

**Council of the District of Columbia  
Committee on Public Safety and the Judiciary**

**FY 2011 Budget Request Act – Office of the Attorney General  
Access to Justice and Poverty Lawyer Loan Forgiveness**

**Testimony of Jonathan M. Smith  
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**April 30, 2010**

The District of Columbia is facing an extraordinary budget crisis. With declining revenues and increasing demands for services, the Executive and the Council have a set of very tough choices to make. As the District Council confronts these tough choices we ask that the burden of closing the budget gap be spread among all residents and that cuts not be concentrated in programs that serve those most in need.<sup>1</sup>

The Mayor has proposed cutting funding for Access to Justice and Poverty Lawyer Loan Forgiveness to \$1.8 million, just half of the amount funded in FY 2009. The cut, if enacted, will have a dramatic negative impact on the ability of persons living in poverty to have access to the justice system to help them resolve legal issues related to housing, health care, family relations, employment, personal integrity, nutrition and other fundamental matters. *We urge the Council to restore funding to at least \$3.2 million.*

**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. Approximately one in five District residents lives below the federal poverty line. The legal needs of persons living in poverty are immense. Poor persons are more likely to encounter the legal system in cases where the stakes are high than persons of means – without a lawyer, they are in danger 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 culture barriers that keep them from meaningfully asserting their rights.

Poverty has increased with the recession. Job loss in service and construction industries has forced families that were moving up the economic ladder to fall back. The result is uneven

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<sup>1</sup> The Legal Aid Society is a non-profit 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 law, public benefits and consumer.

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.

across the District. Communities that have historic high rates of poverty are suffering the worst. East of the River, unemployment rates have risen to depression-era levels.

There was an increase in demand in all areas effecting people living in poverty. The issues that led to legal disputes for poor persons continued to dominate the dockets of legal services organizations. In a few key areas there is an increased need and the emergence of new problems.

Foreclosure: Legal services lawyers have seen a significant increase in requests for help related to foreclosure. Foreclosure is on the rise in the District and the neighborhoods east of the river are the hardest hit. Not only are homeowners in need of assistance to maintain their homes, but tenants as well. As landlords lose properties to foreclosure, it often takes the intervention of counsel to keep the bank from evicting the tenants. The foreclosure crisis affects thousands of the District's seniors and low-income families.

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 pressures and the lack of options combine to increase the incidence and severity of domestic violence. Access to a lawyer is, in many cases, the only effective way for a woman and her children to escape from an abusive relationship. 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.

Government Support: Access to government benefits often means the difference between being housed or homeless, 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 public benefits to survive. A bureaucratic error, language barriers, or mental disabilities make the system challenging to navigate and mistakes impossible to correct without the help of a lawyer.

## **2. The Effects of Not Having a Lawyer**

The legal needs of people living in poverty are immense, especially in times of economic turmoil. Low-income and poor people encounter the legal system at much higher rates and often in more high-stake matters than people with means. Government programs such as public and subsidized housing, income supports, unemployment insurance, 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.

In private disputes, such as child custody, a consumer dispute or a private housing case, people living in poverty are also at a disadvantage. Decisions about important aspects of their lives and about basic human needs are being made through a complex and opaque process that they are required to face without help. No person who could afford a lawyer would go to court alone if the custody of a child or the loss of a home was at stake.

The following are illustrations from the Legal Aid docket of the types of cases that Access to Justice Funds support:

- 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. The community office was critical because she did not even have the funds to pay for a bus trip down town.
- 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.

### **3. Loan forgiveness is important to support lawyers who make great sacrifices to do this work**

Motivated by the highest ideals of the legal profession – that the law be applied to achieve justice both in form and substance – 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 non-profit 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 services.

### ***Loan Forgiveness Promotes Diversity in Legal Services***

The Loan Forgiveness Program assists legal services organizations to recruit staff with diverse economic, racial and ethnic backgrounds. As a consequence of discrimination and persistent economic inequality, a disproportionate number of minority graduates either lack family resources that might assist them to pay loan debt or have financial obligations to assist 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 first-hand 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.<sup>2</sup> The program assists 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.

### ***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.

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The District's motto is *Justia Omnibus*, or Justice For All. It is a noble and fitting motto. However, it can only be achieved if all District residents can meaningfully assert their rights and fairly resolve their disputes without regard to their income or wealth.

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<sup>2</sup> <http://www.abanet.org/legaled/statistics/charts/minorityjddegreesawarded.pdf>.