.

The Mayor proposes cutting \$1.7 million in public funding for civil legal services for Fiscal Year 2011, representing a more than 50% cut from the levels approved by the Council in April.

A. Civil Legal Services Funding

1. Legal Services Provides Critical Assistance at a Time of Growing Need.

Chronic poverty in the District has, for a very long time, created a need for civil legal services. More than one in four District children – and more than one in three residents east of

¹ The Legal Aid Society is a nonprofit civil legal services program. We were founded in 1932 and provide legal assistance to thousands of District residents each year. We give priority to matters related to housing, domestic violence, family, public benefits, and consumer law.

The Legal Aid Society is a member of the Fair Budget Coalition. We support the Coalition's budget priorities and ask that the Council fund legal services in the context of essential support for the range of social safety net programs.

Legal Aid is also a supporter of the Invest in DC Campaign and urges the Council to look at all options, including increases in revenue when considering how to balance the budget.

the river -- live in poverty. And when we speak of poverty, we mean it: a single mother earning \$15,000 a year is considered *over* the poverty line. Moreover, more than one in ten District residents – over 60,000 people – live in “deep poverty,” or below *half* of the poverty line. That means just under \$11,000 for a family of four.

People living in poverty encounter the legal system at every turn, and often where the stakes are high. Without a lawyer, they are at risk of losing their homes, their food stamps, their access to health care, or the custody of their children. In addition, persons living in poverty are more likely to experience language and cultural barriers that keep them from meaningfully asserting their rights. It is critically important that legal services are available to address these needs.

The recession has of course only deepened the District’s poverty, in large part, because of job loss. Nearly 10% of District residents are unemployed, up from about 6% in 2007.² The brunt of recession-related job loss has fallen on low-wage workers: salespeople, food preparers and servers, janitors and maintenance workers, movers, security guards, and construction workers.³ Job loss in these industries has forced families that were climbing the economic ladder to lose ground. The recession has devastated some areas of the District; communities that historically have high rates of poverty are suffering the worst. East of the River, unemployment rates have risen to Depression-era levels. In Ward 8, almost 30% of residents cannot find work.⁴

Legal services providers have seen an increase in demand, even as funding for and availability of civil legal services has tightened. Legal services providers have reported a 20% increase in demand for services, and even before the recession, we were meeting only 10% of need. These increase demands have been especially concentrated in a few areas, and there are emerging legal problems as well. These needs have required legal services providers to do more with less.

a. Foreclosure

Legal services lawyers have seen a significant increase in requests for help related to foreclosure. This is not surprising considering that, in the first quarter of 2009, over 2,000 single-family units were in foreclosure – the highest number of foreclosures since 2000, and approximately double the number that were in foreclosure before the recession.⁵ The

² Compare District of Columbia Department of Employment Services, *District of Columbia Jobless Drops to 9.9% in August*, Sept. 21, 2010 with District of Columbia Department of Employment Services, *District of Columbia’s Unemployment Rate at 5.7 Percent in November 2007*, Dec. 26, 2007.

³ Katie Kerstetter, *Increase in DC’s Unemployment Rate Falls Heavily on Those Least Able to Afford It 1* (June 25, 2010), <http://www.dcfpi.org/wp-content/uploads/2010/06/5-25-10unemployment.pdf>.

⁴ Jenny Reed, *New Census Data Reveal the Uneven Impact the Recession Has Had on the District 1-2* (Sept. 28, 2010), <http://www.dcfpi.org/wp-content/uploads/2010/09/9-28-10ACSPoverty.pdf> (explaining that poverty east of the Anacostia River, in addition to unemployment, has increased during the recession).

⁵ See Ed Lazere, *The Recession Is Creating Hardship for Many DC Residents*, May 19, 2010, <http://www.dcfpi.org/wp-content/uploads/2010/05/5-19-10recessionimpactupdate.pdf>.

neighborhoods east of the river are the hardest hit, with roughly one in five homes under foreclosure in 2009.

Yet, it's not just homeowners that are suffering because of foreclosure; tenants are at risk as well. As landlords lose properties to foreclosure, it often takes the intervention of counsel to keep the bank from evicting the tenants. Catastrophic housing loss has made it absolutely necessary for the legal services community to expand the availability and nature of services at a time when resources are contracting.

b. Domestic Violence

Economic pressures have put enormous strain on low-income families and, at the same time, the recession has deprived many women living in poverty of economic independence. These circumstances too often combine to increase the incidence and severity of domestic violence.⁶ Indeed, right here in the Washington metropolitan area, women and children have lost their lives in part because of violent reactions to debt and other economic struggle.⁷ This is not sensationalism; this is a real, tragic consequence of the financial crisis.

Access to a lawyer is, in many cases, the only effective way for a woman and her children to escape from an abusive relationship. In fact, some economists have identified civil legal services as the *only* service proven to decrease the likelihood that women (and by extension, their children) will be battered.⁸ Quality representation is time-consuming and requires expertise, experience, extensive training, and the ability to provide representation on a broad range of collateral issues for a sustained period of time. Without adequate funding, many domestic violence survivors will have to go without quality legal representation, which means that they will be unable to protect themselves and their children from danger.

c. Public Assistance

Access to government benefits often means the difference between housing or homelessness, between nutrition and hunger, between health care and illness, between destitution and a minimum level of basic human dignity. The recession has forced more people to rely on

⁶ U.S. Dep't of Justice, *When Violence Hits Home: How Economics and Neighborhood Play a Role* (Sept. 2004), available at <http://www.ncjrs.gov/pdffiles1/nij/205004.pdf>.

⁷ See, e.g., Peg Hacksaylo, *No Recession for Domestic Violence*, Washington Post, May 8, 2009; Matt Zapotasky, *In Notes Left in Family's Killings, Md. Man Details Debts, Depression*, Washington Post, Apr. 22, 2009 ("In one of six notes . . . , [the murderer] described his financial hardships and his struggle with depression and anxiety -- factors that investigators believe contributed to the killings. . . . Several experts said slayings of entire families by fathers and husbands are often associated with economic hardship.").

⁸ See, e.g., Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 *Contemp. Econ. Pol'y* 158 (2003), available at <http://www.nasams.org/DMS/Documents/1195248210.25/Explaining%20Decline%20in%20Domestic%20Violence.pdf>.

public benefits to survive.⁹ Frequent bureaucratic errors, language barriers, and mental disabilities make the system challenging to navigate and mistakes impossible to correct without the help of a lawyer.

Even routine matters, however, have collateral economic consequences and cascading adverse effects. For example:

- If a woman is fired because her abuser threatens her at work and she doesn't have a lawyer to get her job back, she and her children are now without an income and may face eviction and possible homelessness.
- If a family is evicted when it could have been avoided and the family is rendered homeless, job loss, disruption of education, and other setbacks are a predictable consequence.
- If an illegal debt collection practice results in the repossession of a car, the owner could lose his job and his family's income.

Access to a lawyer is often the only thing keeping a family from falling off the cliff into abject poverty and despair. It is critical that the District maintain its commitment to help meet this need. A 50% funding cut will have far-reaching negative consequences on low-income families in the District.

d. Legal Aid Examples

Our own experiences at Legal Aid have driven home the critical importance of the access to justice funds. For example:

- We represented a client who had wrongfully been denied food stamps and on some days had only one meal to feed to her children. She got help in our neighborhood office a short walk from her home and got her benefits restored. Legal Aid's community office – sustained by access to justice funds – was critical because she did not even have the funds to pay for a bus trip downtown.
- A Legal Aid lawyer assisted a domestic violence survivor afraid for her life and the lives of her children who was held as a virtual prisoner in her own home. She is now safe, able to work and collecting child support.
- Legal Aid represented a grandmother who needed our help to get out of a fraudulent loan and save her home.
- We also helped a senior who was threatened with eviction because he withheld his rent when his plumbing didn't work. His home was saved and he got the repairs.

⁹ See Jenny Reed, *Poverty on the Rise in the District: The Impact of Unemployment in 2009 and 2010*, Mar. 24, 2010, available at <http://www.dcfpi.org/wp-content/uploads/2010/03/3-24-10EstimatingPoverty2009.pdf> (explaining that Food Stamp caseloads sharply increased in 2009 and 2010).

These are only a few of the instances in which access to justice funds have made a real, tangible difference in the lives of low-income District residents.

2. Legal services saves the District money.

The District receives an exponential return on its investment in legal services. Although we have done no local study, studies from other jurisdictions found that for every dollar spent on legal assistance, the government saves between \$4 and \$7.¹⁰ The following are a few examples of why this is the case:

- Access to counsel in DV cases improves safety. As a result DV survivors are less likely to be victimized and there will be reduced costs for public safety, medical treatment, job loss, and interruption of education for minor children in the home.
- Preventing avoidable evictions, and keeping families facing foreclosure in their homes, reduces homelessness and the immense pressure on the homeless services budget.
- With regularity we help children who are receiving medical treatment through the Alliance (a 100% DC-funded program) enroll in Medicaid (a 70% federally-funded program). Each case saves the District thousands of dollars each year.
- We help unemployed workers receive insurance benefits, which shrinks welfare rolls.
- We also help people with disabilities receive Social Security Disability benefits, which relieves some of the pressure on District coffers to pay for TANF, POWER, IDA, and other programs.

In short, civil legal services providers not only provide a service to indigent District residents, but we also serve the interests of the District government. Cutting funding by a disproportionate 50% will severely cripple the legal services community's ability to help the District cut some of its most pressing costs.

3. Legal Services lawyers facilitate the orderly administration of justice.

Our democracy is founded on the ideals of equality and fairness; however, those ideals are realized only to the extent that the least powerful in our society have effective means to enforce them. Courts and administrative agencies are important, though not exclusive, guarantors of these rights, yet our judicial and administrative institutions are largely beyond the reach of most persons living in poverty.

Our legal system is designed for lawyers. Substantive legal principles and procedural rules are often complex and interrelated in ways not obvious to those not trained in the law.

¹⁰ See, e.g., Minnesota Bar, *Legal Aid Programs Save the State Money*, Jan. 31, 2003, available at <http://www.mnbar.org/committees/lad/LegalAidProgsSaveStMoney.pdf>.

Government programs such as public and subsidized housing, income supports, unemployment insurance, and government medical and nutrition programs are all highly regulated and have complex administrative schemes. The complexity leads to errors that can only be untangled by an expert who has the ability to go to court or to appeal to an administrative tribunal. The processes are riddled with opportunities for procedural defaults.

While there are courts with relaxed rules designed for unassisted litigants such as small claims court, they are of very limited jurisdiction. In most cases, it is extremely difficult to negotiate the system to resolve the simplest matter without a lawyer. The following are but a few illustrations of matters that could only be resolved with the assistance of counsel.

- A family facing eviction because the landlord failed to pay the mortgage and has a right to stay under District law will be evicted unless the tenant understands the intersection between the District's Housing Act and foreclosure laws and is able to navigate the procedural rules of the Superior Court.
- A worker who is wrongfully terminated and then denied unemployment on trumped up allegations of misconduct faces potentially complex substantive and evidentiary issues in her appeal.
- A senior who is the victim of fraudulent conduct that steals equity from his home lacks the capacity to secure essential documents to prove the fraud or to file the complex lawsuit necessary to recover his home.
- A child of an immigrant family suffering from asthma who is improperly denied Medicaid may remain ill or grow worse without guidance through the regulatory maze.
- A woman living with violence will find it nearly impossible to enforce a civil protection order on her own without the help of a lawyer.

Throughout the legal services community there are dozens of stories each week of crises that are averted only because a lawyer was available to help. If the District cuts a disproportionate 50% from civil legal services funding, there will be that many more crises left unaddressed and that many more people in need who have to go it alone.

B. Loan Forgiveness Program

It is unclear from the budget proposal precisely how large the Mayor's cut is to the poverty legal services Loan Repayment Assistance Program. We nonetheless reiterate its importance as a measure that ensures access to justice for indigent District residents.

Poverty lawyers make significant sacrifices so that they can do this work. The average starting salary for a lawyer in a legal aid organization is less than \$40,000 per year, while comparable starting lawyers in large law firms earn \$160,000 or more. The impact of low salaries is compounded by the burden of law school debt. It is not uncommon for a new lawyer

to owe \$100,000 or more in student loans. This burden forces many committed graduates to forgo a public service career or to leave a nonprofit position after only a few years.

The District of Columbia Poverty Lawyer Loan Assistance Repayment program has been of incalculable assistance to new lawyers. It has allowed many to enter and stay in civil legal assistance. This means that more District residents can receive critically important legal representation.

1. Loan Forgiveness Improves Retention of Experienced Staff

Legal services lawyers work in complex and specialized areas with important issues at stake. It often takes years of practice, training, and mentoring for an attorney to become expert in an area. Unfortunately, the combined effects of low salary and high loan payments cause many good lawyers to leave when they begin to have families, think about purchasing homes or grow tired of worrying about their economic well-being. Loan forgiveness encourages experienced staff to remain with a program and use the expertise that they have developed over time.

2. Loan Forgiveness Promotes Diversity in Legal Services

The Loan Forgiveness Program helps legal services organizations to recruit staff with diverse economic, racial, and ethnic backgrounds. As a consequence of discrimination and persistent economic inequality, disproportionately minority graduates either lack family resources that might assist them paying loan debt or have financial obligations to aid other family members. Overwhelming loan debt is often an insurmountable barrier to a public interest career.

Diversity in race and in economic background is important to legal services work. A diverse staff ensures that the program has cultural competence and credibility with the community being served. The perspective of an attorney who grew up in poverty or has experienced discrimination or knows firsthand the treatment of an immigrant community is an invaluable asset.

The lack of diversity in the legal profession remains a serious concern and statistics on minority graduation from law school are not encouraging. The loan forgiveness program allows legal services programs to more effectively compete with more lucrative options both in hiring and retaining staff from a mix of racial, ethnic, and economic backgrounds by removing one of the largest obstacles: crushing student debt.

Conclusion

The budget crisis will require the Council to make hard choices based on the District's values and priorities. One of the District's most fundamental values – so fundamental that it is the District's motto – is "Justice for All." As I have outlined above, a 50% cut to civil legal services will deal a crushing blow to some of the most vulnerable District residents. A cut this severe will mean that fewer services are available, and will thus serve to reinforce the idea that justice is for the few who can afford a lawyer, and is not, in fact, for all of us.