



# Delivering Justice: Addressing Civil Legal Needs in the District of Columbia

D.C. ACCESS TO JUSTICE COMMISSION





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# Welcome Letter

On behalf of the District of Columbia Access to Justice Commission, I proudly present *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia*. This Report revisits the issues raised in the Commission's 2008 Report, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community*. Like the 2008 Report, *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia* examines the civil legal needs facing low- and moderate-income residents of the District and the capacity of the legal services network to meet those needs. This Report builds on the 2008 Report's findings by comparing the needs documented then with those present today. To provide background and context to these findings, the Report incorporates insights and comments from legal services providers and other stakeholders collected during multiple, issue-based listening sessions. As a result, *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia* illustrates both the evolution of needs in the District and how the provider network has evolved and adapted to meet those needs.

Much like the 2008 Report, *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia* shows the devastating impact of unmet civil legal needs on low- and moderate-income District residents. It serves as an update to the Commission's comprehensive 2008 Report and as a companion to the D.C. Consortium of Legal Services Providers' publication, the *Community Listening Project (2016)*. Together, the voices of legal services providers and members of the client community provide important content and data about civil legal needs in the District. Despite the great strides described here – providers harnessing and sharing resources, innovating service delivery, increasing access to legal assistance, and strategically addressing clients' issues both systemically and through individual representation – the justice gap persists. The Report offers explanations for the persistent gap and suggestions for how to increase access to justice in the future.

The innovations and improvements to service delivery described in the Report would not have been possible

without the D.C. government's substantial infusion of resources. The Commission is extraordinarily grateful to Mayor Muriel Bowser, D.C. Council Chair Phil Mendelson, and members of the D.C. Council who have demonstrated great commitment to increasing access to justice. These strides also were made possible by the leadership and expertise of the D.C. Bar Foundation which supports the provider community through its expert management of grant funds and its capacity to foster creative approaches to the delivery of services. The Commission also recognizes the vital role that the D.C. Consortium of Legal Services Providers and its members play in advancing access to justice initiatives. And finally, we recognize the role of the D.C. Courts in creating the Commission and working to make the justice system more accessible to all.

The Commission is grateful to its own staff, Executive Director Nancy Drane and Staff Attorney Kate Rabb, for researching and writing the Report, managing ongoing data collection and analysis, and collaborating with the many partners who assisted in this effort. The Commission also appreciates the contributions of its Commissioners and of Senior Advisor Jess Rosenbaum, who offered their time and expertise throughout this Project, and the D.C. Access to Justice Foundation's Board of Directors for its support of the Commission's work.

The Commission thanks legal services providers, law school faculty, community members, court personnel, the D.C. Bar Foundation, and other stakeholders who contributed to this Report. The Report would not have been possible without their detailed survey responses, data collection, written comments, and thoughtful feedback. We appreciate the time these partners dedicated to listening sessions during which they shared valuable information about the challenges facing community members, clients, and legal services providers, and the strategies developed to move forward. We also thank the D.C. Fiscal Policy Institute which contributed data and research to help accurately illustrate the demographics of District residents and the daily issues that low- and moderate-income residents face. We are very



grateful to the D.C. Courts for their considerable efforts to gather relevant court data. Finally, we extend our gratitude to Friends of Legal Services Corporation, whose generous financial support made it possible to bring additional staffing to the Commission in order to complete this Report.

DLA Piper LLP has been an invaluable and true partner in this Project. We would especially like to thank Sara Moghadam, who managed the DLA Piper team, as well as the numerous partners, associates, summer associates, and support staff who, along with Sara, provided their time and talent. Their collective contributions were integral in completing this Report from its origins to publication. We also appreciate the leadership of DLA Piper's Pro Bono Partner, Lisa Dewey. Sara and Lisa were particularly valuable members of the team not only because of their contributions to this Report, but because they also were vital in researching and writing the 2008 Report. This background knowledge and continuity were critically important. We are incredibly grateful.

Finally, and most important, the Commission would like to recognize the work of the dedicated, resourceful, and talented legal services attorneys and staff who work every day to serve clients. This Report represents the extraordinary work they do under challenging circumstances to help District residents in need.

Since the publication of the 2008 Report, civil legal services providers have worked tirelessly to increase access to justice for low- and moderate-income District residents. Even with their strategic innovations, the justice gap persists. We hope that you will help us respond to the challenges identified in this Report so that we can one day achieve the goal of access to justice for all.

Sincerely,



**Peter B. Edelman**  
Chair, D.C. Access to Justice Commission  
2019







DISTRICT OF COLUMBIA COURT OF APPEALS

LINCOLN



# Executive Summary

This Report documents the evolution of civil legal needs and services in the District over the past 10 years. It examines the developments that have occurred since publication of *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-Income Community*, the D.C. Access to Justice Commission's 2008 Report. The Commission explores this evolution through both quantitative and qualitative data provided by legal services organizations and other stakeholders. With analysis of survey data and of anecdotal evidence gained in numerous listening sessions, the Report illustrates changes in the legal services community as providers have innovated to accommodate emerging needs, available resources, and developing priorities. The Report also details frameworks that are increasingly driving providers' work, such as a racial justice orientation, community engagement, and systemic change.

Like the 2008 Report, this Report begins with a discussion of the District's low- and moderate-income populations, including their demographics and the problems they face. Despite dramatic changes in the economy over the past 10 years, poverty post-recession remains largely the same as it was pre-recession. Nearly 1 in 6 D.C. residents, about 111,000 individuals, live below the Federal poverty line; 32,000 of these residents are children – 26% of D.C. children live in poverty.<sup>1</sup> Even though providers have significantly increased their reach and the volume of clients served, this unrelenting poverty perpetuates the need for civil legal services.

In addition to being widespread, poverty in the District is concentrated in certain areas and among certain populations. Wards 7 and 8 have the highest poverty rates in the City, at 26.5% and 35.7%, respectively, compared to 17.4% Citywide.<sup>2</sup> Given the high level of unemployment and limited job opportunities for unskilled workers, it is difficult for residents to escape poverty. The District's adjusted unemployment rate in January 2019 was 5.4%.<sup>3</sup> (By way of context, the District's rate consistently tracks higher than all other states except Alaska.<sup>4</sup>) Consistent with the concentration of poverty in the District, the unemployment

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*It is no surprise that the District faces an access to justice crisis given its high rate of poverty.*

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rate varies by Ward, with the highest levels in Wards 7 and 8. In January 2019, for example, the unemployment rate was 4.1% in Ward 3 as compared to 12.7% in Ward 8.<sup>5</sup>

The burden of this poverty and unemployment disproportionately affects African American residents. Residents of the Wards with the highest levels of poverty and unemployment have predominantly African American populations. (For example, 2017 Census data reported that in Ward 7, 92% of the population is African American, and in Ward 8, 90%.<sup>6</sup>) Furthermore, across the City, African American residents are almost eight times more likely than whites to be unemployed, according to a 2017 report.<sup>7</sup> Recognizing the effects of both race and poverty on access



to justice, providers have become increasingly focused on racial justice as a guiding principle of their work. Many also have emphasized the importance of engaging community members and clients so that their lived experiences and understanding of needs help define the priorities of legal providers and the solutions they seek.

It is no surprise that the District faces an access to justice crisis given its high rate of poverty. Poverty increases the likelihood of experiencing civil legal problems and makes it more difficult to address them and recover from negative outcomes.<sup>8</sup> And there are many other District residents who live just above poverty levels for whom access to justice is still out of reach. Living at or near poverty itself creates both a need for and impediment to accessing justice, but it is not the only circumstance that is associated with such challenges. As described in the Report, many of the District's low- and moderate-income residents face additional obstacles to navigating the civil legal system. Those residents include people with disabilities, those who need translation services due to being limited English proficient, Deaf or hard of hearing, the elderly, individuals who are illiterate or low-literate, the homeless, prisoners or ex-offenders, transgender and gender expansive people, veterans, and survivors of sexual assault.

Despite these barriers, the number of D.C. legal services attorneys available and the number of low-income residents served have grown substantially since the time of the 2008 Report. The increase in the number of people served is due in part to strategies and innovations that providers have implemented over the past 10 years, including: advocating for additional funding; increasing the number of full-time equivalent attorneys and other staff; and shifting the scope of their work and methods of providing assistance, including limited services. For those District residents who have access to full representation, this is crucially important, as low-income individuals with counsel experience better outcomes in legal matters than their unrepresented counterparts.<sup>9</sup>

Wherever possible, the Report illustrates these changes by comparing data included in the 2008 and current Reports and in an intervening Commission publication titled *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia*.<sup>10</sup> In this way, readers can understand dramatic changes in the provider network in

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***According to the Legal Services Corporation, 71% of all low-income households nationally experienced at least one civil legal need over the past year and for most people affected, at least one of those legal problems had a severe impact on their lives.***

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light of financial pressures and increasing poverty during the recession. As these data show, providers were able to emerge from the recession into a period of relative strength marked by new approaches to closing the justice gap.

While data are crucially important for understanding access to justice in the District, it is essential to view those data in context. During multiple listening sessions, the Commission spoke with more than 100 practitioners, community members, and other stakeholders (e.g., court personnel, community organization staff) who interact with low- and moderate-income individuals in need of civil legal services. These sessions were with diverse groups of people who hold various roles and are involved in different aspects of legal practice, the justice system, and beyond – but there still emerged a unified and strongly held commitment to closing the justice gap and using legal services as an anti-poverty tool.

Though the high level of persistent poverty in D.C. makes it impossible to represent everyone in need of legal assistance, providers have made changes particularly to methods of service provision and organizational structure that have increased their capacity to serve low- and moderate-income residents. Those adaptations impact the provider community as a whole and also the individual practice areas covered in detail in this Report: Consumer; Disability and Health; Education; Employment; Estate Planning and Probate; Family and Domestic Violence; Housing; Immigration; Public Benefits; and Small Business and Nonprofit. This Report describes some critical ways in which the provider

community has evolved over the past 10 years and analyzes those changes both across the network as a whole and as manifested in the above listed areas of practice. These pivotal changes include:

- **The expansion of existing practice areas and the creation of new organizations and projects** in order to address unmet, persistent, and newly emerging needs. These changes were made possible by significant increases in the number of legal services attorneys in the District allowing providers to address the legal needs of substantially more low- and moderate-income residents.
- **The emergence of diverse and creative practice models** to address the barriers that clients experience in seeking assistance. These changes include increasing accessibility by making legal services available to clients in neighborhood offices, and through such programs as court-based legal services, resource centers, medical-legal partnerships, and community clinics. Providers also have increased access through use of limited scope representation, brief services, innovative intake models, robust translation services, and technology.
- **The development of collaborations** with an expansive range of partners including other providers, community-based organizations, the D.C. Courts, and medical institutions. Some also have prioritized collaboration with clients on a variety of initiatives to ensure that community members help shape providers' priorities and potential solutions.
- **The expansion of resources dedicated to systemic advocacy**, including increased focus on policy advocacy, regulatory and legislative projects, and appellate work. These activities complement individual client representation and allow providers to address larger systemic issues.
- **The adoption of key operational changes** in staffing that are crucial to the network's sustainability and growth. Providers have shifted resources to hire more non-legal staff in areas like development, social work, and community organizing, for example, and focusing on the importance of training on many issues including trauma-informed practice.

Though providers have largely taken the lead on development and implementation, these innovations would not have been possible without the support and leadership of many important partners. As discussed in the Report, providers could not have innovated their models and increased their capacity without generous funding from public and private sources. They could not have reached so many more clients without the help of private and government *pro bono* attorneys who donate their time and expertise to helping those in need of legal assistance. Providers also depended on their partnerships with the D.C. Courts to help increase access to justice for unrepresented litigants through advances such as on-site attorneys, modifications to court policies and procedures, and accessibility-promoting technology. The Report highlights the critical contributions of these many partners including: the Mayor and District Agencies; the D.C. Council; the D.C. Courts; the D.C. Office of Administrative Hearings; the D.C. Consortium of Legal Services Providers; D.C. area law schools; the D.C. Bar; private law firms; the D.C. Bar Pro Bono Center and *pro bono* attorneys (particularly those from private practice and the government); the D.C. Bar Foundation; and community-based organizations and providers.





As the data make clear, the legal services network has implemented changes in practice over the past 10 years to substantially increase the number of clients it serves. Yet the justice crisis remains. According to the Legal Services Corporation, 71% of all low-income households nationally experienced at least one civil legal need over the past year and for most people affected, at least one of those legal problems had a severe impact on their lives.<sup>11</sup> Large numbers of low- and moderate-income residents, however, do not receive critical legal services to help resolve these problems and mitigate the severe impacts they cause. Though it is difficult to quantify exactly how many District residents continue to navigate the courts without counsel, there are data that suggest far too many litigants remain unrepresented. In 2017, the D.C. Court of Appeals saw *pro se* participation at the time of filing ranging from 50% to 90% depending on case type.<sup>12</sup> In D.C. Superior Court, of cases disposed in 2017 there were high *pro se* participation rates (*see below*).

The D.C. Office of Administrative Hearings sees comparably high percentages of cases with no party represented in student discipline appeals (88%), appeals related to public benefits determinations (86%), and disputes concerning unemployment compensation benefits (91%).<sup>15</sup>

This imbalance is likely due to a variety of factors. Attitudes about the legal system and the types of life barriers discussed above lead many District residents to deal with their problems by themselves or with the help of friends or community organizations rather than by reaching out to lawyers. Among the participants of the Consortium’s *Community Listening Project*, for example, only 11.32% of its survey participants (66 people out of 590) sought legal help for a problem.<sup>16</sup> (Nationally, low-income Americans seek legal help for only 20% of their civil legal problems.<sup>17</sup>) Those who do reach out to lawyers often find a limited number of attorneys who are available to help low- and moderate-

## D.C. Superior Court *Pro Se* Participation Rates 2017



**97%**

of plaintiffs in small estate matters in the Probate Division.



**88%/95%**

88% of petitioners and 95% of respondents in the Domestic Violence Division.



**83%/93%**

83% of plaintiffs and 93% of respondents in divorce/custody/miscellaneous cases in Family Court.



**97%**

of respondents in paternity and child support cases in Family Court.



**88%**

88% of designated respondents<sup>13</sup> in the Landlord and Tenant Branch of the Civil Division, in contrast to the 95% of plaintiffs who were represented.



**75%**

75% of plaintiffs in Housing Conditions cases in the Civil Division.<sup>14</sup>

income District residents. Among *Community Listening Project* participants, for example, only 59.6% of those who sought legal assistance reported receiving it.

These circumstances make clear the need to increase the capacity of providers so that they can serve more low- and moderate-income residents who seek legal assistance and conduct outreach to those who do not. Increasing public and private funding for legal services programs continues to be imperative, as is expanding the legal profession’s *pro bono* commitment. Approaches such as increasing reduced fee and limited scope arrangements for those who do not qualify for free legal aid but cannot afford rates lawyers normally charge, or identifying alternatives to formal litigation, consistent with due process, to those matters that can be better handled in a non-adversarial fashion, will also expand access to justice.

Even with significant expansion of capacity, though, it is unlikely that the justice gap will ever fully close in D.C. given its concentration of poverty. As a result, it is necessary to continue reforming courts, agencies, and public systems so that they are more accessible and easily navigable for clients who either are unrepresented or who have only minimal contact with attorneys. Providers are looking ahead to the next 10 years with the same resolve as they had in the past to develop and implement new strategies to promote justice for their clients. Providers seek to pinpoint the obstacles they face to increasing access and strategies for overcoming them. Some strategies providers identified for closing the justice gap include:



**Educating low- and moderate-income residents about the legal system.** Many District residents do not realize that the problems they face are legal in nature and can be addressed through the civil justice

system. If residents do not see the legal system as a potential solution to their problems, they will not solicit legal help. Many providers would like to focus in the future on public education that would allow low- and moderate-income residents either to address their own problems or to seek legal assistance. Critical to these public education efforts will be ensuring that non-legal professionals who interact with the District’s low- and moderate-income population receive comparable training on the legal system.



**Facilitating initial contacts with providers to improve the process of connecting residents with critical civil legal services.**

Low- and moderate-income District residents often cannot be served by one or more of the providers they contact. They can find themselves undergoing multiple intake processes in various locations before securing assistance. This creates a disincentive for seeking legal assistance. Providers in certain practice areas in D.C. and in other jurisdictions have improved the experience of intake and referral through coordination among organizations and use of technology. District providers stressed the importance of streamlining the process of connecting residents with legal services.



**Developing and strengthening community relationships.** As is made clear by

providers’ efforts over the last 10 years to increase the scope and reach of legal services, legal services organizations are constantly innovating and identifying new ways to improve access to justice. Many providers have found that their goals, whether related to individual representation or systemic reform, are facilitated by community connections. Those connections range from informal information gathering to formal, institutional partnerships. Many providers agree that collaborations with community members and organizations, whatever form they take, strengthen the work of civil legal services organizations and make them more receptive and responsive to clients’ needs. It is a goal of many organizations in the network to increase access to justice by strengthening community engagement efforts.



**Increasing the range of available civil legal services.** Legal services providers have

significantly increased access to justice over the past 10 years in part by increasing the types of services they offer. The growing availability of limited scope representation and brief services provided in a variety of settings including community-based offices, the courthouse, and local organizations, has helped reach more residents in need of assistance. Many providers would like to continue expanding the range of delivery methods. In addition, providers voiced interest in exploring ways that trained professionals who are not attorneys can serve District residents who need help navigating the justice system.





**Creating and implementing technological advances to make the delivery of legal services more efficient and to increase access to justice.** Technology can be used to increase the accessibility of legal services.

Advancements such as interactive forms and computer-based guided legal assistance, for example, allow more low- and moderate-income individuals to receive help than might be possible through only traditional legal representation. Many in the legal services network emphasize the need to continue developing technologies that provide residents the tools to address legal problems.



**Generating tools and resources for measuring need and evaluating impact.**

Legal services providers who were interviewed for the Report uniformly expressed the importance of data collection

and analysis. Data collection allows organizations to assess the need for interventions and resource allocation and to measure the impact of their work. This is important not only for guiding providers' decision-making on priorities, strategies, and programs, but also for securing and sustaining funding. Though many providers recognize the benefit of data analysis and program evaluation, few have adequate resources necessary for conducting such work. Providers emphasize the need to develop these capabilities and to secure financial support so that work in the future can be informed and driven by data.



**Expanding systemic work.** Over the past 10 years, legal services providers have dedicated more resources to systemic advocacy. This has allowed providers not only to serve individual clients, but also

to address the conditions and circumstances that underlie their clients' legal needs. Through appellate and multi-party litigation and policy advocacy, providers address both the proximate causes of legal issues, such as housing conditions, and the structural, such as racial injustice. Many providers urge a continued focus on systemic work, some exploring how legal services attorneys can together take on even broader systemic issues such as poverty.

The Report shows the incredible strides legal services providers have made over the past 10 years in increasing access to justice for low- and moderate-income District residents. With the support and partnership of the D.C. government, the D.C. Bar Foundation, area law firms, private funders and charitable organizations, *pro bono* attorneys, and other stakeholders, providers have greatly increased their capacity and the number of clients they serve. Despite these tremendous gains, however, there remains a vast scope of unmet civil legal needs. Although there is a complex web of social, political, and economic factors driving this need, it still is possible to create a system where more low- and moderate-income people have access to the justice they seek. The Commission is dedicated to achieving this goal. Together with key stakeholders, the Commission is committed to developing recommendations and strategies based on the findings in this Report so that every resident of the District someday will have access to justice.

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***It is necessary to continue reforming courts, agencies, and public systems so that they are more accessible and easily navigable for clients who either are unrepresented or who have only minimal contact with attorneys.***

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# Introduction



Ten years ago, the D.C. Access to Justice Commission (“Commission”) published a comprehensive report about the civil legal needs of the District’s low-income population. That report, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia’s Low-Income Community* (“2008 Report”) described in detail the legal problems that low-income people in the District face, and the role of civil legal services in helping clients address those problems. As was clear in the 2008 Report, the legal needs of low-income District residents were great. Especially considering the large number of residents with problems who, for a variety of reasons, did not seek help from an attorney, the need for legal services far outstripped the supply. With poverty growing and resources for providers limited, legal services providers faced a seemingly insurmountable barrier to making justice accessible to even a fraction of those in need.

Since the 2008 Report, there have been many changes in the legal services community. There were some significant challenges, such as dramatic funding and staffing loss during and following the so-called Great Recession,<sup>18</sup> at a time when the urgency of problems presented by clients

was skyrocketing. The provider community responded with extraordinary creativity, and the Commission, the D.C. Bar, law firms, providers, D.C. Council leaders, and others successfully advocated for public funds for legal services that had never existed in the past. The D.C. Bar Foundation (“DCBF”) administered the public funds thoughtfully and the private bar stepped up with *pro bono* involvement, loaned associates to legal services, and greatly increased monetary support from firms and individual lawyers.

As a result of these new public and private funds, legal services providers have had resources to make important advances, many of which corresponded to the call to action in the 2008 Report. As detailed in this Report, the legal services community has stretched limited resources to overcome challenges, provided more legal services to District residents, and made those services more accessible, innovative, and collaborative.

While these efforts have greatly increased opportunities for low- and moderate-income residents to obtain assistance, a significant justice gap remains. As defined

by the Legal Services Corporation (“LSC”), the justice gap is the “difference between the civil legal needs of low-income Americans and the resources available to meet those needs.”<sup>19</sup> In the District, where we see communities with growing segregation and concentrated poverty, legal needs are mounting and continue to outpace the resources of legal services providers striving to meet them.

Although the overall median income in the District is rising, these benefits are not evenly shared by all populations. As discussed in this Report, about 111,000 D.C. residents live in poverty. In 2018, the D.C. Fiscal Policy Institute (“DCFPI”) argued that “while many District residents are benefitting from D.C.’s strong economy, many Black residents are still struggling to make ends meet and are not sharing in our City’s rising prosperity. The District must do more to break down economic barriers faced by people of color and support families in building a secure future for their children.”<sup>20</sup> As a result, the efforts of legal services providers to close the justice gap in D.C. must continue to have both an economic equality and a racial justice orientation.

Providers increasingly have focused over the past 10 years not only on the most economically disadvantaged members of the community, but also the thousands of District residents who live above the poverty line but still cannot afford an attorney. Without an attorney, moderate-income residents forced to handle legal issues on their own risk falling into poverty. Economic disadvantage is associated with an increase in legal problems and the stakes are high. Low- and moderate-income residents who cannot afford legal assistance often face life-altering consequences – the threat of deportation, or the loss of a home, of child custody, or of life-sustaining public benefits – without the assistance of an attorney. The challenges of navigating the legal system alone are only exacerbated for individuals with additional barriers to access, such as disability, advanced age, limited English proficiency, and literacy level, to name a few. It is in this context that legal services providers have developed new

strategies over the past 10 years to address the persistent justice gap.

This Report describes some of the strategies and tools that providers have used since the 2008 Report to increase access to justice in the District. Among those initiatives are changes to service provision, such as increasing the number of provider staff; improving the accessibility of providers through geographic location and approaches like language access; innovating new service provision models; developing new practice areas; broadening the use of limited scope representation and brief service provision; expanding systemic and appellate advocacy; partnering more widely with *pro bono* attorneys; and engaging community members and organizations.

Together, these advances illustrate the evolution of civil legal services in D.C. over the past 10 years.

The Commission not only collected data for this Report to capture changes from the 2008 Report, but also asked providers about their hopes for the future of civil legal services in the District. Here too, some themes emerged that are more fully developed at

the end of this Report. In looking to the future, providers identified strategies that would require:

- Securing additional financial resources to broaden the capacity and scope of the legal services network and allow for the continued support of *pro bono* attorneys.
- Increasing the range of available legal services, including brief services and limited scope assistance, and considering the use of trained non-legal professionals who could be present and available in court.
- Streamlining intake and referral processes with potential outcomes ranging from an updated list of organizations’ work to a network-wide centralized intake and referral system.

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*The legal services community has stretched limited resources to overcome challenges, provided more legal services to District residents, and made those services more accessible, innovative, and collaborative.*

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# Role of the D.C. Access to Justice Commission

The D.C. Access to Justice Commission was created by the D.C. Court of Appeals for a 3-year term in 2005 to improve low- and moderate-income residents' ability to access the civil justice system and to champion the need for equal access to justice. Since then, the Commission has been a crucial voice in promoting equal access to justice for all residents of the District. The Commission, which is privately funded, currently has 23 Commissioners, including judges from the D.C. Court of Appeals, D.C. Superior Court, and D.C. Office of Administrative Hearings, past Presidents of the D.C. Bar and other private bar leaders, representatives of legal services organizations, law school faculty, business and community leaders, and other community stakeholders.

2020 will mark the Commission's 15th year of service to the District. During this time, the Commission has accomplished a great deal to increase access to justice for D.C. residents in underserved communities. Since FY 2007, the Commission has helped secure over \$60 million in local public funding to support civil legal services in underserved areas, housing-related practice, a shared interpreter bank to assist Limited English proficient and Deaf residents, and a loan repayment program for legal services attorneys. Through its *Raising the Bar in D.C.* Campaign, the Commission recognizes law firms that provide benchmark levels of financial support to District legal services organizations. In 2018 alone, the 43 participating law firms collectively gave nearly \$6 million to these organizations. In partnership with the D.C. Courts and the D.C. Bar Pro Bono Center, the Commission has championed *pro bono* service through the *Capital Pro Bono Honor Roll* and has pursued rule changes that broaden the pool of eligible *pro bono* attorneys.

Several years ago, the Commission worked alongside other stakeholders to launch the D.C. Right to Housing Initiative to combat the housing crisis facing low-income residents through both systemic advocacy and individual representation. The Commission also works closely with the D.C. Courts to ensure that court procedures are designed to not unduly burden low- and moderate-income residents, many of whom proceed without representation. Many of these efforts are described in more detail throughout this Report. Finally, the Commission has published reports like this that raise awareness about the justice gap in D.C. In each area, the Commission aims to bring innovative and creative ideas to the table and engage a broad array of relevant stakeholders in order to most effectively advance access to justice.

- Developing capacity among legal services providers to measure the need for and impact of their work through the collection and analysis of data.
- Training and working with providers of non-legal services in the community to identify District residents' legal problems and help them seek assistance.
- Expanding systemic advocacy work, and engaging more broadly with community members so they can inform, guide, and collaborate on those advocacy initiatives.
- Creating court rules, procedures, and forms that are easier to understand and follow so that unrepresented litigants can better navigate the court system if they lack access to counsel.
- Using technology to expand access to justice, such as assisting unrepresented parties in completing and filing forms.

Though it is likely that persistent poverty and racial justice issues in the District will make it difficult to entirely close the justice gap, providers are planning, innovating, and evolving in these and other ways to continue increasing access to justice for low- and moderate-income residents.

## | Structure of the Report

The Report begins with this *Introduction*, which contains a description of the Report’s goals and the research methodology used in its development. *The District’s Low- and Moderate-Income Community* discusses some of the social and political forces that create and perpetuate poverty and legal need in the District. *A Decade Later* then highlights differences in the legal services network based on comparisons of the 2005 data collected (for the 2008 Report) and 2014 (for this Report). *Developments in Civil Justice Practice* describes changes in the legal services delivery system since the 2008 Report as they relate to legal services providers, *pro bono* attorneys, and law school

programs and curricula. This is followed by an analysis of agencies and courts in *The Role of District Agencies, the Office of Administrative Hearings, and the Courts*. *The Practice of Civil Legal Services in the District by Issue Area* takes a closer look at individual practice areas, the legal needs they address, and the network’s capacity to meet those needs. Finally, *The Future of Access to Justice* identifies strategies that emerged from conversations with legal services providers and the broader community that the Commission is committed to advancing in the future in partnership with other stakeholders.

## | Methodology

One objective of this Report is to update the data provided in the 2008 Report and to describe the evolution of the network of legal services providers over the intervening ten-year period. As in the 2008 Report, this Report relies in part on external studies documenting the volume of legal need and the capacity of providers to meet that need. That research is bolstered by the collection of primary data, both quantitative and qualitative, from legal services providers and their partners, law schools, law firms, community organizations, the D.C. Office of Administrative Hearings (“OAH”), the D.C. Courts, and other stakeholders. Those sources are as follows:

### Surveys of Legal Services Providers

In 2015 and 2016, the Commission distributed surveys to organizations and entities involved in the provision of legal services in the District. After receiving responses, the Commission worked with survey respondents throughout 2016 to clarify, further understand, and reconcile the survey submissions. The Commission sent the most extensive surveys to members of the D.C. Consortium of Legal Services Providers (“Consortium”), who serve low- and moderate-income District residents. Twenty-three organizations returned surveys. Those surveys sought information concerning each organization and its activities in 2014, including: spending on and funding of legal services; number of staff<sup>21</sup> and their responsibilities; types of cases taken and turned away; use of *pro bono* attorneys; and community

collaborations. The surveys were based on those that were used to collect data for the 2008 Report so that results could be easily compared, and they were vetted by most of the providers that eventually would complete them. The membership of the Consortium has grown since these surveys were collected and, at the time of this Report’s publication, the 2014 data are 5 years old. Thus, for certain indicators, the Commission has collected updated data or made a notation so that the work of new organizations can be captured.

In order to be consistent with and allow for comparisons to the data presented in the 2008 Report and to accurately reflect budgets and growth of providers, this Report separates out funding for certain types of cases where there is a statutory right to counsel and the full time equivalents (“FTEs”) paid with that funding, as that was the approach taken in the 2008 Report. This decision primarily affects data on the practice of family law, as one organization received significant funding to provide representation in abuse and neglect cases. The decision to omit the portion of the organization’s budget allocated to cases where there is a right to counsel and the FTEs paid with that funding also affects other indicators highlighted in this Report. The percentage of FTEs in a given practice area, for example, is based on a total number of FTEs that does not include those funded in cases where there is a statutory right to counsel.





Percentages of revenue sources for legal services providers and types of cases in which there was full representation similarly are affected and are noted where appropriate. Again, this was done to be consistent with the 2008 Report. Nevertheless, the important, related legal work done in that area of practice is discussed at length in the *Family and Domestic Violence* part of *The Practice of Civil Legal Services in the District by Issue Area* section.

While the 2014 survey data are instructive and present a picture of legal needs that generally is consistent with other information available, it is important to note certain limitations beyond the fact that the data are 5 years old. For example, some organizations declined to complete the survey. Others were not included because they focus on systemic litigation even though they work with and advance the mission of District residents and legal services providers. Of the providers that did respond to the survey, some did not answer every question, and thus the resulting analysis is based on the answers of only those providers that responded to a particular question.

Furthermore, a number of organizations either did not track or did not report the number of cases of a specific case-type (e.g., a custody matter within the broader practice area of family law) for which services were provided. It was therefore necessary to estimate at times when ranking the order in which certain case types were reported by providers. In addition, not all providers categorize case types and

practice areas in the same way. Areas often overlap and many matters may fairly be said to implicate more than one subject area. The Commission worked to obtain consistent information about case types by delineating in the survey which case types should be reported under which practice areas, but the data still presented some ambiguities.<sup>22</sup> In addition to the case types grouped under practice area headings, providers also had the opportunity to categorize cases as “other.” This “other” category is included in the aggregate of cases that were analyzed to determine comparisons among practice areas such as percentage of FTEs in a given practice, most common requests for assistance, and cases most frequently turned away. Though there is not a specific section in this Report dedicated to the “other” category, it is included in the charts comparing practice areas.

Finally, the Report compares 2014 data that the Commission collected for this Report with 2005 data that were featured in the 2008 Report. Not all legal services providers participated in both surveys, however, and the data did not always allow a direct comparison. Given these limitations, the survey results are intended simply to provide useful information that will help the public understand the legal needs of low- and moderate-income residents of D.C. and the work of providers to meet those needs.

The Commission also distributed a separate data collection form to legal services providers. Recipients were asked to collect data from all people who sought legal assistance for a one-month period from October 1 to 31, 2014. The information collected included the gender, race/ethnicity, income level, and primary language of the prospective client; the nature of the legal need; and the result of intake (e.g., whether the client was served by the legal services organization and, if so, in what capacity).

### **Surveys of Law School Administrators**

In addition to the providers' surveys, the Commission also sent surveys to law school administrators seeking information about access to justice initiatives including clinical programs, externships, and *pro bono* opportunities and/or requirements for students. Those surveys were completed in 2016 by all 6 law schools located in the District, and additional narrative information was collected informally in 2018 to inform the discussion of law school programs in the Report.

## Surveys of Community-Based Organizations

The Commission also distributed questionnaires to a variety of community-based organizations (“CBOs”). Though not all organizations contacted completed the questionnaires, the Commission ensured that all relevant issue areas and geographic regions within the District were represented among the respondents.

As a result, the Commission has data from a diverse group of approximately 30 CBOs. Although not every respondent had a response for every question, these surveys capture some important general impressions of the experience of community organizations and their clients. The data collected included information about the organizations and their clients, including whether and how clients’ legal needs were being identified and met.

## Listening Sessions, Interviews, and Detailed Questionnaires

The Commission interviewed over 100 practitioners, community members, and other stakeholders (e.g., court personnel and community organization staff) who interact with low- and moderate-income individuals requiring, seeking, and/or receiving legal services. Many of these conversations were conducted in a group setting among colleagues who either worked in the same area of law or held similar positions within their organizations. Where in-person conversations were not possible, the Commission conducted interviews over the phone, or distributed questionnaires via email. Through these various means, the Commission collected data from practitioners engaged in the following areas of legal practice: Consumer; Disability; Domestic Violence; Education; Employment; Estate Planning and Probate; Family; Health; Housing; Immigration; Public Benefits; and Small Business and Nonprofit.

The Commission also convened groups of executive and legal directors, development staff, resource center staff, those responsible for intake and brief services, and *pro bono* professionals. In many circumstances, the Commission reached out to relevant experts after the data were compiled and written to ensure accurate reporting of practitioners’ experiences and viewpoints.

## Court Statistics

The Commission also collected data from the Executive Office of the D.C. Courts and OAH. Those data requests were designed to illuminate, among other things, the volume of case filings in general and the number of unrepresented litigants in certain types of cases commonly confronted by low- and moderate-income District residents. These data are discussed throughout the Report and can be found in the Appendix.

## Additional Reports and Data

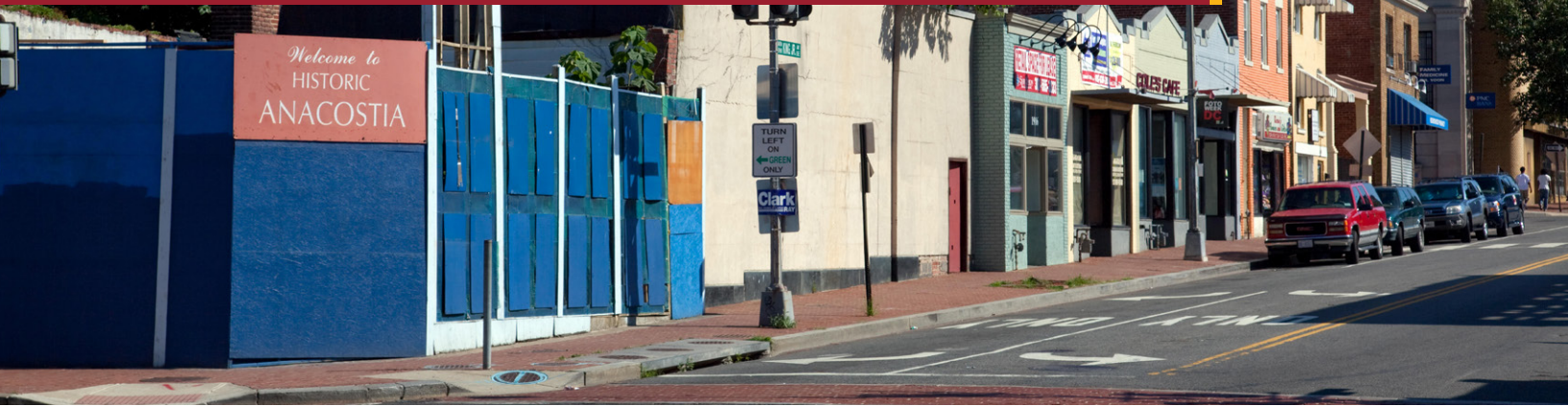
The Commission also collected data from additional sources that would help provide a full picture of access to justice issues in the District. Where appropriate, the Commission incorporated information collected through the Consortium’s *Community Listening Project* (“CLP”), which was published in 2016, a more complete discussion of which is included later in this Report. Additional data sources included among others DCBF, the largest funder of civil legal services in the District, the resource centers run by the D.C. Bar Pro Bono Center (“PBC”), and DCFPI. The Commission also reviewed data from other sources, including social science, government and other data reports concerning poverty in the District, access to justice issues more broadly, and the subject areas in which legal issues frequently arise.

Copies of the surveys and data requests prepared by the Commission and a list of the organizations that completed them are included in the Appendix, as are a list of organizations represented in listening sessions, and court statistics.

Through these efforts and with the generous support of many, the Commission has collected a significant amount of information about access to justice for the District’s low- and moderate-income residents. When reviewing this Report, bear in mind that neither the legal needs of the residents nor the resources of the legal services network are static. As laws and the economy change, so too does the legal needs landscape and the capacity of the network to meet those needs. While no study could document fully all the issues and obstacles, this Report is an important step toward a better understanding of the complex problems that are the Commission’s mission – and our collective duty – to address.



# The District's Low- and Moderate-Income Community



## The Importance of Legal Services to D.C.'s Low- and Moderate-Income Communities and to the District

Access to the civil justice system is critical for thousands of low- and moderate-income people who are living on the verge of a major legal crisis. The civil justice system can help individuals avoid eviction, protect those experiencing family violence, and ensure fair access to safety net benefits. This is especially true for people who have legal counsel.<sup>23</sup> Absent legal representation, litigants are at a serious disadvantage in court and administrative proceedings. Judges report that unrepresented individuals often present pleadings and submissions that are of poor quality and lack the knowledge and skills required to litigate their cases.<sup>24</sup> Both substantive and procedural problems can increase the risk that a judge might miss a meritorious claim if filed by an unrepresented litigant. Studies also show that civil legal aid not only improves outcomes in individual cases but is also a powerful tool in helping low-income individuals create stability in their households and build a better future for themselves and their families.<sup>25</sup>

Legal aid attorneys provide other valuable benefits beyond improving outcomes such as fairness, judicial and economic efficiency, and faith in the system of justice. The presence of legal aid attorneys in the courtroom helps the court to identify barriers for unrepresented litigants, deters

institutional litigants from “cutting corners” or unduly pressuring unrepresented litigants, and helps the courts to identify systemic issues that need to be addressed.<sup>26</sup> Attorneys also positively affect court efficiency. Because unrepresented litigants generally lack knowledge of substantive law and procedure, their cases often take much longer than needed and strain judicial resources.<sup>27</sup> Presence of counsel expedites the process by exposing dispositive issues, reducing unnecessary hearings, clarifying issues, and ensuring that decisions on the merits can be made expeditiously – and thus helps conserve the limited and valuable resources of the judicial system.

Studies performed across the country also show that the provision of legal services has significant economic benefits. For example, the Resource for Great Programs and IOLTA Information Services reported on studies measuring the impact of legal services in New York. These studies found that the provision of civil legal services generates local economic activity and saves money for state and Federal governments. Based on the \$208 million investment in civil legal services in New York in 2009, for example, every \$1 spent to support legal services represented a return of \$5.<sup>28</sup> The task force also found that:

- Large numbers of unrepresented parties in civil legal matters have a negative impact on the justice that all litigants experience, increase the amount of litigation, and undermine the rule of law.
- Civil legal services increase benefit payments for low-income residents thereby reducing the need for assistance from state and local governments.
- Unmet legal need of low-income residents and the resulting poverty, homelessness, and failure to prevent domestic violence, cost taxpayers millions of dollars.<sup>29</sup>

Another 2014 study out of New York argued that the state could achieve an annual savings of \$85 million by investing in civil legal services to prevent domestic violence.<sup>30</sup>

Finally, access to counsel is closely tied with public trust and confidence in our justice system. If low- and moderate-income District residents feel that their economic status disadvantages them from receiving fair treatment, the entire justice system is undermined. The provision of counsel helps ensure that those with fundamental legal needs feel that they have been provided an equal chance to have their concerns addressed – no matter the result. Even those litigants who do not achieve the result they were seeking can more easily accept the outcome if they feel that they were treated fairly, and the assistance of counsel increases that sense of fairness.

## The Impact of Representation

Studies consistently demonstrate that legal representation has an important impact on case outcomes:<sup>31</sup>

- In studies comparing outcomes for low-income parties in California, represented low-income tenants settled their cases twice as often as unrepresented tenants and had substantially fewer trials (3% versus 14%) and defaults (8% versus 26%). Additionally, only 11% of low-income tenants with representation had judgments entered against them as opposed to 40% of self-represented tenants.<sup>32</sup> In custody cases, low-income parties who were represented settled 54% of the time as opposed to 30% of the time for unrepresented parties.<sup>33</sup>
- A Chicago-based study focused on outcomes for low-income tenants showed that their odds of getting an eviction order decreased by about 25% with representation. The outcomes were even better for tenants represented by a civil legal aid provider: 22% of cases with tenants represented by legal aid providers resulted in eviction, as opposed to 50% of cases with tenants represented by private attorneys and 62% of cases with an unrepresented tenant.<sup>34</sup>
- A study of women seeking legal interventions for domestic violence found that 83% of women who had an attorney were successful in obtaining a protection order compared to only 32% of women without an attorney.<sup>35</sup>
- A study of administrative appeals related to such areas as Social Security Disability Insurance, unemployment, and immigration, found that the success rate is 15-30% greater when the claimant is represented.<sup>36</sup> A study of SSDI cases found that appellants represented by attorneys were successful in 78.4% of the cases, while unrepresented appellants succeeded in only 28.3% of the cases.<sup>37</sup> The results for unemployment benefits were similar. In one study of unemployment compensation appeals in Wisconsin, represented claimants won 44.2% of the cases in which they appealed, compared to 29.7% for unrepresented claimants.<sup>38</sup>
- A study found that 74% of non-detained immigrants with legal counsel prevailed in their cases, compared to only 13% of non-detained immigrants without legal counsel.<sup>39</sup>

Data on case dispositions for certain types of D.C. Superior Court cases, by representation status, are available in *Appendix I*.



# | The Relationship Between Civil Legal Needs and Poverty and the Scope of Unmet Civil Legal Needs



Regardless of the reason, low- and moderate-income residents of the District receive necessary legal assistance for only a small fraction of the problems they face. There are exponentially more people who either do not seek or cannot obtain assistance. Though it is difficult to assess the actual number of people who need legal assistance but do not access services, it is possible to estimate the scope of unmet legal needs. In 2017, LSC did just that in its report *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans* (“The Justice Gap”)<sup>42</sup> As reported in *The Justice Gap*, the vast majority of low-income Americans

Access to counsel and the improved outcomes it provides is doubly important for low- and moderate-income individuals because they experience a higher level of need. Poverty in fact increases the likelihood of experiencing civil legal problems and impedes a person’s ability to address or recover from these challenges.<sup>40</sup> Low-income individuals often have more civil legal needs than their more economically advantaged counterparts. In part, these needs are exacerbated by low-income residents’ higher frequency of interaction with government agencies and higher vulnerability to fraud and unfair practices. In addition, for low-income individuals, legal issues often have a substantial connection to physical and emotional health and safety. In turn, poor outcomes from civil legal problems can exacerbate poverty by leading to loss of shelter, employment, or health benefits.

Moreover, systemic obstacles facing the low-income community aggravate the negative impact of civil legal needs on low-income District residents. Sometimes, individuals are wholly unaware that the particular problem can be addressed through the justice system.<sup>44</sup> On other occasions, individuals understand their problem to be legal, but cannot obtain legal assistance or choose to handle their problem without the help of attorneys.

have significant civil legal needs that affect their families, their livelihoods, and their safety, and our civil legal system fails, overwhelmingly, to meet those needs.<sup>43</sup> *The Justice Gap* made a number of important findings that illuminate the staggering level of unmet need nationwide:

- One in 4 low-income households experienced 6 or more civil legal problems in the past year, including 67% of households with survivors of domestic violence or sexual abuse.
- Seven of every 10 low-income households have experienced at least one civil legal problem in the past year.
- A full 70% of low-income Americans with civil legal problems reported that at least one of their problems affected them very much or severely. They seek legal help, however, for only 20% of their civil legal problems.
- Low-income individuals receive inadequate or no professional legal help for 86% of the civil legal problems they face in a given year.<sup>44</sup>

LSC is the single largest funder of civil legal services programs in the country, supporting 133 organizations across the U.S., D.C., Puerto Rico and the territories. *The Justice Gap* indicated that while LSC-funded programs were projected to assist an estimated 1 million Americans in 2017, those individuals will receive only limited or no legal help for between 62% and 72% of their problems because of lack of resources.<sup>45</sup>

While we do not have analogous comprehensive data for the District, there are several sources from which it is possible to extrapolate the unmet need locally. In 2017, the D.C. Court of Appeals saw *pro se* participation at the time of filing ranging from 50% to 90% depending on case type.<sup>46</sup> In D.C. Superior Court, *pro se* participation rates of cases disposed in 2017 included:

- 97% of plaintiffs in small estate matters in the Probate Division.
- 88% of petitioners and 95% of respondents in the Domestic Violence Division.
- 83% of plaintiffs and 93% of respondents in divorce/custody/miscellaneous cases in Family Court.
- 97% of respondents in paternity and child support cases in Family Court.
- 88% of designated respondents<sup>47</sup> in the Landlord and Tenant Branch of the Civil Division, in contrast to the 95% of plaintiffs who were represented.
- 75% of plaintiffs in Housing Conditions cases in the Civil Division.

OAH sees comparably high percentages of cases where no party is represented in student discipline appeals (88%), appeals related to public benefits determinations (86%), and disputes concerning unemployment compensation benefits (91%).<sup>48</sup> By way of further example, among those participants of the Consortium's CLP, only 11.32% of its survey participants (66 people out of 590) sought legal help for a problem at all. Of those who sought legal assistance, only 59.6% (39) reporting receiving it.<sup>49</sup>

## The Societal Importance of Civil Legal Services

The modern legal services movement is grounded in the mid-Twentieth Century struggle for civil rights. Federally funded legal services and the broad range of privately funded programs that followed broke from a model of legal charity and recognized the role of anti-poverty and racial justice lawyering in social change. Practitioners considered the law insufficient to achieve economic, racial, and social justice. It was widely understood, however, to be an indispensable element in the process of communities finding and exercising their political power. Clinton Bamberger, who served as the first director of the Office of Economic Opportunity<sup>50</sup> legal services program, which later became the Legal Services Corporation, articulated this goal during a speech to legal aid lawyers in 1965. He stated:

*Lawyers must be activists to leave a contribution to society. The law is more than a control; it is an instrument for social change. The role of [the program] is to provide the means within the democratic process for the law and lawyers to release the bonds which imprison people in poverty, to marshal the forces of law to combat the causes and effects of poverty.*<sup>51</sup>

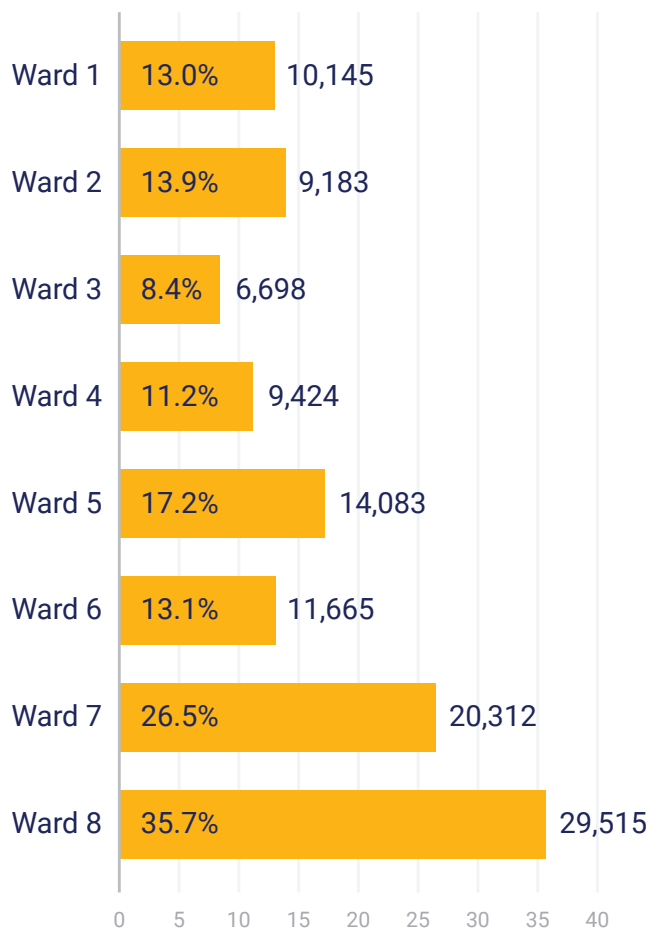
A recognition, however, that legal services lawyering plays an important role in social change does not and should not diminish the essential function of delivering services to solve the legal problems of individual clients. To the contrary, properly conceived, client centered enforcement of basic rights is indispensable. For example, reforms to housing policy without lawyers to ensure that individuals and families can live in safe, decent, and affordable housing and with the opportunity to reside in racially and economically integrated neighborhoods would mean little without lawyers to fight evictions, seek repairs, and ensure that individual acts of discrimination are addressed. Moreover, lessons learned through hundreds of individual cases can help shape systemic advocacy, including identifying the most effective structural solutions. Indeed, one finding of this Report is how effective it is to marry individual representation with systemic advocacy efforts.



# Poverty and the Justice Gap in D.C.

Low-income residents of the District face unmet legal needs every day that result from living in poverty. When the 2008 Report was published, the District's poverty rate was at the highest level it had been in a decade at 20%, disproportionately affecting certain populations and areas of the District. Those conditions continue to persist. According to the 2017 American Community Survey,<sup>52</sup> roughly 1 in 6 D.C. residents (about 111,000 individuals) lived at or below the poverty line, an income of about \$25,000 for a family of four.<sup>53</sup> Approximately 32,000 of these residents were children under 18, 26% of the child population. Wards 7 and 8 had the highest poverty rate in the City, at 26.5% and 35.7%, respectively, compared to 17.4% Citywide.<sup>54</sup>

## Poverty Rate by Ward



U.S. Census Bureau, 2017 American Community Survey 5-Year Estimates, Poverty Status in the Last 12 Months, Table 1071.

## *Poverty in the District is concentrated in certain areas and among certain populations.*

According to DCFPI, while the 2017 data showed fewer residents living in poverty compared to the year before, the rate was no lower than prior to the recession: “This means that poverty has come down after rising sharply in the Great Recession, but [the District hasn’t] made long-term progress in reducing poverty.”<sup>55</sup> Post-recession growth has been uneven in the District, benefitting higher income households more than lower. The average income of the top fifth of D.C. households was reported as \$321,000, compared to \$10,500 for the bottom fifth; only the top three-fifths of D.C. households have risen above pre-recession levels.<sup>56</sup> Similarly, while overall median income continues to climb – a 7% increase from 2016 to 2017 – “D.C.’s growing prosperity is not evenly shared,” with significant racial and other disparities.<sup>57</sup> The average wealth of a white family in the District is 81 times the wealth of the average African American family.<sup>58</sup>

It is difficult for residents to escape poverty, given the high level of unemployment and limited job opportunities for unskilled workers. The District’s adjusted unemployment rate in January 2019 was 5.4%.<sup>59</sup> By way of context, the District’s rate consistently tracks higher than all other states except Alaska.<sup>60</sup> Consistent with the concentration of poverty in the District, the unemployment rate varies by Ward, with the highest levels in Wards 7 and 8. In January 2019, for example, the unemployment rate was 4.1% in Ward 3 as compared to 12.7% in Ward 8.<sup>61</sup> The burden of this unemployment disproportionately affects African American residents of the District, which has the largest black-white unemployment rate gap in the nation: African American residents in D.C. are eight times more likely than whites to be unemployed, and 49% of African Americans who are unemployed have been so for 6 months or longer.<sup>62</sup>

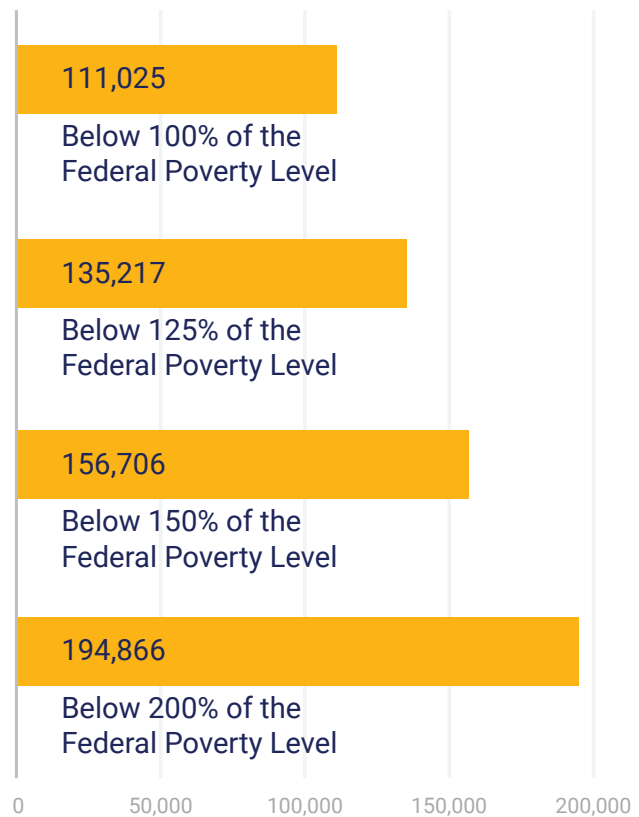
It is particularly difficult for lower skilled workers to gain employment in the District and, as a result, to move out of poverty. The unemployment rate for D.C. workers with a high school diploma is 17%, compared to 3% for college graduates who have a bachelor's degree or higher.<sup>63</sup> This is not an insignificant number. According to the 2017 American Community Survey, nearly 10% of D.C. residents aged 25 and over (totaling more than 46,000) lack a high school credential and an additional 17.6% of that same age group (more than 84,000) have a high school credential, but no college education or degree.<sup>64</sup> These residents are at a significant disadvantage – District workers with a college degree or higher earned a median wage of \$33 per hour in 2016, while those with only a high school degree earned a median wage of \$15 per hour.<sup>65</sup> Unfortunately, future job prospects for these 130,000 D.C. residents also are bleak. Economists predict that 76% of all District jobs will require postsecondary education by the year 2020, making it increasingly difficult for lower skilled workers to make ends meet.<sup>66</sup>

Other factors also contribute to this rising inequality and injustice. As poverty disproportionately affects African American families in the District, so does the ability of those families to secure affordable housing from the very limited stock. As discussed below in *The District's Affordable Housing Crisis*, rent for the least affluent District renters is rising while incomes remain stagnant, with less affordable housing stock available. The education system also remains highly segregated with the achievement gap far too wide.<sup>67</sup> In addition, a disproportionate number of African Americans are entangled in the District's criminal justice system, leaving many with the lifelong disability of a criminal record. These disabling effects of a criminal record might include: barriers to employment and licensing; exclusion from public and subsidized housing and other public benefits programs; the inability to serve on a jury; threats to a person's immigration status; and political disenfranchisement.<sup>68</sup> These resulting effects of concentrated poverty and segregation remain profound and persistent.<sup>69</sup>

Finally, it is clear that poverty measures drastically undercount the number of people who may not be living at or below poverty, but every day must choose between rent payments and groceries, between medical care and transportation to work. While employment remains the most critical anti-poverty tool, 27% of all working families and

38% of working African American families in the District still do not earn enough to move out of poverty.<sup>70</sup> For that reason, legal services providers use indexes greater than 100% of poverty to determine who is eligible for their services. Under this rubric, there are far more individuals who cannot afford the market cost of legal services, even when facing legal crises. According to the 2017 American Community Survey, 135,217 people in the District of Columbia were living at or below 125% of the Federal poverty guideline, the maximum income level used by LSC to qualify for civil legal aid.<sup>71</sup> The population in this category has grown since the 2008 Report. In 2005, 108,100 District residents lived below 100% of the Federal poverty level and 193,000 lived below 200%. In the 2017 American Community Survey, those numbers were 111,025 and 194,866 respectively.<sup>72</sup>

## Number of District Residents Below 100%, 125%, 150% & 200% of the Federal Poverty Level



U.S. Census Bureau, 2017 American Community Survey 5-Year Estimates, Poverty Status in the Last 12 Months, Table 1071.



# The District's Affordable Housing Crisis

Given the importance of housing and the connection between housing and poverty, no discussion of the low- and moderate-income community would be complete without addressing the District's affordable housing crisis. It is increasingly difficult for low- and moderate-income families and individuals to find stable and affordable housing, a problem that fundamentally and negatively impacts many aspects of their lives. Low housing inventory – driven in large part by zoning and land use regulations that promote the development of low-rise, low-occupancy housing units over more varied residential opportunities – is compounded by rising housing costs and stagnant wages.<sup>73</sup> As rents rise, the options are winnowed even further, leaving increasingly few apartments for low- and moderate-income residents:

- Over the last decade, rent for the bottom two quintiles of District renters rose by 14% and 35%, respectively, while their incomes remained stagnant.<sup>74</sup>
- 73% of low-income households spent more than half their monthly income on rent and utilities in 2016.<sup>75</sup>
- Between 2002 and 2013, the number of apartments renting for \$800 a month (affordable for a household earning \$32,000 a year) declined by 27,000, while the number of units renting for more than \$1,600 a month (affordable for households earning \$64,000 or more a year) increased by nearly 37,000.<sup>76</sup>
- The average rent for a 2-bedroom apartment in the District in 2018 was \$1,520, well over the national average of \$1,160.<sup>77</sup>
- The median price of a single-family home in D.C. after adjusting for inflation has risen from \$415,000 in 2005 to \$649,000 in 2017 – nearly a 56% change.<sup>78</sup>

Because of these trends, the District has become more economically segregated, with the impact even greater for families. Units of three or more bedrooms are in short supply<sup>79</sup> – Wards 7 and 8 contain some of the only affordable large rental units in the D.C. area.<sup>80</sup> The location of these units has increased segregation and concentration of poverty in the District. According to DCFPI, between 1970 and 2015 the number of neighborhoods with a poverty rate of 20% or more nearly doubled, from 60 to 118.<sup>81</sup> The number of high-poverty neighborhoods (with a poverty rate of 40% or more) has grown at a similar rate. Virtually all high-poverty neighborhoods have Federal public housing projects located in or adjacent

to them and Federal Housing Choice Vouchers continue to be concentrated in higher poverty, lower opportunity areas. The result is that fewer poor families live in mixed-income neighborhoods.<sup>82</sup>

This lack of affordable housing has significantly increased the need for subsidized housing, but it isn't keeping up with the demand. The waiting list for the District's three subsidized housing programs closed in 2013 due to its high volume, 70,000 at the time.<sup>83</sup> In areas of the District where real estate prices have risen most sharply, property owners have discontinued participation in Section 8 contracts and converted their buildings into higher-end rentals, driving down the supply of subsidized housing even further. As the number of public housing units in the City have decreased, the D.C. Housing Authority has attempted to make up the shortfall using vouchers, which have doubled in number over the last 15 years.<sup>84</sup> While the D.C. Housing Authority also administers several tenant-based vouchers and project- or sponsor-based units, the numbers seeking that assistance far eclipses the supply.

In addition to those who struggle to afford their homes, there are thousands of homeless individuals in the District for whom housing is even more out of reach. The District accounts for two-thirds of the region's homeless population<sup>85</sup> and despite recent signs of progress with other homeless populations, the District is home to more homeless children and families than to single adults (see *Populations Facing Additional Barriers to Access* section).<sup>86</sup>

Given the widespread nature of this problem, the Mayor and the D.C. Council continue to make a variety of investments aimed at addressing the housing crisis through preserving affordable housing, assisting residents at risk of homelessness, and establishing homeless services.<sup>87</sup> The District's legal services providers have been instrumental in championing these efforts in partnership with other community stakeholders like tenant groups and community organizers, and continue to urge District leaders to do more. As discussed in the *Housing* section, providers also have embraced other strategies to preserve affordable housing such as preventing evictions, working on zoning issues, pursuing fair housing litigation, addressing unsafe housing conditions, and pushing for relevant legislative initiatives.

# I Populations Facing Additional Barriers to Access<sup>88</sup>

Living at or near poverty is only one of the circumstances that leads to obstacles in navigating the civil legal system. Many of the District’s low-income residents face additional challenges that impede access to justice. Those residents include people with disabilities; those who require interpretation services because they are limited English proficient (“LEP”), Deaf, or hard-of-hearing; returning citizens; the elderly; individuals who are illiterate or low-literate; the homeless; prisoners or ex-offenders; transgender and gender expansive persons; veterans; and survivors of sexual assault.



## Veterans

- 13% of the District’s 27,903 veterans live in poverty; nationally, 6.9% of veterans live in poverty.<sup>89</sup>
- Military veterans make up 9.4% of homeless individuals in D.C.<sup>90</sup>
- The unemployment rate for D.C.’s veterans is 10.4%; nationally, it is only 4.4%.<sup>91</sup>
- 71.1% of veterans living in D.C. have a service-connected disability.

Nationwide, 71% of low-income households with veterans or other military personnel experienced a civil legal problem in the past year, contending with the challenges of obtaining adequate medical care, housing loans, access to benefits, and employment.<sup>92</sup> Yet veterans and their families receive inadequate or no professional legal help for approximately 88% of their problems.<sup>93</sup>



## The Homeless

- D.C. has the highest per capita rate of homelessness in the country, with more than 15,000 people experiencing homelessness over the course of a typical year according to Washington Legal Clinic for the Homeless.<sup>94</sup>
- Another measure of homelessness, the D.C. government’s Point-in-Time (“PIT”) count, identified 6,521 homeless people in D.C. on a given night in January 2019, including: 815 families comprised of 1,053 adults and 1,593 children; 3,862 single adults; and 13 unaccompanied minors.<sup>95</sup> (Note that advocates like Washington Legal Clinic for the Homeless believe that PIT undercounts homeless individuals as it includes only those who are in the shelter system).<sup>96</sup>
- PIT counted 44% of single adults and 13% of adults in families as chronically homeless.<sup>97</sup>
- Among single homeless adults in D.C., PIT found 41% were formerly institutionalized, 31% suffer from severe mental illness, 21% have chronic health problems, and 16% have a physical disability.<sup>98</sup>
- PIT established that 32% of homeless adults in families and 21% of single homeless adults have a history of domestic violence.<sup>99</sup>
- 40% of homeless youth in the District identify as LGBTQ.<sup>100</sup>

People who are homeless or at risk of homelessness often face legal issues preventing them from accessing or maintaining adequate housing, employment and income support, health care, and other opportunities.<sup>101</sup> They often do not recognize when they have legal needs or do not seek legal assistance.<sup>102</sup> Individual barriers may include a lack of identification, child support issues, or outstanding warrants or fines.<sup>103</sup> More systematic barriers include laws criminalizing behaviors associated with homelessness, which contribute to individuals cycling between homelessness and incarceration.<sup>104</sup>



# A Longstanding Commitment to Serving D.C. Seniors

Since 1975, Legal Counsel for the Elderly's staff of attorneys and social workers have bridged the justice gap for vulnerable D.C. elders. LCE attorneys fight to prevent evictions and foreclosures; obtain Social Security, Medicaid, and Veterans benefits due to their clients; advocate for residents in long-term care facilities; prepare wills and powers of attorney; assist with applying for the D.C. property tax credit; protect against financial exploitation and fraud, and more. LCE has long committed to meeting clients where they are and has strong relationships with a broad array of community organizations. LCE visits D.C. nursing homes, senior facilities, and other community locations to overcome barriers to access often faced by its client population. For example, LCE's Homebound Elderly Project, Project HELP, provides critical legal assistance to homebound D.C. residents, and its Self Help Office legal associate meets with residents in five locations throughout the District. LCE also manages a legal hotline that provides free legal advice, assistance, and referrals to D.C. seniors of at least 60 years of age. It also operates the Office of the D.C. Long-Term Care Ombudsman, to resolve complaints of long-term residents in facilities and those receiving home health care through Medicaid's Elderly and Persons with Physical Disabilities waiver program. LCE's Senior Medicare Patrol educates District residents about Medicare fraud detection and prevention. Finally, LCE's Pro Bono Project leverages law firm expertise to help more District residents in need and pursue systemic reform.



## *The Elderly*<sup>105</sup>

- 70,568 District residents are aged 65 or older; they are 61% African American, 4% Hispanic, and 2% Asian; 65% are female.
- Of those residents, more than 1 in 4 (or 26%) live in poverty – the highest percentage in the nation.
- Wards 4 and 5 have the highest population of elders, and Wards 4, 5, and 7 have the fastest growing elderly population.
- 56% of District elders live alone, which is higher than the national average. 60% of elders own their own home, which is lower than the national average.
- 38% have completed higher education, which is higher than the national average.
- The District has the nation's largest percentage of LGBTQ seniors.
- 10% of District seniors experience physical abuse; 6% are neglected; 19% face financial abuse; and 8% suffer sexual abuse.

There is a large population of seniors in the District and they experience a wide range of legal needs. Their ability to seek a legal resolution of these problems may be hampered by limited mobility, decreased physical and mental health capacity, and lack of ability to access resources through the internet, among other barriers.



## *Individuals with Disabilities*

- Of the 610,000 District residents under 65 years old, 8.4%, or 51,240, have a disability.<sup>106</sup>
- Among District residents aged 65 years and older, over 27,000 have a disability.<sup>107</sup>

Certain individuals may face legal problems and obstacles in the civil justice system that result from their disabilities. Such barriers may include physical access to legal services and challenges related to communication, especially for individuals who are blind or Deaf. Residents with mental illness may feel stigmatized or experience other challenges related to access specific to their health circumstances.

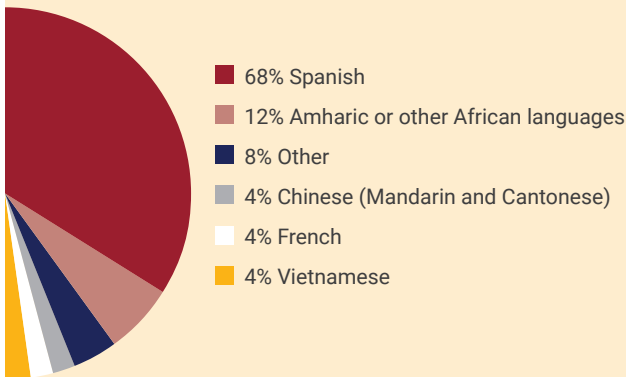


## Limited English Proficient Individuals

- The number of LEP residents in the District has risen to nearly 41,000.<sup>108</sup>
- Spanish speakers constitute over one-half of these residents. Other large language groups include French, Amharic, Chinese, and Vietnamese.<sup>109</sup>
- 15% of the District’s LEP population was born in the U.S.<sup>110</sup>
- The growth in the number of LEP speakers is reflected in the need for interpretation. In 2018, the number of events in D.C. Superior Court that required interpretation was 6,529.<sup>111</sup> That figure also includes sign language interpretation services for individuals who are Deaf and hard-of-hearing.

LEP residents often face challenges when navigating the justice system. For many, the language barrier makes it difficult to understand their legal rights and to communicate with attorneys. For those without counsel, navigating the court system alone only compounds language barriers. These obstacles are heightened by fears that LEP residents who are immigrants may have of engaging with the justice system.

Limited English Proficient D.C. Residents 2017  
American Community Survey



U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, *Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over*, Table B16001  
U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, *Social Characteristics in the United States*, Table DP02.

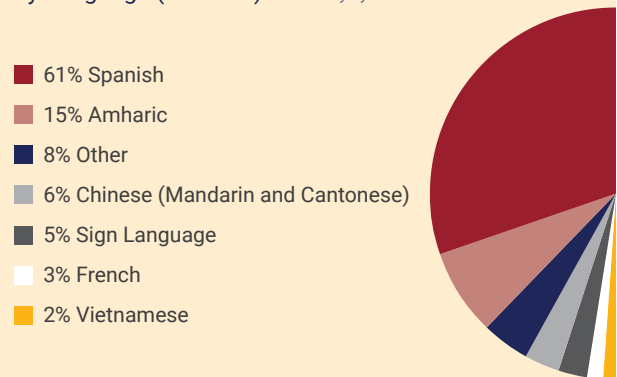


## Returning Citizens

- At least 67,000 D.C. residents, nearly 10% of the District’s population, have a criminal conviction record.<sup>112</sup>
- Nearly 22,000 justice-involved individuals are in D.C. on any given day.<sup>113</sup>
- Between 4,500 and 5,300 D.C. Code offenders are at Federal Bureau of Prisons facilities across the country at any given time, and 1,800 are held in local facilities.<sup>114</sup>
- An estimated 6,000 people are released each year in the District from the D.C. Department of Corrections and the Federal Bureau of Prisons.<sup>115</sup>

Returning citizens face a significant number of unaddressed legal problems. Both while incarcerated and when reentering the community, these residents have limited access to courts and legal resources but a variety of legal needs in areas like employment, expungement, housing, and beyond.

Community Legal Interpreter Bank Oral Requests (In-Person or Telephonic) and Document Translation, by Language (CY 2018) *Provided by Ayuda*







## Gender Expansive Individuals

- 2.77% of all adults in D.C. identify as transgender, gender expansive, and gender non-conforming. The next highest state is Hawaii with 0.78% transgender adults.<sup>116</sup>
- 21% of transgender persons in D.C. surveyed as part of a transgender needs assessment were infected with HIV; 75% of those HIV-positive respondents were people of color.<sup>117</sup>
- 40% of those infected with HIV in D.C. reported being homeless, and 25% of all respondents reported being homeless.<sup>118</sup>
- 14% of trans residents in D.C. lack health insurance, and one in five report being denied health care due to their trans status.
- 36% of trans persons in D.C. are unemployed and nearly one-half reported facing discrimination at work.<sup>119</sup>

Transgender and gender expansive people have significant legal needs but may feel uncomfortable engaging with various aspects of the justice system because of experiences with bias and discrimination. They also face obstacles due to inconsistencies in their biographical information as listed on official documents and their gender identities.



## Illiterate or Low-Literate Individuals

- The Washington Literacy Center estimates that 90,000 adult D.C. residents are functionally illiterate.<sup>120</sup>

Individuals who lack literacy skills have diminished access to information about legal rights and services, as they cannot read pamphlets, brochures, and forms created by providers and the courts for unrepresented parties.



## Survivors of Intimate Partner Violence and Sexual Assault

- 39% of women in D.C. have reported physical assault, sexual assault, or stalking by a current or former intimate partner.<sup>121</sup>
- 25.7% of adults in homeless families in the District have been victims of domestic violence.<sup>122</sup>
- Nearly one-third of unaccompanied (or single) homeless women in D.C. indicate that violence is the cause of their current homelessness or housing instability.<sup>123</sup>
- 63% of unaccompanied homeless women in D.C. with past experiences of violence and trauma report at least one act of violence against them during their current period of homelessness or housing instability.<sup>124</sup>
- Nationally, 97% of low-income intimate partner violence and sexual assault survivors experienced a civil legal problem in the past year.<sup>125</sup> Yet, 86% of the time, these survivors received inadequate or no professional legal help.<sup>126</sup> The top reasons low-income survivors cite for not seeking legal help include not being sure if the problem is a legal issue, not knowing where to look or what resources are available, and deciding to deal with problems on their own.<sup>127</sup>

Providers noted that victims of sexual trafficking and/or other forms of sexual violence have complex needs that often are not addressed. This is in part because legal services providers, law enforcement, and other professionals are not trained to spot the signs of trafficking specifically. Victims typically do not know the definition of trafficking or how to describe what they have experienced. They have often been exposed to such extreme coercion that many blame themselves for their situation or have such intense shame and trauma that they are unable to share their experiences with law enforcement. Because they rarely self-report, the majority of sex trafficking victims are misidentified as criminals; they may be charged with prostitution, for example, as a result of being trafficked.

## Seeking Legal Assistance

In order to learn more about barriers low- and moderate-income residents faced in obtaining legal assistance, the Commission distributed a survey to a wide array of CBOs serving these populations. (See the *Methodology* section). The purpose was, in part, to determine what role these organizations play in helping their constituents access civil legal services. The responses were instructive as they reflected the difficulties many organizations experienced in connecting their clients with legal services, the need for more education about legal services providers and about the criteria residents must meet to receive legal assistance, and the importance of continued outreach.

All of the CBOs surveyed, regardless of size or mission, served individuals facing legal issues. They reported that their clients most frequently struggled with housing, immigration, family, domestic violence and employment issues; housing issues were seen as the most pressing. Respondents indicated that 33% of the clients they serve “regularly” have legal problems, and 59% “often” do.<sup>128</sup> Interestingly, organizations reported that 52% of clients “often” recognize on their own that their problems are legal in nature, while only 44% of the staff “often” recognize the existence of a legal problem. This gap in staff knowledge may be due, in part, to lack of training. While 90% of organizations stated that they would like their staff to receive training on identifying legal issues, only 60% of them actually hosted such trainings. And despite the fact that so many individuals have legal problems and recognize them as such, only 22% “regularly” seek legal assistance and 37% “often” do.

When reporting on their experiences connecting individuals with legal services, 27% of organizations reported that it was “easy” to make connections, while 65% stated that it was possible, but “takes

effort.”<sup>129</sup> Those that specified the source of difficulty connecting clients to legal services providers related the following reasons: (1) organizations cannot take any more clients (76%); (2) clients cannot find providers to take on their specific issues (59%); (3) clients do not know who to call (18%); and (4) providers do not return calls (18%). CBOs reported that the most difficult types of cases to refer for legal assistance were housing, immigration, and family.

Though the CBOs related their clients’ difficulty connecting with legal services, the majority of organizations themselves (nearly 85%) had partnerships or relationships with legal services providers. Despite these partnerships, the CBOs surveyed reported a lack of knowledge about legal services providers in the District. 48% of the organizations responded that they were only “somewhat” aware of income and other eligibility criteria, for example, the same percentage that reported being only “somewhat” aware of where the providers were geographically located. 24% of the organizations surveyed could not advise clients to seek help in resource centers as they were “not at all” familiar with their existence; 36%, though, were “somewhat” familiar with them.<sup>130</sup> Clients did not fill this knowledge gap themselves, according to survey responses, as 36% had only a “fair” awareness of the availability of free legal services, while 24% had a “poor” awareness.<sup>131</sup>





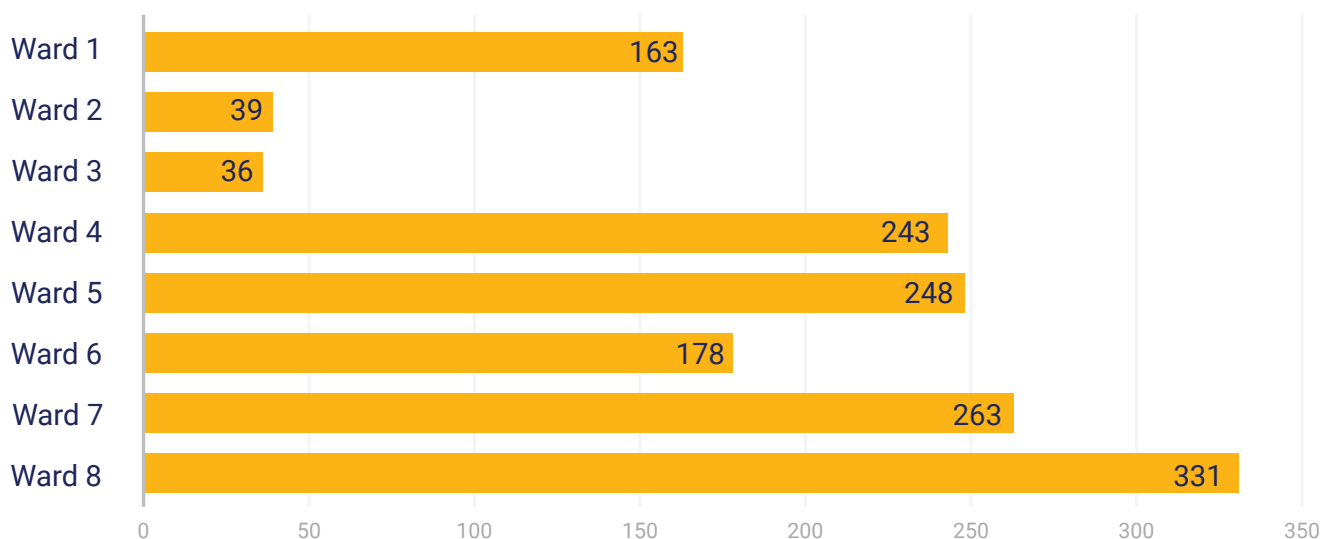
# One Month in Civil Legal Services<sup>132</sup>

Legal services providers help countless low- and moderate-income residents of the District each day through various interventions ranging from referrals and advice to full representation. While it was beyond this Report's scope to collect data about every individual who interacts with legal services providers every day, the Commission sought to examine a subset of those helped in order to get a snapshot of the client population. To capture this information, the Commission asked providers to complete a data collection form for each person who sought legal assistance ("respondent") during the month of October 2014. (See the *Methodology* section). Providers that completed the forms collected data about the gender, race/ethnicity, income, and residency of prospective clients. The following information includes highlights of these results and provides a rough snapshot of the legal needs landscape during that time.<sup>133</sup>

- **Gender:** Over 58% of respondents were female.
- **Race/Ethnicity:** Except in immigration and asylum issues, the majority of respondents in all case types identified as black or African American. The majority of respondents seeking help with immigration and asylum issues identified as Hispanic, Spanish, or Latino.
- **Income:** 65% or more of respondents had an annual household income below \$25,000. Of people seeking help with public benefits issues, 62% had household incomes under \$10,000.
- **Residency:** Approximately 89% of requests for legal services were from District residents. Residents from every Ward sought legal assistance, though almost 60% of respondents lived in Wards 5, 7, and 8.
- **Services Sought:** Respondents most frequently sought civil legal services in the areas of housing, family law, and public benefits. After those issue areas, providers received requests for services in order of most to least frequent for consumer, employment, immigration or asylum, education, and health or disability.<sup>134</sup>
- **Help Offered:** Most respondents received only brief advice or *pro se* assistance from the providers. After brief advice or *pro se* assistance, the most common responses to a request for legal assistance were submission of an application for services pending further review, and referral to other legal services providers, court resource centers, or another attorney.

## Wards From Which District Residents Sought Requests for Legal Assistance During One Month in 2014

(Based on 1,501 Responses Identifying Resident's Zip Code)



# The D.C. Consortium of Legal Services Providers' Community Listening Project

In April 2016, the D.C. Consortium of Legal Services Providers released *The Community Listening Project*,<sup>135</sup> a groundbreaking study funded by the Public Welfare Foundation. The *Community Listening Project*, overseen by a social scientist with expertise in survey methodology, elicited information about the difficulties low-income residents and their communities face, and how these populations engage with legal services providers. It relied on extensive data collection, which included 22 focus groups with client communities led by community members and legal service providers. In addition, nearly 600 structured surveys were administered in health settings, schools, at places of worship, and at other locations where community members live, work, or gather. The effort involved an in-depth study of the serious difficulties (both legal and non-legal) that low-income District residents experience. Among the most salient findings are:

- Community members face serious problems related to issues such as housing, employment, neighborhood concerns, immigration, and debt.
- The vast majority of survey participants did not seek legal services for help solving these problems despite being eligible for such services.
- Many community members are unaware of the relevance and high quality of civil legal services.
- Low-income District residents face systemic and contextual problems that do not improve with the resolution of a specific case.

Legal services providers were struck by the finding that very few survey participants with actual or potential legal issues sought legal assistance. The vast majority of those surveyed dealt with their problems outside of the judicial system either through self-help or by turning to friends, community and faith organizations, or human service providers for assistance. Participants described barriers to access arising both from lack of trust in the legal system and inability, perceived or otherwise, to obtain services. These barriers included:

- Actual or perceived financial cost (80% of survey respondents agreed or strongly agreed that lawyers are not affordable for people with low incomes).<sup>136</sup>
- Perception that *pro bono* or free legal services are not as good as paid legal services (60% of survey respondents agreed or strongly agreed that “lawyers who will help you for free are not as good as lawyers who charge you”).<sup>137</sup>
- Belief that one will not receive fair treatment in court (one-third of survey respondents did not believe they would get a fair hearing in court).<sup>138</sup>
- Inability to physically access legal services (20% of employed survey respondents expressed problems with transportation).<sup>139</sup>
- Barriers based on special needs of specific populations.

After the *Community Listening Project* report was issued in April 2016, the Consortium began a planning process to explore how member organizations, collectively and individually, could respond to these findings and bridge the divide between community members and providers. The planning process incorporated interviews with Consortium providers and community members, the facilitation of several working groups, and the use of community resource maps to better understand the distribution of available services. Through this effort, the Consortium identified several problems and recommended solutions. The Consortium published the resulting analysis in October 2017<sup>140</sup> which included recommendations about how to increase: (1) community knowledge and use of legal services providers; (2) impact on policy and other systemic issues; and (3) capacity to engage the community. The Consortium identified steps to advance each recommendation, such as targeting underserved areas as a focus for access strategies; providing trainings for Consortium members on community outreach, advocacy, and racial justice; and developing resources and capacity to support community engagement.

The important work done through this effort to engage with and hear from community members and identify issues of concern will serve as critical groundwork for the future of access to justice in the District.



# A Decade Later

The legal services community has been through many changes over the past decade. Though the goal of serving low- and moderate-income District residents has not changed, the path to achieving that goal has been anything but linear.

The 2008 Report described a network of chronically underfunded providers facing an overwhelming need for services in every substantive issue area examined. Soon after the publication of the 2008 Report, this already dire situation worsened with the onset of the recession.

The Commission and the Consortium documented the early effects of the recession in their publication, *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia* (“*Rationing Justice*”). *Rationing Justice* documented not only the increase in need for legal services as poverty and unemployment mounted and social safety nets were cut, but also the depleted capacity of providers to meet that need.<sup>141</sup> Prior to the recession in 2007, legal services providers received 11% (\$2,160,000) of their revenue from the Interest on Lawyers Trust Accounts (“IOLTA”) program, and 15% (\$2,900,000) from law firms.<sup>142</sup> During the recession, however, both funding sources dropped. IOLTA revenue dropped 60% from 2008 to 2009 forcing DCBF to use its reserves to issue grants that were only at half of the previous year’s level.<sup>143</sup> Despite the generosity of law firms, declining business during the recession led to a measurable decrease in law firm giving in 2009; firms and individual lawyers gave 20% less that year, a decrease of approximately \$1 million.<sup>144</sup> Similarly, funding from the private bar, the D.C. government and private foundations also dropped precipitously during the recession.<sup>145</sup> All told, as the legal needs of low-income residents were rapidly growing, providers’ budgets were

reduced by more than \$4.5 million in 2009, or more than 25% network-wide.<sup>146</sup> Providers were forced to lay off attorneys and staff, cut already-low salaries and benefits, and drop the number of clients being served and types of services provided.<sup>147</sup>

As documented earlier in *The District’s Low- and Moderate-Income Community* section, recovery after the recession has not been uniform and a sustained need for legal services remains. Through adaptation and innovation, providers largely have regained and even surpassed their pre-recession capacity to serve low- and moderate-income residents. This recovery was made possible in part by financial and in-kind support from various partners including private firms and grant makers, local government, and *pro bono* attorneys. Providers also benefitted from court reforms and the increase of court-based service delivery models. Despite all of these gains and the creative ways that providers and other stakeholders have increased access to justice, the need for legal assistance still far surpasses the supply.

The following comparison of data does not capture the complexities of the 10 years between the first and second Reports because it analyzes the differences between data sets collected in 2005, before the recession, and in 2014, during recovery. The evolution of the network is best understood by viewing these data snapshots in the context of the robust information in later sections of this Report that was captured during listening sessions with providers.

# Needs and Capacity: Then and Now

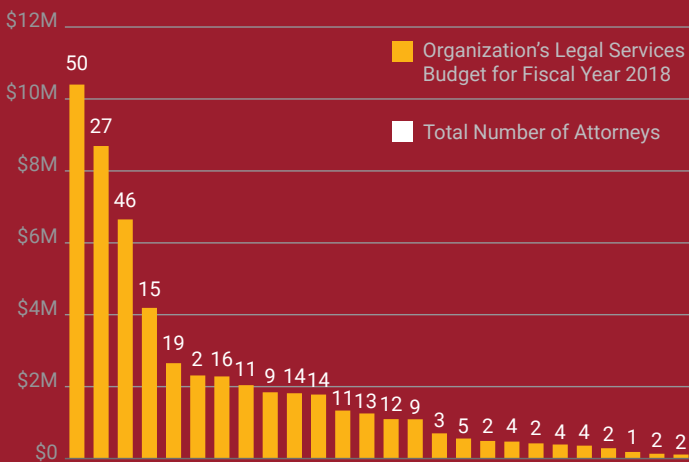
This Section compares data from the Commission’s 2005 survey, which was conducted and analyzed for the 2008 Report, and the 2014 survey, which was conducted and analyzed for the current Report. Here, we aim to capture relevant changes during that time period, from the legal needs of low- and moderate-income residents to the capacity of legal services providers to meet those needs.

It is important to note, however, that this discussion and the data analyzed in this Section do not capture any changes in the need for legal services or the capacity of providers that have occurred since 2014. Many of those developments, which are significant in some circumstances, are discussed elsewhere in the Report. For example, while the growth in District public funding to survey respondents between 2005 and 2014 is discussed below, the public funding program has grown significantly since that time, nearly doubling in FY 2017 alone. Private giving has similarly grown after 2014. Likewise, while FTEs increased between 2005 and 2014, staffing has also grown since that time. This growth was due in part to the Civil Legal Counsel Projects Program (“CLCPP”) which was launched in FY 2018 and brought more than 28 new attorneys into the civil legal system alone. By way of illustration, the *Snapshot: FY 18 Budgets and Attorneys* chart below provides updated information about the budgets and number of attorneys of a specific group of providers in

2018. Though these data capture the attorneys and budgets only of organizations that also receive grants from the D.C. Bar Foundation, they are similar in number to those that participated in the survey and thus reflect the continued growth of legal services organizations generally after 2014.

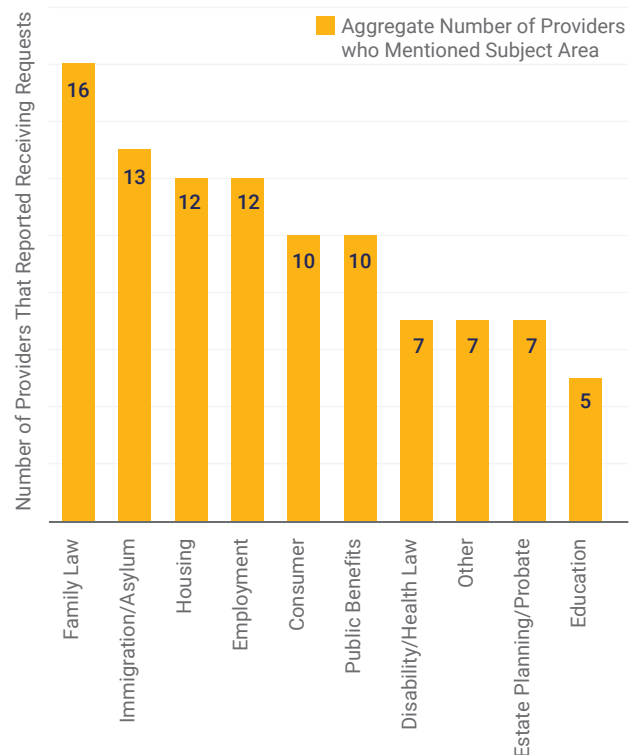
The data in this section are meant only to illustrate the growth over the decade between the 2005 and 2014 surveys. A comparable number of legal services providers participated in the 2005 and 2014 surveys, and the information described below compares data only from survey respondents and only about the years 2005 and 2014. As discussed in the *Methodology* section, some organizations declined to complete the survey and others were not included because they do not provide direct legal services to District residents even though they work with and advance the mission of those that do. This Section does not include data from *pro bono* attorneys and District-area law schools, individuals

## Snapshot: FY 18 Budgets and Attorneys Data from D.C. Bar Foundation Grant Recipients



The FY 18 data shown in this chart were collected from recipients of DCBF grants and are intended to be illustrative of the growth of budgets and attorneys since 2014. The data reflect those organizations' total budgets and number of attorneys. The DCBF grants are not the only source of funding for the budgets and attorneys presented in this chart.

## Subject Areas in Which Surveyed Legal Services Providers Reported Receiving Requests for Legal Assistance in 2014

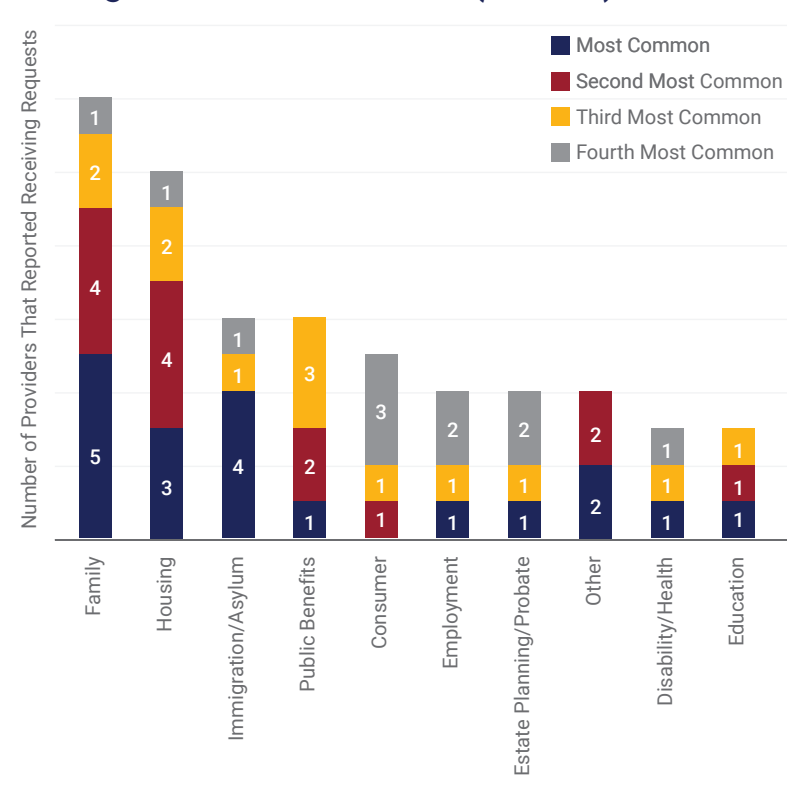


# The Role of the D.C. Bar Foundation

The D.C. Bar Foundation plays a critical role in closing the justice gap in the District. The D.C. Bar Foundation was first established in 1977 to facilitate private support to District legal services organizations. In 1985, D.C. Bar Foundation was designated to administer the District's Interest on Lawyers Trust Accounts, or IOLTA, program, whereby it receives the interest from pooled bank accounts and uses it to support legal services. Finally, since FY 2007, the D.C. Bar Foundation has administered the Access to Justice Initiative. To date, that program has infused over \$60 million into the District's civil justice system. The D.C. Bar Foundation has also administered several bank settlements to support foreclosure prevention and community redevelopment legal assistance projects in the District. Since 1977, it has awarded nearly \$80 million in public and private grants that have kept families in their homes, protected people in the marketplace, and amplified the voices of those in need.

The D.C. Bar Foundation works with the legal services community to understand and address the legal issues facing low-income District residents so that every individual, regardless of income, has access to justice. Through its investments, the D.C. Bar Foundation helps legal aid organizations address these issues with innovative means, such as court-based projects and medical-legal partnerships. It supports D.C.'s legal aid network by funding staff positions, training, evaluation, capacity building, and technical assistance. The D.C. Bar Foundation's leadership has been essential to the advances discussed throughout this Report.

**Subject Areas in Which Surveyed Legal Services Providers Reported Receiving the Most Requests for Legal Assistance in 2014 (Ranked)**



and entities that also provide legal assistance to low- and moderate-income District residents.

The analysis of needs in 2005 and 2014 is focused on nine areas of practice covered in both the 2008 and current Reports: Consumer; Disability and Health; Education; Employment; Estate Planning and Probate; Family and Domestic Violence; Housing; Immigration; and Public Benefits. A more in-depth and current examination of the needs specific to each issue area, as well as the approaches providers have taken to meet those needs, are contained in *The Practice of Civil Legal Services in the District by Issue Area*.

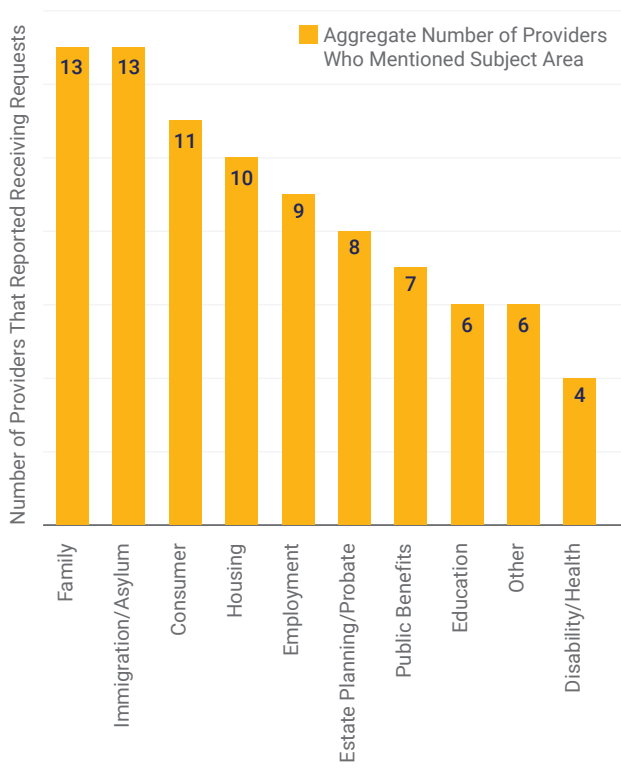
The data collected for both Reports demonstrated a significant ongoing need for affordable or free legal services in the District, and the subject areas in which that need is greatest remained relatively constant between 2005 and 2014. Family, housing, and public benefits, for example, continued to be the three areas in which individuals most frequently requested legal support. Within those subject areas, however, there has been a change in the types of cases for which services most frequently were sought. For example, the 2014 data indicate that providers received many more requests for assistance with child support matters, housing conditions cases, emergency assistance, asylum, family-based immigration, insurance disputes, and access to health care in 2014 than is reflected in 2005 data.<sup>148</sup>



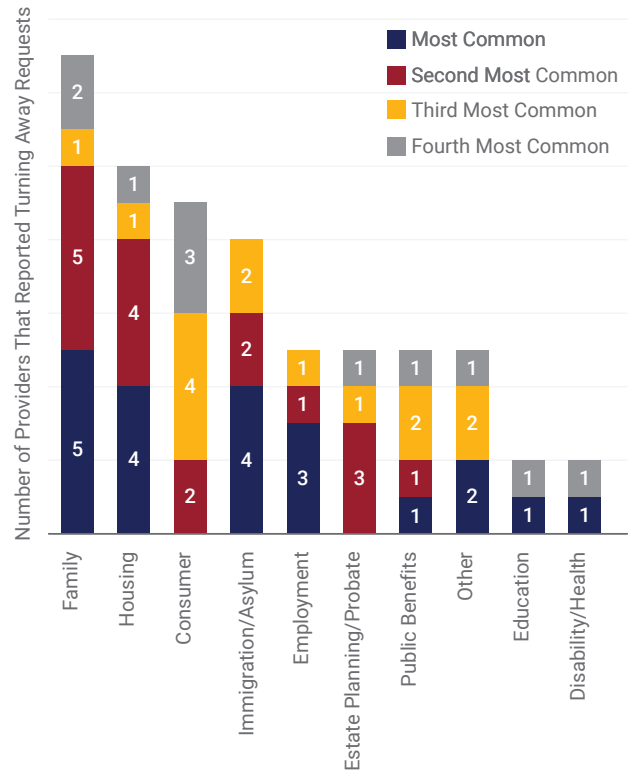
Similarly, while the types of cases that legal services providers reported having to turn away remained relatively consistent in 2005 and 2014, there were some notable changes highlighted in the 2014 data. More legal services providers indicated that they had to turn away individuals who were seeking assistance with immigration, estate planning, public benefits, or health/disability issues in 2014 than in 2005. Domestic violence, housing conditions, asylum and U visas all were also new to the issue areas in 2014 in which legal services providers had to turn away the most requests.

In addition to needs changing, the capacity of providers also evolved between 2005 and 2014. According to the 2008 Report, survey respondents had a combined budget of approximately \$15 million in 2005 and employed about 140 FTE attorneys. This translated into full representation of 3,600 people and limited advice from other sources for 23,000 individuals.<sup>149</sup> A comparison of the 2005 and 2014 data sets shows an expansion of budget and capacity over those years. The median budget for survey respondents

### Subject Areas in Which Surveyed Legal Services Providers Reported Turning Away Requests for Legal Assistance in 2014



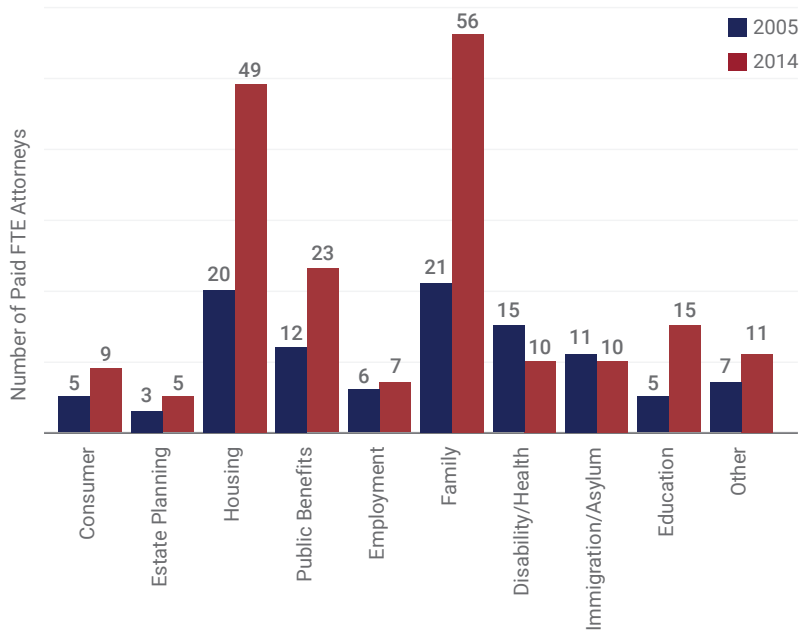
### Subject Areas in Which Surveyed Legal Services Providers Reported Most Often Turning Away Requests for Legal Assistance in 2014 (Ranked)



moved from between \$100,000–\$500,000 in 2005 to between \$500,000–\$1,000,000 in 2014. While budgets for survey respondents in 2005 crested at \$2 million, in 2014 five survey respondents reported having budgets over \$2 million.

In addition to an increase in overall budgets between 2005 and 2014, survey respondents saw an increase in the number of FTEs serving low-income residents. In 2005, there were a total of 220 FTE positions in the legal service organizations surveyed, 140 of which were attorney FTE positions. In 2014, this number grew to 388 FTE positions, 243 of which were attorney FTE positions. (Both the 2005 and the 2014 data exclude the FTEs funded for statutory right to counsel cases.<sup>150</sup> If those FTEs were included, there would have been 425 FTEs in 2014, 280 of whom were attorneys.<sup>151</sup>) According to the surveys, the greatest growth in the number of FTEs between 2005 and 2014 was in education (5 attorney FTEs in 2005 compared with 15 in 2014), family law (21 attorney FTEs in 2005 compared with 56 in 2014<sup>152</sup>), and housing (20

## Total Paid FTE Legal Services Attorneys at Surveyed Legal Services Providers Broken Down by Subject Area, 2005 and 2014\*



\*Figures for both 2005 and 2014 do not include FTE time spent working on cases where there is a right to counsel. The 2005 figures include only FTE time spent serving District residents. The 2014 figures include FTE time spent serving District residents and non-District residents with D.C. cases.

attorney FTEs in 2005 compared with 49 in 2014). With more resources and FTEs, survey respondents were able to serve more low-income residents in 2014 than in 2005. For example, legal services providers offered full representation in almost twice as many matters in 2014 than in 2005.<sup>153</sup>

While real, these advances can be misleading if taken out of context. As described above, this was not a linear pattern of growth, as providers' budgets and staff were reduced during the recession before making the gains seen in the 2014 data. In its 2009 *Rationing Justice* report, the Commission noted that providers' combined budgets had dropped more than \$4.5 million or 25% since 2005. During that time they also experienced staff layoffs, totaling at least 21 FTE attorneys (more than 12% of the total lawyers) and 31 non-attorney positions (37% of the non-lawyer staff).

Post-recession recovery was made possible by newly expanded funding from both public and private sources. Survey respondents reported a growth in local public funding from \$0.64 million in 2005 to \$4.45 million in 2014.<sup>154</sup> (The role of local public funding, its growth, and DCBF's stewardship in distributing the funds are discussed later in this Report.) Federal funds increased by 85% between 2005 and 2014, growing from \$3 million to \$5.54 million.

Based on the surveys, funding from law firms and corporations also increased dramatically between 2005 and 2014. This funding is crucial in sustaining many

## Public Funding Through the Years: The Access to Justice Initiative

One of the most significant developments in the District's civil justice system over the past 10 years has been the availability of consistent local public funding through the Access to Justice Initiative. When the Commission was created in 2005, the District was in a small minority of jurisdictions that did not provide public funds to address the civil legal needs of low-income residents. The Commission made its first priority the creation of a public funding stream for legal services, and in 2006 persuaded the D.C. Council to establish a landmark annual appropriation of public funds, the Access to Justice Initiative. The D.C. Council designated DCBF as administrator of the funds from the program's inception. Since FY 2007, the Access to Justice Initiative has infused over \$60 million into the legal services network.

The Access to Justice Initiative is comprised of three programs. The Access to Justice Grants Program is designed to increase access to civil legal services in communities and neighborhoods of highly concentrated poverty, expand representation in housing matters, focus resources on traditionally underserved populations, and maintain a community legal interpreter bank. The District of Columbia Poverty Lawyer Loan Repayment Assistance Program

(“LRAP”), helps lawyers stay working and living in the District through loan repayment assistance. Both of these programs have been in existence since FY 2007. In FY 2018, the D.C. Council funded a new program, the Civil Legal Counsel Projects Program, to build on this important work by targeting the provision of legal services in eviction-related proceedings. This is an area of practice that features some of the highest rates of unrepresented litigants with some of the most significant life consequences. The creation of this new program nearly doubled the public appropriation in that year, funding that has since continued.

None of this would be possible without the commitment of the Mayor, the District government, and the D.C. Council. Each year, the Commission advocates with these bodies to ensure that these programs receive consistent and, when appropriate, increased funding. This has not been without its challenges, as the District’s financial difficulties have at times imperiled these vital funds. In 2010, the Initiative was twice slotted for severe funding cuts that would have undermined the important progress it helped make in closing the justice gap. In response, the Commission mounted a community-wide campaign to preserve the funding. This initiative led the D.C. Council Committee on the Judiciary & Public Safety to take the unprecedented step of issuing a separate Committee Report on the importance of the Access to Justice Initiative, with the result that the full Council substantially restored funding.

In the years that have followed, the Mayor, District government, and the D.C. Council’s support of the Access to Justice Initiative has been critical to its success. Continued advocacy has led to almost annual funding increases. FY 2020 will see the largest level of funding to date, with over \$6.2 million in the core Access to Justice Grants Program, \$300,000 in LRAP; and \$4.5 million in the Civil Legal Counsel Projects Program. The D.C. Council’s strong and vocal support of the Access to Justice Initiative as an important community investment continues to be vital to the health of the legal services network.

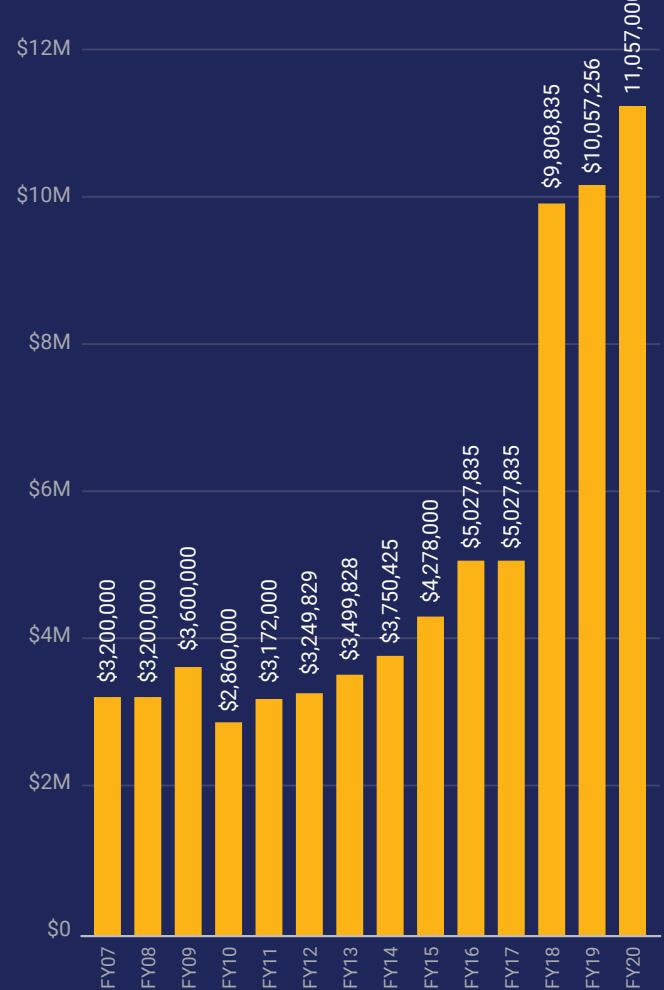
Public funding for legal services not only has supported life-changing legal assistance for countless low- and moderate-income residents, but also has been a sound financial investment for the District. Legal services attorneys keep families economically stable and limit their reliance on costly public benefits systems. When attorneys keep clients in their housing, they reduce the need for homeless services. When they move clients from local to Federally funded public benefits

programs, they reduce the burden of these programs on the local budget. For example, Children’s Law Center data showed that when housing conditions are fixed through legal interventions, a child has fewer emergency room visits and hospitalizations, providing both wellness and cost-saving – with an average Medicaid savings of over \$10,000 per child after 18 months of representation. On top of these calculable dollar amounts, the District experienced cost-savings as a result of protecting children’s health by avoiding loss of school instruction for the child, employment for the parent, and housing for the family.<sup>155</sup>

The Commission is extremely proud of the District’s partnership in access to justice and, more broadly, the important work that has been funded through the Access to Justice Initiative.

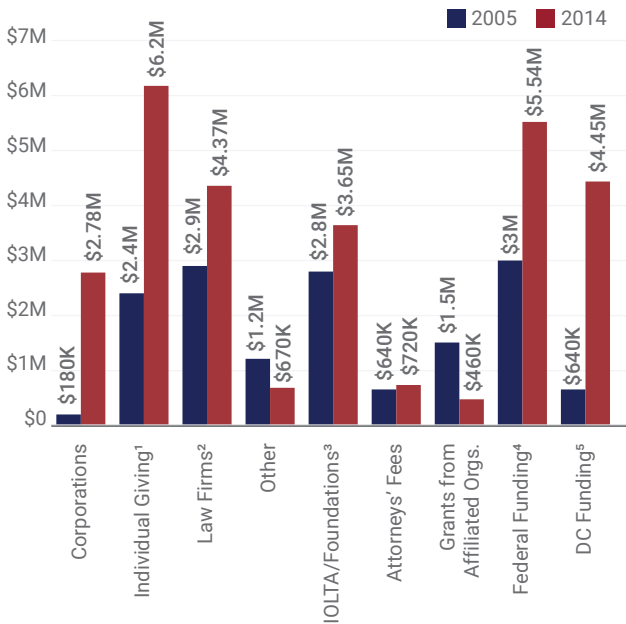
## D.C. Access to Justice Initiative Public Funding History

Total Funding FY07 through FY20





### Revenue Sources for Surveyed Legal Services Providers in 2005\* and 2014

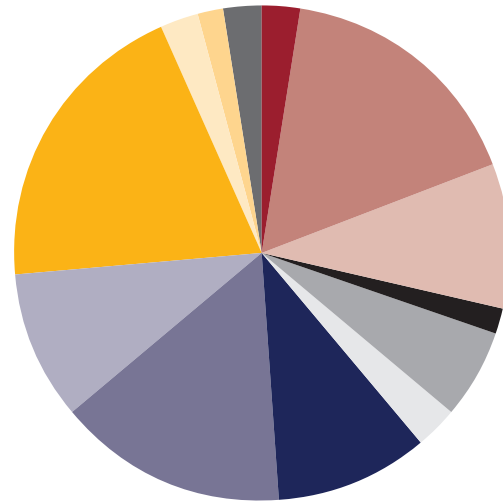


\*See Chart 3 of the 2005 Report.  
<sup>1</sup>Individual Giving: For 2014, this figure includes revenue from survey categories: (1) Individual Giving; (2) Income from Planned Giving; and (3) Investment or Endowment Income.  
<sup>2</sup>Law Firms: For 2005, this figure includes \$500,000 that the D.C. Bar Foundation received from law firms.  
<sup>3</sup>IOLTA/Foundations: For 2005, this figure includes revenue from the following categories: (1) IOLTA; and (2) Foundations. For 2014, this figure includes revenue from the following survey categories: (1) the D.C. Bar Foundation funding (including IOLTA) other than through the D.C. Access to Justice Initiative; and (2) Other Foundations.  
<sup>4</sup>Federal Funding: For 2005, this figure includes Federal funding. For 2014, this figure includes revenue from the following survey categories: (1) LSC Federal Funding; and (2) Non-LSC Federal Funding.  
<sup>5</sup>DC Funding: For 2005, this figure includes D.C. Government funding. For 2014, this figure includes revenue from the following survey categories: (1) the D.C. Access to Justice Initiative; and (2) D.C. government funding other than through the D.C. Access to Justice Initiative.

legal services providers in the District. In 2014, law firms were the third largest source of revenue for legal services providers in the District among survey respondents (15.15% of revenue, or \$4,370,000) after only individual giving (19.66%, or \$5,670,000) and non-LSC Federal funds (15.64%, or \$4,800,000). Growth in individual giving may also reflect the development and expansion of individual giving campaigns at law firms (e.g., The Legal Aid Society of the District of Columbia’s (“Legal Aid”) Generous Associates; Children’s Law Center’s (“CLC”) Champions for Children; DCBF’s Go Casual for Justice) that were successful in promoting individual lawyers at law firms to support legal services in their personal capacity.

With the exception of grants from affiliated organizations, there was an increase in funding from every other major funding source included on the survey between 2005

### Revenue Sources For Surveyed Legal Services Providers in 2014\*



- LSC Federal \$740,000 | (2.57%)
- Non-LSC Federal \$4,800,000 | (16.64%)
- DC Access to Justice Initiative \$2,770,000 | (9.60%)
- Grants from Affiliated Organizations \$460,000 | (1.60%)
- DC Funding\*\* \$1,680,000 | (5.83%)
- DC Bar Foundation\*\*\* \$820,000 | (2.84%)
- Other Foundations \$2,830,000 | (9.81%)
- Law Firms \$4,370,000 | (15.15%)
- Corporations \$2,780,000 | (9.64%)
- Individual Giving \$5,670,000 | (19.66%)
- Attorneys’ Fees \$720,000 | (2.50%)
- Income from Planned Giving \$10,000 | (0.03%)
- Investment or Endowment Income \$520,000 | (1.80%)
- Other \$670,000 | (2.32%)

Total Aggregate: **\$28,840,000**

\*If a provider’s fiscal year did not correspond to the calendar year, information was provided using the fiscal year with at least six months falling within 2014. Revenue figures do not include: (1) the portion of the budget used to serve non-District residents with non-D.C. cases for organizations that also provide legal services in Maryland and Virginia or (2) the portion of the budget allocated to cases where there is a right to counsel.  
 \*\*This figure represents local government funding other than through the D.C. Access to Justice Initiative  
 \*\*\*This figure represents D.C. Bar Foundation funding other than through the D.C. Access to Justice Initiative.

and 2014. As a result, the amount of money raised by survey respondents nearly doubled from 2005 to 2014. Legal services organizations surveyed reported \$15.2 million in aggregate revenue in 2005, compared to \$28.8 million in 2014.

# Developments in Civil Justice Practice

Over the last 10 years, the District’s legal services network has innovated, adapted, and expanded in many ways to respond to growing and shifting needs and to make optimal use of resources. The forces shaping these changes include new client populations and needs; an expanding focus on racial justice and systemic change; an evolving political climate; and emerging funding sources. These innovations reflect some of the network’s greatest strengths, such as the talent attorneys employ when taking on new challenges, and the willingness of providers to stretch themselves in order to solve problems. As described in detail below, the network has adapted in five critical ways:

- Providers have expanded existing practice areas and established new organizations and projects to address unmet, persistent, and newly emerging needs.
- Providers have adopted diverse and creative practice models to address the barriers that clients experience in seeking assistance. These changes to service provision models include increasing accessibility of legal services by making them more convenient to clients through such programs as neighborhood offices, court-based legal services, resource centers, medical-legal partnerships, and community clinics. Providers also have increased access through use of limited scope representation, brief services provision, innovative intake models, and technology.
- Providers have entered into collaborations with an expansive range of partners including the courts, CBOs, and medical institutions. Many also have prioritized engaging clients directly and strategically in a variety of initiatives to ensure that legal services are aligned with the priorities identified by those needing them.
- Providers have embraced the importance of systemic advocacy and have expanded resources dedicated to public policy advocacy, regulatory and legislative projects, systemic litigation, appellate work, and organizing efforts.
- Providers have made key operational changes in the areas of staffing and development that are crucial to the network’s sustainability and growth.

## I New Organizations and Practice Areas

The community of legal services providers in the District has experienced changes since the publication of the 2008 Report. As discussed in the *A Decade Later* section, existing organizations have grown staff and budgets in order to address the persistent unmet legal needs of District residents. *The Practice of Civil Legal Services in the District by Issue Area* section provides further detail about ways the network has used these resources to innovate and grow. While some organizations unfortunately have closed, many new providers have joined the field in response to unmet or emerging needs. Some of these new providers, all of whom helped inform the current Report, include:

- **The Amara Legal Center** provides free legal services to individuals in the D.C. area whose rights have been violated while involved in commercial sex, whether involvement was by coercion, necessity, choice, or otherwise.
- **Christian Legal Aid of the District of Columbia** provides free or reduced-cost legal services to low-income individuals, families and nonprofit organizations from a faith-based perspective.
- **The D.C. Affordable Law Firm** meets the legal needs of the District's working poor by providing legal services for modest fees that are consistent with a client's ability to pay.
- **The D.C. Volunteer Lawyers' Project** provides *pro bono* legal assistance to domestic violence victims and at-risk children.
- **First Shift Justice Project** empowers low-income pregnant women and parents to safeguard the economic security and health of their families by asserting their workplace rights.
- **Network for Victim Recovery of D.C.** provides free, holistic case management, advocacy, and legal support to victims of all types of crimes.
- **Tzedek D.C.** safeguards the legal rights of low-income D.C. residents dealing with often unjust, abusive, and illegal debt collection practices, as well as other consumer protection problems like credit reporting issues, identity theft, and predatory lending.

## Filling a Gap for those with Debt Issues

In 2015 and 2016, community leaders, service providers, and residents decided to address an area of acute unmet need, legal help for low-income families with often life-altering problems arising from debt. By all accounts, debt-related problems were widespread and severe; a high number of low-income residents received no legal help in such cases – though the help was highly effective for those who did obtain it – and predatory lending and debt collection lawsuits were disproportionately targeted at communities of color. The *Community Listening Project* reported that nearly half of survey participants reported problems with debt, and over 31% cited problems with debt collectors in particular. Of these same survey participants, however, only 11.3% ever sought legal help, and only about 5% actually received any. These clients faced a range of adverse consequences, including default judgments, impaired credit ratings, credit report problems that reduced future job prospects, and, for hundreds, suspension of their driver's licenses. In the worst of cases, unfavorable debt judgments set off a spiral of events culminating in unemployment, homelessness, and/or incarceration.

A group of volunteers, with support from the Jewish Federation of Greater Washington, determined to tackle this significant unmet need by forming a new organization targeting debt-related legal needs. Though a number of other providers had robust consumer practices, Tzedek D.C. was the first legal services group focused principally on representing and advocating for low-income District residents facing debt collection and other consumer protection problems. The organization opened its doors on February 1, 2017 as an independent public interest center headquartered at the University of the District of Columbia David A. Clarke School of Law. Tzedek D.C. works in collaboration with law students, community organizations, other legal services providers, and *pro bono* attorneys from the private bar to help low-income D.C. residents facing debt-related crises.



As reported in our listening sessions, providers generally have welcomed the introduction of new partners who are committed to serving the District’s low- and moderate-income residents. These new providers have brought different approaches to the delivery of legal services and developed expertise in areas of critical need. At the same time, providers noted that having a large number of legal services organizations in the District can present challenges. Each organization needs to develop its own infrastructure and manage the resulting operational costs. Providers must work to maintain good communication among a large group of organizations, especially as new programs and projects are created. And, as discussed at length below, helping District residents navigate an increasing number of organizations in order to identify a provider that might offer them representation can be daunting. The highly collaborative nature of the District’s network of providers has minimized these challenges, but as discussed in our conclusion, there is more work to be done to ensure that the District has the most efficient, navigable network possible for potential clients.

## Evolution of Practice Models

### Offering Services in the Community

Historically there has been a recognition that it is important to embed legal services providers in the communities where clients live. The CLP cited access to transportation as one of the greatest barriers to receiving legal services that District residents experience. Offering legal services close to clients helps them guard their limited time and resources, both financial and emotional. Being located in the community also creates opportunities for legal services providers to develop stronger community relationships.

For this reason, one of the initial priorities of the Access to Justice Initiative (“ATJ Initiative”) was geographic accessibility – a priority that remains to this day. That funding has multiplied the number of attorneys located east of the Anacostia River, for example. Providers have embraced this approach

## Expanded Representation for Moderate-Income District Residents

The 2008 Report identified a gap in services for moderate-income District residents whose incomes (generally between 200-400% of poverty) often exceeded legal services income guidelines but who could not afford legal market rates. Legal Counsel for the Elderly has had a reduced-fee panel since 1987 to address the need among modest means seniors. Panel members agree to provide legal services at reduced rates for clients referred to them by Legal Counsel for the Elderly staff. Yet there were many other categories of moderate-means District residents who did not have access to this type of service.

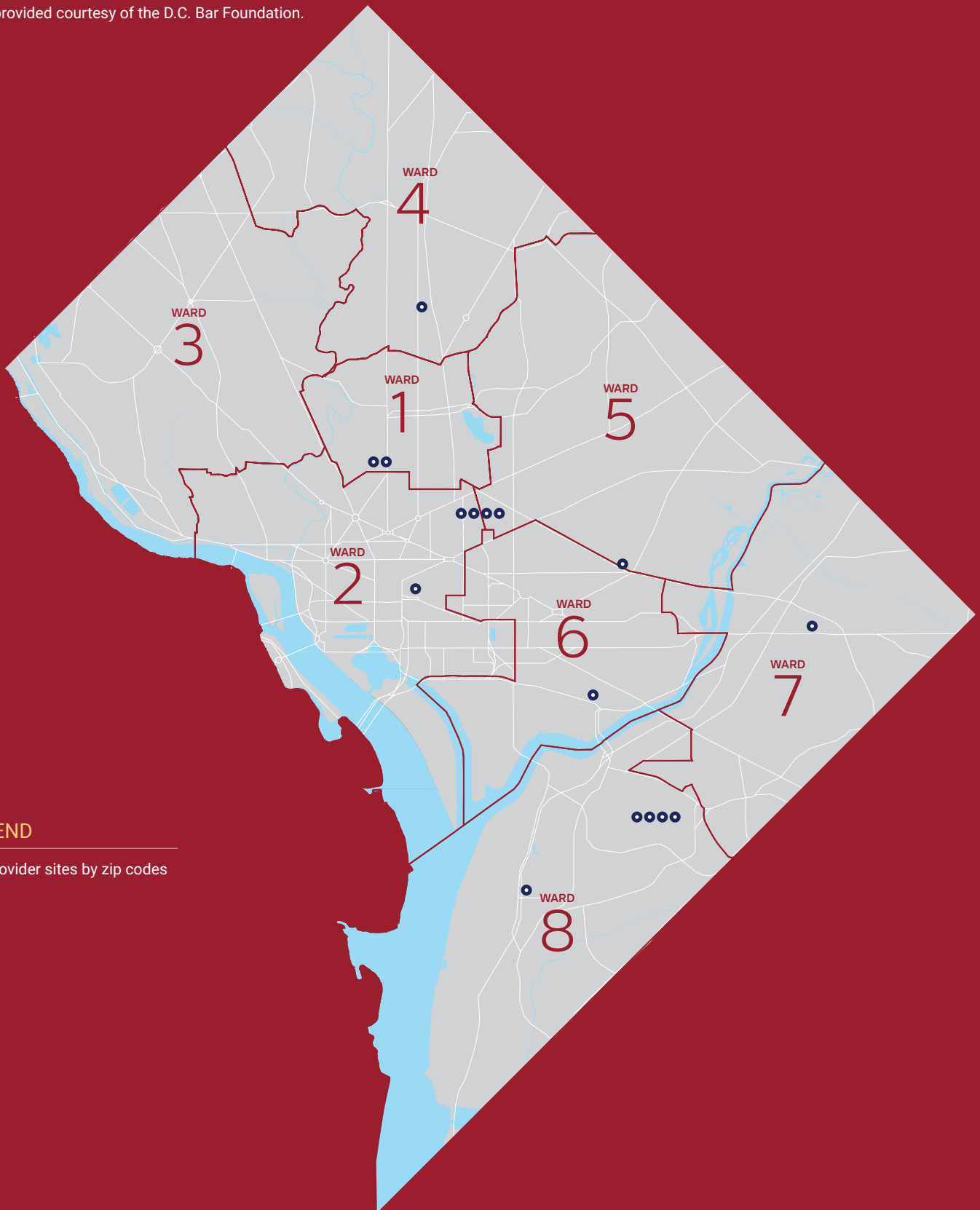
In 2015, Georgetown University Law Center, Arent Fox LLP, and DLA Piper LLP came together to create the D.C. Affordable Law Firm, a charitable nonprofit organization offering sharply reduced-fee services based on a client’s ability to pay. The firm hires recent Georgetown Law Center graduates who are selected on a competitive basis for 15-month fellowships. After 12 weeks of training, and with extensive mentoring and supervision, the fellows represent D.C. residents on family law matters, immigration, housing and estate planning. D.C. Affordable Law Firm incorporates brief consultation, limited scope services, and full representation into its menu of legal services. Since its founding, D.C. Affordable Law Firm has received nearly 1,300 requests for representation, largely from residents of Wards 5, 7, and 8 – the Wards with the highest poverty rates in the District.

Another related effort is the development of D.C. Refers, a reduced-fee referral service. The idea for D.C. Refers grew out of a signature initiative of then D.C. Bar President Andrea Ferster during her 2013-2014 term. Ferster, in collaboration with the Washington Council of Lawyers, hosted a series of conversations to explore strategies for closing this unique justice gap. D.C. Refers offers an interactive web-based and mobile-friendly online directory of prescreened lawyers willing to offer affordable legal services to people with moderate incomes at reduced rates. Since 2017, D.C. Refers has received requests for legal assistance from 663 individuals, provided brief advice or referrals to 279 individuals and provided legal representation to 80 individuals. The lawyers in its online directory handle cases in the areas of family, housing, consumer, probate, immigration, and criminal law. The organization plans to expand the directory of lawyers, conduct outreach to moderate-income client populations in need of affordable legal services, and launch a comparable online directory of affordable mediators.

Legal services providers noted the importance of having these resources available to assist those who are otherwise financially disqualified from receiving their services.

# Location of Civil Legal Services Providers Supported by the Access to Justice Initiative in 2008

Data provided courtesy of the D.C. Bar Foundation.

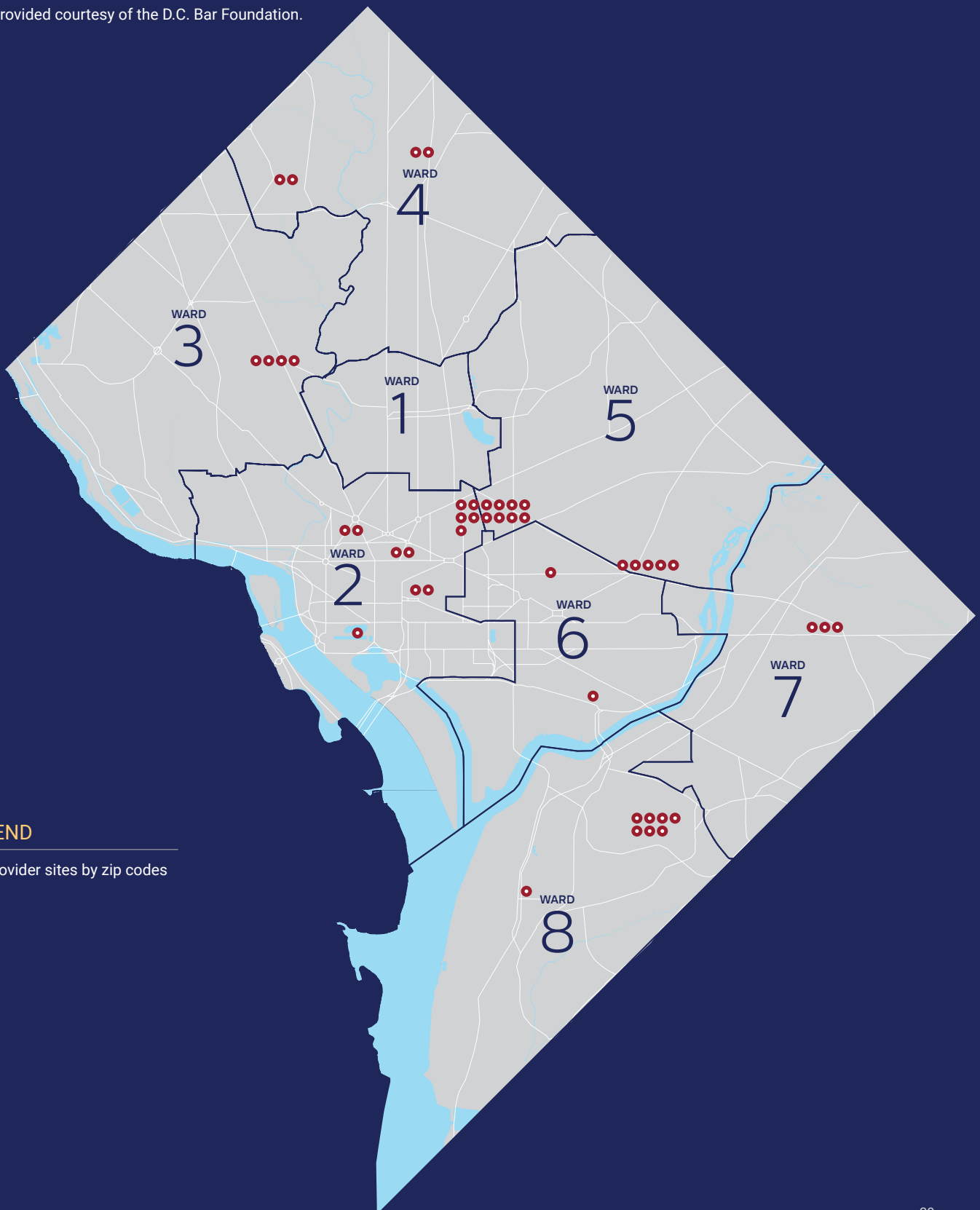


## LEGEND

- Provider sites by zip codes

# Location of Civil Legal Services Providers Supported by the Access to Justice Initiative in 2018

Data provided courtesy of the D.C. Bar Foundation.



## LEGEND

- Provider sites by zip codes



# Legal Assistance for Victims of Domestic Sex Trafficking

The Amara Legal Center was founded in September 2013 to address the unique barriers faced by survivors of sex trafficking and those harmed by the commercial sex industry, and to raise awareness about domestic sex trafficking in the D.C. metro area. Survivors often are identified through the criminal justice system, but present with numerous civil legal needs, such as the need for civil protection orders, family law assistance, and victim witness advocacy. They also face other barriers, such as isolation and lack of family or other support systems. The Amara Legal Center was created to ensure that survivors of sex trafficking and the commercial sex industry receive the holistic legal and other services required to address their complex needs. In 2017, Amara Legal Center provided free legal services to 192 clients for issues including victim witness advocacy, expungement, family law, public benefits, housing, health, civil rights, and torts. 90% of its clients were connected with needed social services.

by establishing stand-alone legal services offices in the community. The ATJ Initiative supports several neighborhood offices such as Legal Aid’s Southeast D.C. office as well as two offices operated by Neighborhood Legal Services Program (“NLSP”) in Northeast and Southeast D.C. Other providers have been funded to co-locate attorneys within community organizations that are already known and trusted by local residents, such as CLC’s medical-legal partnerships in Northeast and Southeast D.C. and Whitman-Walker Health’s (“WWH”) medical-legal partnership in Southeast D.C. These offices offer a range of services, often in the same space where clients receive other necessary services such as medical and mental health care, social work and case management support, or food and other assistance. Bread for the City’s (“Bread”) legal program is well-integrated into its comprehensive system of service delivery in both Northwest and Southeast D.C.

Providers also reported more robust efforts to conduct intake and provide brief services in the community, such as at libraries, senior centers, and CBOs, as well as to partner on outreach, education, and advocacy efforts. All of these approaches are described in more depth in the *Collaborations and Partnerships* section.

Providers noted that the focus has rightly been on expanding services in parts of the District where there is concentrated poverty and felt positive about their efforts in that regard. They shared a growing concern, however, that this will only become more challenging in the future. Gentrification has forced some populations outside of the District, making access and eligibility even more difficult. Attorneys who practice in the immigration field felt especially affected by this issue. Immigration providers noted that their District offices are less convenient for clients and distant from court and detention facilities in the surrounding areas of Maryland and Virginia. As a result, several immigration organizations have established field offices in those surrounding jurisdictions to be more accessible – but this can create funding and other challenges.

## Court-Based Legal Services

Similar to the increase of legal services providers in the community, there has been substantial growth in court-based services, ranging from same day representation models to stand-alone resource centers. The expansion in this area has been furthered by changes to court policy and practice that permit services short of full representation. While there is a broad range of services provided through these court-based projects, they share some common benefits, including:

- Having lawyers on site allows for same day legal services, potentially reducing returns to court that would require missing additional days of work and require further childcare and transportation arrangements.

- The ability for multiple providers to collaborate in real time in order to serve more clients and efficiently provide individualized services.
- The opportunity to help individuals who might not be eligible for full representation but who have urgent needs that can be met with limited representation.
- The power to avert bad outcomes, such as waiving rights or consenting to bad settlements, by providing immediate representation.
- The identification in certain circumstances of a provider who can fully represent a client in the future.
- The availability of attorneys to whom judges, mediators, and opposing counsel can immediately refer a client in need of counsel, which, from the court’s perspective, leads to more fair and efficient resolution of cases.
- The presence of attorneys in courtrooms and waiting areas when novel issues arise.
- The ability of providers – by seeing a wide cross-section of cases on a regular basis – to spot trends and respond.

The evolution of court-based practice in the District is an important part of the legal services story. While organizations such as D.C. Law Students in Court (“LSIC”) have long provided services at the courthouse, the public funding secured through the ATJ Initiative has provided an opportunity to grow court-based services exponentially. In 2007, Legal Aid and Bread launched the Court-Based Legal Services Project in the Landlord and Tenant Branch, where same day and extended representation is provided to low-income tenants facing eviction. Legal Counsel for the Elderly (“LCE”) has a similar court-based program focused on eviction defense for its special population. In 2011, Legal Aid and Bread established a comparable project, the Child Support Community Legal Services Project, providing same day legal services to custodial and non-custodial parents involved in matters in the Child Support and Paternity Branch. In 2012, Legal Aid and LCE developed the Consumer Court-Based Legal Services Project to assist low-income consumers facing debt collection cases in the Small Claims Branch. As will be discussed later in this Report, LSIC dramatically

expanded its courthouse presence in 2018 with funding from the ATJ Initiative, with later hours on weekdays, one weekday evening, and Saturday mornings in landlord and tenant matters.

The development of court-based projects has happened with the support of the D.C. Courts, which have provided space and other accommodations. At times, these developments have also followed important changes in the court function itself. For example, after the D.C. Superior Court created a satellite Domestic Violence Intake Center (“DVIC”) in Southeast D.C. to ease access to civil protection orders for survivors of domestic violence, providers followed. Legal Aid, the D.C. Volunteer Lawyers Project (“DCVLP”), and others meet with survivors of domestic violence at this off-site

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*The public funding secured through the Access to Justice Initiative has provided an opportunity to grow court-based services exponentially.*



court location to provide legal advice, help secure protection orders, and provide referrals for other services. Similarly, after the D.C. Superior Court implemented a special calendar and procedures for judicial foreclosure in 2014, Legal Aid created a court-based project so that attorneys could be available during the weekly calendar call of cases to offer advice and representation as needed. LSIC launched a Civil Protection Order Project in 2019 to provide legal assistance to respondents who appear in the Domestic Violence Division of D.C. Superior Court, a notable gap in legal services and one that had been challenging to fill through other means.

On-site projects have also emerged in fora other than the D.C. Courts. Advocates for Justice and Education (“AJE”), for example, operates a clinic at OAH that provides free on-site legal assistance such as information, advice and counsel, and/or brief services to assist families facing school discipline matters like suspension and expulsion. During the 2015–2016, 2016–2017, and 2017–2018 school years, AJE served a total of 122 parents and students at this clinic.

### Court-Based Resource Centers

Another celebrated strategy for increasing access to justice is the use of court-based resource centers. There is not a

single, unified self-help center at the D.C. Courts – but rather there are a variety of centers throughout the court system focused on particular areas of court practice. These centers offer same day assistance to unrepresented litigants, or customers, who are navigating the court system. Court or legal services staff manage the resource centers and typically rely on *pro bono* volunteers to do much of the individual customer work. Resource centers are strategically located at the courthouse in order to maximize usage and create easy access to assistance. This also fosters positive interactions between court personnel and those who staff the centers. Unlike legal services providers, most resource centers generally do not have income eligibility requirements and will serve any unrepresented party as capacity allows. Depending on the center, customers can receive help with pleadings, court forms, and referrals for the type of same day assistance described above or for an extended representation. Customers often visit the centers more than once during the life of a case if they are unable to obtain counsel.

The D.C. Courts operate a Family Court Self-Help Center and a Probate Self-Help Center. The PBC operates the Consumer Law Resource Center and the Landlord Tenant Resource

## Fraud and the American Dream

Ms. Rodriguez, a low-income, Spanish-speaking woman, had dreamed of settling down with her husband, young daughter, and elderly mother and owning a small home. After working for years, often 7 days a week, that dream became a reality when in 2007 she finally bought her own house. Like many homebuyers during this time, particularly low-income people of color, she was targeted by a subprime mortgage lender. Unbeknownst to her, the two mortgage loans she received had predatory features. She made her payments on time for a number of years, but then fell behind as her mortgage payments increased substantially. This came at the worst possible time, when her income was shrinking after she cut back on work to care for her newborn daughter.

Ms. Rodriguez’s dream quickly became a nightmare as she faced a foreclosure action in D.C. Superior Court. Fortunately, when she appeared in court for a scheduled hearing, she met a legal services attorney participating in a court-based project. With her attorney’s help, she not only avoided foreclosure, but also obtained a loan modification that enabled her to bring her mortgage current and make affordable monthly payments going forward.

*Ms. Rodriguez’s dream quickly became a nightmare as she faced a foreclosure action in D.C. Superior Court.*



Center. Additional resource centers in small claims, child support, and domestic violence are staffed by a variety of legal services or other community providers. There is also a resource center located at OAH, and providers emphasized the need to further expand that resource center to meet the needs of the high number of litigants proceeding without counsel in that forum. These resource centers – some of which are open full time, others only open limited days during the week – experienced high volumes of customers in 2018:<sup>156</sup>

- The Landlord Tenant Resource Center served 4,116 individuals, including 3,445 tenants and 661 landlords, and made referrals to several court-based same day representation projects. The Center is operated by PBC.
- The Consumer Law Resource Center assisted 406 individuals, both plaintiffs and defendants, with matters including debt collection, contractor disputes, automotive repair disputes, utility disputes, and issues involving violations of the Consumer Protection Procedures Act. It is operated by PBC.
- The Small Claims Resource Center assisted 533 people, both plaintiffs and defendants, with legal assistance and information. The Center is operated by NLSP.
- The Probate Resource Center served 659 people. The Center was formerly run by PBC but is now operated as the Probate Self-Help Center by D.C. Superior Court.
- The Family Court Self-Help Center served 8,601 people in areas like custody, visitation, divorce, and child support. The vast majority sought general information or needed assistance with forms.<sup>157</sup> The Center is operated by D.C. Superior Court.

These centers are a critical tool for increasing access to justice. As is a theme throughout this Report, these centers depend on collaboration among providers, between the D.C. Courts and providers, and with *pro bono* attorneys.

## Expansion of Brief Services Models

Brief services have emerged as an important strategy for increasing access to legal services and therefore justice for those who would otherwise be navigating the system alone. These practices comprise a substantial part of providers'

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*These services have allowed providers to support many more people who otherwise would have proceeded without representation...providers are able to assist exponentially more clients than could be served by full representation*

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work. Brief services, or less than full representation of a client in the absence of a retainer agreement, is practiced differently across organizations. It can be in the form of dedicated brief services units, recurring advice and referral clinics, or hotlines, to name a few. Some organizations and clinics offer these services on a walk-in basis, while others require appointments. No matter the mechanism by which they are provided, these services have allowed providers to support many more people who otherwise would have proceeded without representation. In 2014, nearly 30% of all clients served by the organizations that responded to the Commission's survey were served by brief services. An additional 27% were served by intake and referral and 16% by helpline calls, which, for some organizations, may be considered brief services. Through these efforts, providers are able to assist exponentially more clients than could be served by full representation.

As discussed above, court-based resource centers are one avenue to provide brief information to clients on-site. Several other organizations offer analogous services through clinics. Clinics offer clients same day assistance without an appointment, often in community-based locations that are easily accessible and at times outside the typical workday. Clinics are useful for providers as well, as they allow legal services organizations to help a large volume of individuals through brief services and advice, and to refer for representation others who may require more in-depth assistance. PBC operates monthly advice and referral clinics that serve thousands of District residents per year. Other providers use the stand-alone clinic format to provide legal assistance in countless legal areas, as discussed throughout

*The Practice of Civil Legal Services in the District by Issue Area* section. In just one example, the Washington Lawyers' Committee for Civil Rights and Urban Affairs ("WLCCR") operates a series of workers' rights clinics that assist over 100 people per month. Attorney and non-attorney volunteers screen clients on employment issues and then consult with expert attorneys who pass on one-time advice to attendees.

For some organizations, brief services begin with initial contact. For example, LCE is able to provide information and brief services to individuals who call its Legal Information Line. Intake staff may, for example, walk clients through filing a letter informing a creditor or debt collector that the client is collection-proof and cannot be sued to enforce payment. Other programs have a mechanism for identifying and later assisting clients who would benefit from brief services. For example, Bread offers Monday afternoon appointments to people identified during intake hours as needing brief services. Attorneys with relevant expertise set aside time on those afternoons outside of their regular

case handling responsibilities to serve clients through those appointments. Bread moved to this appointment-based structure as a trauma-informed approach to decreasing the stress walk-in customers experience when seeking same day services. In another example, AJE has educational support specialists who provide callers with information related to health and disability.

At least one provider has developed in-house brief services practices or formalized the provision of brief services beyond intake and referral. For example, NLSP has a Brief Services Unit where attorneys perform an initial diagnosis of legal problems and provide advice or brief services where appropriate.

These services provide needed assistance to people who are not otherwise being represented or advised by an attorney. For that reason, customers keep returning, sometimes many times over the life of a case, for the necessary help they receive.

## Coming to Court for Help

Ms. Graham arrived at the D.C. Bar Pro Bono Center's Landlord Tenant Resource Center with a live writ, facing eviction the next day. She explained her situation to a volunteer attorney at the resource center. The case had been based on a lease violation related to the tenant having a dog in the unit. The dog was an emotional support animal and the plaintiff had a note from a doctor stating that the dog was necessary for her son's medical condition. Although the tenant was aware the case had been filed, the tenant never appeared for any hearings in the case because she had been told by the property manager that she only needed to submit some paperwork and that the case would be dismissed. The case was not dismissed, however, and the tenant ultimately received a default judgment and had a live writ.

The tenant was referred directly to the D.C. Bar Pro Bono Center's on-call Attorney-of-the-Day for same day representation to stay the writ and file a motion to vacate the default judgment. After having the writ stayed, the Attorney-of-the-Day continued to represent the tenant at a later scheduled hearing on her motion to vacate the default judgment. At that hearing, the landlord tried to introduce evidence that there was no need for a reasonable accommodation and went so far as to subpoena the medical provider who had written the note. The attorney won the argument to have the default vacated. Immediately after the motion was granted, the plaintiff dismissed the case.



# The Role of Limited Scope Representation

The presence of lawyers in the courthouse also prompted important practice changes. Court-based providers recognized that limited representation could be another way to meet the immediate legal needs of some litigants, even if the provider did not have the resources to commit to representation throughout the entire case. But more importantly, authorizing limited scope representation allowed providers to help a litigant get through an immediate court proceeding without conducting a full investigation, conducting a full merit screen, and making a determination about extended representation – a decision that can take more time and is rarely done same day. Initially, the court issued a series of specific administrative orders that permitted limited representation under the auspices of a court-sanctioned project. Those early orders were narrow and did not make limited scope representation available throughout the court.

Because of the success of this approach, the Commission and D.C. Bar Pro Bono Center formed the Limited Scope Working Group to draft and advocate for rules changes that would permit the use of limited scope representation more broadly. That advocacy led to a 2014 administrative order that made it possible for attorneys to make limited appearances throughout most branches of the court. These changes allow *pro bono* and paid attorneys to enter a limited appearance in court proceedings including discovery, motions practice, or hearings. A limited appearance is not permitted in a jury trial.<sup>158</sup> In 2018, the D.C. Court of Appeals issued its own order permitting limited appearances for the purposes of participating in mediation.<sup>159</sup>

These changes have been invaluable to low-income litigants who would likely otherwise proceed in court without representation. Attorneys can help unrepresented parties with only a discrete aspect of a case, even when meeting the client for the first time at court. And they have increased access to justice for those who might have been turned away from legal services providers because of eligibility issues or due to a lack of capacity to provide full representation. Moderate-income litigants whose income is too high to be served in legal services organizations but too low to afford private attorneys also benefit from limited scope representation where they can pay on a sliding scale for the specific services they need.

The use of limited scope representation and unbundled legal services has much broader access to justice benefits as well. It can be used for other discrete tasks like providing a one-time consultation or advice, drafting or reviewing documents like a demand letter or a will, reviewing discovery, and more. In 2019, the D.C. Court of Appeals amended Rule 1.2 of the D.C. Rules of Professional Conduct to clarify that a lawyer may limit the scope of any representation if the limitation is reasonable under the circumstances and the client gives informed consent.<sup>160</sup> This rule change was another outgrowth of the Limited Scope Working Group.

The ability to provide limited scope representation not only helps legal services attorneys expand their reach but can also increase the availability of *pro bono* attorneys outside of the legal services network. The ability to commit to representing a client only for a specific proceeding in a case, or a series of clients during any given day, may make it possible for members of the private or government bar to help litigants when they would otherwise be unable to commit to an extended representation. With appropriate training and support, this approach has the capacity to substantially expand access to justice for litigants.

## Intake

All of the legal services organizations the Commission surveyed conduct intake and offer referrals. Providers reported that 27% of the total number of clients assisted in 2014 were served in this manner, amounting to 12,023 clients. Some organizations conduct intake over the phone, while others meet prospective clients in person. Several organizations stressed the importance of convenience for their clients and employed various strategies to improve accessibility, including locating intake at community centers and libraries (e.g., NLSP); creating a mobile intake unit (e.g., The Washington Legal Clinic for the Homeless (“WLCH”)); and initiating intake online (e.g., NLSP). LSIC has expanded its courthouse intake hours in landlord and tenant matters to include Wednesday evenings and Saturday mornings when tenants are sometimes at the courthouse to make protective order payments.

Despite these different methods of conducting intake, all organizations agree that intake is labor intensive. One provider noted, for example, that each initial phone call can take 20 minutes to an hour. The notes from each call are then vetted by attorneys who will decide whether the case can be accepted or referred. The significant dedication of time and resources required for intake is not uncommon among legal services providers. Being on the front



## Shared Intake and Referrals

The interest in having more efficient and effective intake and referrals has led some practice areas to share the responsibility of screening and placing cases. Among these efforts is the Victim Legal Network of D.C., an innovative shared model of intake and referrals that the victims' rights community created to more efficiently place cases. The network is comprised of a growing list of 14 organizations that help victims with various co-existing legal needs such as family law, immigration, criminal representation, civil law, and administrative proceedings.

The Victim Legal Network of D.C. was launched as a pilot in 2017 after a multi-year planning grant was issued by the U.S. Department of Justice's Office for Victims of Crime and the D.C. Mayor's Office of Victim Services and Justice Grants. The Network for Victim Recovery of D.C. coordinates these efforts and serves as the lead subject matter expert for crime victims' rights. This coordination spares victims from having to undergo multiple intakes, a process that potentially re-traumatizes them at a time of already heightened stress and creates yet another barrier to obtaining necessary help.

Clients have experienced significant benefits from participating in the Victim Legal Network of D.C.'s hub and spoke model which allows one, central navigator (the hub) to coordinate with all of the member organizations (the spokes). The navigator knows the focus and capacity of each member organization's work and therefore can place cases accordingly. This relieves the initial organization's burden of targeted referrals. One early success, for example, was the placement of a victim with a family law issue. Within 48 hours of a single 30-minute phone intake, four organizations turned down the victim's case, but a fifth accepted it. In a traditional setting, this victim, had she persevered, would have had to endure separate intakes with each organization, a process that could have taken weeks. Here, the navigator facilitated the placement, sparing the client that experience.

lines of intake also requires special training. Knowing the right questions to ask to elicit necessary information is key, but so are the "soft skills" needed to interact with clients in crisis. This is only heightened by the fact that in many cases, an intake will not result in an offer for representation, but rather a referral to another organization. Thus, intake staff must work to make interactions more palatable both for those giving difficult news and also for those receiving it. Providers reported that those who received customer service training found that interactions with callers during intake improved markedly, both for them and for the prospective clients.

All intake professionals agreed that the number of prospective clients that seek assistance from their organizations far exceeds the number they can assist whether due to income eligibility, capacity, or scope of practice. When they cannot help, providers make referrals to other legal services providers or community organizations. This can be frustrating for providers, who fear giving callers "the run around," unsure whether the caller is likely to find help elsewhere. Keeping track of up-to-date referral information – the types of cases that other providers are taking and the process for obtaining help – can be a full-time job. In order to counter the feeling of just turning clients away, some providers try to give brief services in addition to the referral. Providers shared that this approach can also be challenging due to the wide range of problems presented. The attorneys staffing intake or a hotline on any given day are not experts in every area of the law, and so are limited in the advice they are able to give – and this would be more difficult for non-lawyers involved with intake.

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A Catholic University law school clinic attempted to create a “warm line” in 2010 that combed intake for people with public benefits issues with the provision of advice and referrals. Too few clients called the warm line for it to be a success, perhaps because people do not identify their public benefits problems as legal issues. As the internet has emerged as a more fruitful method of educating and communicating with the public, the clinical professor who ran the warm line believes that it now could be a successful strategy.

As intake becomes more embedded in communities and therefore accessible to potential clients, it is likely that more people will seek civil legal services in the future. Unless providers have the resources to expand their services, intake professionals still will be forced to turn down and refer out potential clients. As discussed in *The Future of Access to Justice* section, an effort to coordinate referral and intake will be essential to make the process more efficient for clients seeking help and free up staff resources for other important services.

## Use of Technology

The use of technology to expand access to justice is another area of change and growth, reflecting a much more “wired” culture than at the time of the 2008 Report. In the past 10 years, legal services providers have pursued a number of important initiatives related to technology. PBC has taken the lead on many of these initiatives. It maintains the LawHelp.org and ProBono.net online platforms, which serve the client and *pro bono* attorney communities respectively. It was PBC that first developed a series of interactive interviews through the use of A2J Author technology that could be used to generate forms in family law matters. The D.C. Courts have now launched a much broader effort in this area as part of its technology strategy, as discussed in the *D.C. Courts* section. Some commonly used court forms are now available online, some in fillable PDF format.

Brief services and intake staff discussed using technology to assist them in providing these services, such as collaborating on sample letters or other documents. While a growing area of practice, providers noted that the inconsistent access experienced by low-income District residents can thwart their efforts to use technology. One provider who managed an intake line mentioned that the organization has ideas for developing technology that would help them provide brief



services more effectively, but that they lacked the time, money, and expertise to make that happen.

Providers also discussed how developments in personal technology have impacted their practice. While phone had primarily been the most common form of communication with clients, now texting is preferred by many. Clients who may not have the capacity to make phone calls (they may have expended their allotment of minutes, for example) may still have the capacity to text. While this does offer some conveniences, it has some challenges as well. Providers reported that texting leads to the type of shorthand that can undermine clarity in client communication. Some providers said that their clients often have greater access to e-mail than phone, while others stated that they need to prompt clients to check their e-mail if it is to be used as a primary mode of communication. Some clients have even used social media messaging platforms to communicate – leading providers to develop policies about appropriate types of client communication tools. This can also impact litigation, where new types of evidence like text messages, mobile phone photos and the like are utilized. Family law providers, in particular, noted that the use of texting can actually escalate problems between parties involved in litigation.

Nevertheless, providers universally cited growing developments in technology as untapped tools that might enable them to perform their jobs more efficiently and reach more clients. They expressed interest in benefitting from a growing movement in the use of technology to broaden access to justice.

# Data-Driven Practice

Children’s Law Center is one of the organizations that has invested significantly in data collection, analytics, and systems learning to create better and more efficient outcomes for clients. Children’s Law Center is using data to think critically about fundamental aspects of the practice including how to serve clients, conduct intake, litigate cases, engage *pro bono* attorneys, and measure the value of services provided. Through its data collection and evaluation, Children’s Law Center attempts to determine whether it knows definitively that it is helping clients, and how to provide evidence of that impact.

Over the past 10 years, Children’s Law Center has invested heavily to increase its capacity to collect and use data. This investment has not only come in the form of system improvement and hiring staff who are skilled in data analysis, but has also included training staff, supervisors and managers on how to value, read, and interpret data. Children’s Law Center uses data to highlight successes and to illustrate challenges that previously had been overlooked. It conducts large-scale program evaluations of its work, collects longitudinal data from clients to track outcomes, and leverages data from other resources, including education records, health records, and claims data from managed care organizations, to measure the impact a legal case can have on a child and family. This informs practice change and creates new opportunities in fundraising and development.

## Use of Data and Evaluation

Another significant change over the past 10 years is the increased collection and use of data for the evaluation and development of legal services programs. Across the board, managers and staff recognized the importance of data for purposes ranging from grant applications and reports to decisions about program development and resource allocation. Some organizations reported successfully integrating data collection and analysis into their work, while others shared struggling with the expense and burden of the task and with getting staff comfortable with more stringent reporting systems and the scrutiny that accompanies greater data availability.

Regardless of where organizations were in developing their data capacity, all agreed that the legal services landscape is increasingly data driven. Donors and funders are more data savvy than ever and want to know the impact of their investments. It is no longer good enough to work hard for clients. To achieve better outcomes for clients and increase support and investment in legal services, providers need data to think strategically, illustrate the importance of legal services, and demonstrate impact. Data allow legal services providers to document what works, when and under what conditions it works, and to share results with organizations collaborating to solve problems. Data collection also is an invaluable tool in securing scarce resources. Pairing data with client stories can create compelling narratives for donors and funders and allow reporting on the efficient use of resources and positive outcomes. Resources available to legal services providers on a national level to develop internal practices have also become more sophisticated, such as the LSC’s outcomes toolkit,<sup>161</sup> Harvard’s Access to Justice Lab,<sup>162</sup> the Legal Services National Technology Assistance Project,<sup>163</sup> and Georgetown Law Center’s Justice Lab.<sup>164</sup>

Over the past 10 years, the capacity of legal services providers to collect and use data has increased. Most organizations use case management systems to maintain case and client data, and providers have become accustomed to regularly preparing data reports for funders. Providers voiced a desire to develop better and more consistent mechanisms to collect data. Having a common case management system or more consistent metrics would aid providers in their ability to report out data to multiple funders and programs most effectively. Providers predicted that their ability to report outcome (versus output) data will continue to improve. And data will be used more to manage organizational workload, identify areas for improvement, and create evidence-based systems to deliver effective legal services. Even with all the positives, providers noted the significant staff burden associated with data collection and analysis depending on the size of the organization and whether it has staff dedicated to this function. Nevertheless, they recognized that such investment is important and if done well, will make them more effective at increasing access to justice.



## Serving District Residents with Language Access

There was significant concern at the time of the 2008 Report that the District’s approach to language access had to improve in order to better serve its LEP community in addition to individuals who are Deaf and hard-of-hearing. Many of the interpretation services being provided at the time were by bilingual staff and volunteers who lacked special training in legal interpretation – and whose time could have been utilized in other ways. The need in this area has not waned. There is a growing LEP population in the District of almost 41,000, and historically, it has been found that a disproportionate number of the LEP population live in poverty.<sup>165</sup> The good news is that since the 2008 Report, significant progress has been made due to legal services providers’ ability to integrate the Community Legal Interpreter Bank (“Bank”) into service provision and to build in-house resources.

The 2008 Report came soon after the creation of the Bank, which is sustained by ATJ Initiative funds and helps providers serve clients who communicate in languages other than English, including those from the Deaf community. To the Bank’s knowledge, it is the only one of its kind in the nation. Run by Ayuda, the Bank has become a well-utilized and invaluable resource as well as a national model. Since its founding, the Bank has trained more than 179 professional interpreters through its “Language of Justice” course focused on how to work with lawyers and their clients in an out-of-court setting. The Bank continues to expand its services to meet client needs, and now has 16 American Sign Language (“ASL”) interpreters and 10 Certified Deaf Interpreters. During the 2018 calendar year, the Bank provided the legal services community with trained, in-person interpreters on 320 occasions (25 of which involved ASL and 36 of which involved teams of two or more spoken language interpreters); telephonic interpretation on 2,513 occasions; and the translation of 275 documents. There also have been significant changes in the last decade or so with regard to language access in the D.C. Courts, as discussed in the *D.C. Courts* section.

Providers’ capacity to serve LEP clients has also grown. Nineteen of the 23 providers that completed the Commission’s survey had capacity in 2014 to serve LEP residents with in-house resources. Approximately 18 providers reported that they infrequently or never turned away residents based on language barriers. Providers

identified a variety of resources to facilitate working with LEP residents. More than 20 providers reported that they utilized the Bank and bilingual support staff, interns, and volunteers in 2014. A smaller number of providers also mentioned using paid interpreters, “I speak” cards, The Asian Pacific American Legal Resource Center (“APALRC”) Legal Interpreter Project, and the court-based interpreter services offered by D.C. Superior Court.

Although great strides have been made in language access, demand for services continues to grow while some types of specially trained interpreters, such as in ASL, are in short supply. Heightened concerns among the immigrant community have also stretched the Bank’s resources. Providing accurate and timely information in various languages is vital to helping immigrants make informed decisions about immigration remedies, and also about actions that carry risks in the current climate, such as whether to report domestic violence or apply for public benefits on behalf of their children. (See the *D.C.’s Immigrant Population* and *The Practice of Civil Legal Services in the District by Issue Area* sections.) At the same time, new developments in this area such as the role of technology (e.g., machine translation and interpretation; remote interpretation) and other best practices will continue to be explored. Like so many other areas discussed in this Report, ensuring language access in the future will require adequate funding and training, the utilization of changing technology, and the tracking of demographic trends.

## D.C.’s Immigrant Population

According to a December 2018 report from the Urban Institute, the District’s immigrant population has grown from 33,600 in 1970, to 95,400, now comprising 15% of the District’s population.<sup>166</sup> The largest percentage of immigrants in the District are from Central America (21%), followed by Asia and Europe (each 18%), Africa (16%), South America (10%), the Caribbean (8%), Mexico (3%), Canada and North America (2%) and other non-U.S. (1%).<sup>167</sup> The top languages spoken by these immigrants are Spanish, English, Amharic, French, and Chinese, though the majority of Latino (52%), Asian (73%), African (65%), and Caribbean (98%) immigrants report speaking only English or speaking English very well.<sup>168</sup>

## | Collaborations

The past 10 years have seen a marked growth in the size and type of partnerships among legal services providers and between those providers and community organizations. These partnerships span a broad range of paradigms. Some are formal relationships and others are informal. Some collaborations are wholly within the legal services network and others include a broad range of organizations outside the legal services community. Collaborations are developed for a wide range of purposes, from service provision, to strategic planning, to systemic advocacy. Though working in coalition can be difficult and often presents logistical challenges, legal services providers find that it greatly benefits them and the people they serve. There has been an increasing recognition that organizations bring different strengths to the larger community and that clients are best served when organizations work together.

### Collaborations Among Legal Services Providers

Across the board, legal services providers reported the importance of collaborating with each other. For many, this takes the form of participating in the Consortium. To advance its mission of improving legal services and advocacy for low-income individuals in D.C., the Consortium convenes on a monthly basis, hosts a variety of smaller working groups on areas of mutual interest, and engages in collective advocacy on legal and policy issues.

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The legal services community also hosts a range of case handler and affinity groups designed to bring together and enhance communication among attorneys or other professionals doing similar work, or holding analogous positions, across different organizations. These groups focus on substantive legal areas (e.g., housing) or professional roles (e.g., policy advocates, development staff). As discussed later

## A Fresh Start

Mr. Willis sought help from a legal services organization through a clinic it offered at a local public library. Mr. Willis had struggled for years with drug addiction and had recently completed a drug treatment program. He was anxious for a fresh start and to secure employment, but his past was standing in the way. Mr. Willis sought legal help sealing his D.C. criminal record, something that he deemed essential to his recovery and rehabilitation. He worked with a *pro bono* attorney to complete the record sealing motion during the clinic, and the motion eventually was granted. The legal services organization also provided Mr. Willis with referrals to organizations that helped him seal records in two other jurisdictions. Mr. Willis is now working as a building maintenance technician and was able to move into a one-bedroom apartment that is fully subsidized by his employer.



in this Report, *pro bono* professionals gather in a variety of different ways to share information, discuss common areas of interest, and problem solve to address thorny issues that may crop up in practice. Providers lauded these efforts to not only create a stronger, more cohesive community, but also to share information among each other to be most effective and efficient in delivering services. For example, one group is dedicated to those with roles in intake and referral at their organizations, fostering a critical communication flow that helps providers know what organizations are providing particular types of legal services and how best to connect potential clients with the right organization.

Another active group is the East of the River Casehandlers, a group of legal services providers that was organized to share program information and discuss strategies for dealing with issues of common concern to low-income clients in Wards 7 and 8. The group also conducts legal information programs for community members and legal services attorneys. Meetings often focus on strategies to strengthen client communities, and to involve service providers and advocates, including community members. The Washington Council of Lawyers hosts a blog that highlights the work of this group and, more generally, legal services provision East of the Anacostia River.<sup>169</sup>

In addition to these broad collaborations focused on engagement and systemic change, many organizations partner with other legal providers to achieve more narrowly drawn goals. Open City Advocates (“OCA”) and School Justice Project (“SJP”), for example, share the same client base and created a memorandum of understanding to identify clients who would benefit from working with both organizations. Those clients are identified through a jointly established intake system and, through the partnership of these two organizations, receive better and more streamlined services. Other collaborations include initiatives discussed in depth elsewhere in this Report, such as the D.C. Right to Housing Initiative, the Housing Right to Counsel Project, the DMV Immigration Alliance, and others.

### **Collaborations with Community-Based Organizations and Other Institutions**

Similarly, legal services providers have formed an increasing number of partnerships with non-legal organizations such as community organizations, hospitals, universities, schools and libraries. These partnerships may involve a small number of organizations or may bring together many in a

## Going to Clients Where They Are: Library Clinics

Neighborhood Legal Services Program has developed an innovative collaboration with D.C. Public Libraries, where its staff provide legal clinics, know-your-rights presentations, and individual legal consultations at various libraries. In doing so, Neighborhood Legal Services Program hopes to reach library patrons who might be reluctant or unable to come to their offices. Neighborhood Legal Services Program partners with libraries because they often are an important resource for those without access to computers, internet, or printers, tools that often are necessary to complete applications for jobs or benefits. According to the American Library Association, nearly two-thirds of libraries provide the only free computer and internet access in their communities. With 25 branches around the City, including 7 locations east of the Anacostia River, the D.C. Public Library is already in communities where help is needed. Neighborhood Legal Services Program is trying to connect low-income library patrons with legal and social-service organizations throughout the City and to involve more *pro bono* attorneys in its library program.

particular field. Though these collaborations take different forms and achieve various purposes including intake, public education, and legal counsel, they all share the goals of better identifying and meetings clients’ needs and providing services conveniently, efficiently, and effectively.

As discussed earlier in this Report, some of these partnerships involve an element of co-location, where legal services staff are present on-site on a regular basis. Several entities, including Bread, CLC, WWH, and Georgetown Law Center (“Georgetown”) have robust medical-legal partnerships. These partnerships combine health and legal services at a single site, so that a multidisciplinary team can work together to identify and address problems that negatively impact a client’s health and well-being. These alliances require significant work and mutual commitment from both the legal and medical partner. To be successful, the medical institution must provide expertise and issue spotting, not just a physical space. Medical-legal partnerships can take different forms. Break the Cycle initiated a medical-legal partnership with the school-based health centers at Roosevelt and Anacostia High Schools, for



# D.C. Right to Housing Initiative and Housing Right to Counsel Project: Collaboration Across the Legal Community

In 2013, the D.C. Access to Justice Commission and the D.C. Bar Pro Bono Center brought together legal services providers and other community stakeholders to develop the D.C. Right to Housing Initiative, an effort to address the housing needs of low-income District residents. This initiative aims to advance a vision where all District residents have access to decent, safe, stable, appropriate, and affordable housing.

One element of the initiative is a strategic effort to preserve affordable housing, eliminate barriers to housing, and increase the amount of affordable housing. Representatives from a broad array of legal and non-legal organizations, led by staff at NLSP, come together regularly to learn about each other's housing-related advocacy efforts and to discuss issues of common interest. The group has convened, for example, around combatting source of income discrimination, an unlawful practice where landlords turn away potential tenants because they have vouchers or other government-sponsored subsidies. The group developed a multi-pronged approach to address this issue, which includes community education and training on housing discrimination, data collection to better understand the scope of the issue, and litigation in individual cases. The group has also pursued strategies to preserve affordable housing by targeting building-wide concerns at locations such as Brookland Manor and Barry Farm, where groups of tenants (as opposed to one individual unit) receive litigation or other support to address common, pervasive issues such as housing code violations. Finally, the group is pursuing policy and advocacy strategies aimed at preserving and increasing government-subsidized housing.









The Housing Right to Counsel Project is yet another related collaborative effort, with a focus on eviction defense. Bread, PBC, Legal Aid, and LCE together designed the Project and provide representation in many of the Project's cases. Notably, the District government's creation of the Civil Legal Counsel Projects Program in FY 2018 was inspired in part by the Project's success and has allowed eviction defense practice among legal services providers to grow significantly.

One of the most important components of the Project is a strong *pro bono* partnership which complements the representation provided by legal services providers. A growing list of 20 District law firms and the Federal Government Pro Bono Program have committed to participate in the Project. Firms are asked to modify traditional expectations of *pro bono* relationships to be nimble enough to conduct quick conflict checks, take cases from the first court date, and appear in court before having any client contact. Though the firms participating in the Project have built in-house expertise over time, the legal services partners supplement that with training on relevant issues, such as subsidized housing. They also lead tours of D.C. Superior Court's Landlord and Tenant Branch and provide special training sessions for legal assistants covering such issues as court filings, subpoenas, investigations, and gathering agency records. All new and updated training materials are available to Project partners through a listserve and online at [probono.net/DC](http://probono.net/DC).

Between its launch in May 2015 and June 2018, the Project served over 700 tenants facing eviction, including placing over 300 cases with *pro bono* attorneys.<sup>224</sup> The Project is focused on serving tenants who are at risk of eviction from subsidized housing, a group that comprises about 20-25% of all eviction cases. The providers focused on this group both because of the high level of risk to these particular tenants, who could lose both their housing and their housing subsidy, and also because Federal and local protections in these cases allows attorneys to mount strong legal defenses. Providers decided to forego screening for merit and to conduct pre-court outreach to clients so that they could promote better outcomes by intervening earlier. Providers review dockets for complaints and randomly select approximately one out of every five eviction cases involving subsidized housing to receive an outreach letter, which is typically mailed at least 2-3 weeks before the first court date, advising the tenant of the Project and offering guaranteed, free representation if the tenant contacts the Project. There is also a hotline number for tenants to call to conduct a telephone intake. Some cases are referred out for *pro bono* representation at this stage, depending on the apparent needs of the client, the type of

case/issues, and capacity. Cases with tenants over age 60 are placed with LCE. Those cases not placed *pro bono* or referred to LCE are handled by legal services providers who are on site at court the day of the hearing.

One of the signatures of the Project is its robust data collection effort, which has measured its reach and impact since its inception in July 2015. The data, currently updated through December 31, 2017 and summarized below, focus on tenants who received the outreach letters.

	<b>2,488</b>	Number of tenants who received outreach letters.
	<b>622</b>	Number of tenants with outreach letters who contacted the Project (25%).
	<b>539</b>	Of the 622, number of tenants who made contact through the hotline (87%).
	<b>60</b>	Of the 622, number of tenants who made contact at the courthouse office.
	<b>18</b>	Of the 622, number who made contact in person outside of court.
	<b>314</b>	Of the 622, number of tenants who followed through to receive representation after contacting the Project (50%).
	<b>93</b>	Of the 314, number of tenants whose cases were resolved after limited representation during the first few court dates (29%).
	<b>211</b>	Of the 314, number of tenants who received extended representation from a Project partner (either legal services or <i>pro bono</i> ).

The data show two clear drop-off points – the difference between those who receive outreach letters and who respond, and the difference between those who make contact with the Project and those who receive representation. According to Project staff, tenants may not respond to the initial outreach letter because they think that the case against them will be dismissed, as over half of all cases filed in D.C. Superior Court are. The process by which attorneys are assigned may explain why only 50% of tenants who contacted the Project followed through to receive representation. Project staff report that attorneys are not assigned before the first court date due to the short timelines involved. Instead, tenants are provided with general instructions on where to receive same day representation through the Project's courthouse office.

In addition to providing information about outreach, the data also demonstrate that tenants with counsel fare better than those without. As documented by the data in the table below, tenants with counsel:

- Are more likely to contest the case and/or raise legitimate defenses such as housing code violations.
- Are less likely to have a writ of eviction lodged against them.
- Have cases that are open longer, allowing time to remedy past due payments or negotiate an arrangement with the landlord to avoid eviction.
- Are more likely to abide by the terms of a settlement agreement, perhaps because the attorney helps develop terms that are possible to meet.
- Are less likely to enter into consent judgments which automatically result in the entry of judgment and typically do not include repairs or other benefits for the tenant.

	Represented Tenants Who Received Letter	Unrepresented Tenants Who Did Not Receive Letter
<b>Contesting the Case</b> <sup>170</sup>	65% of tenants contest	6% of tenants contest
<b>Days to Disposition</b> <i>Initial hearing to final disposition</i> <sup>171</sup>	108 days (15+ weeks)	15 days (2 weeks)
<b>Cases Resulting in Settlement/Dismissal</b> <i>(Generally considered favorable outcomes)</i>	73% settlement agreements; 19% dismissals (92% total)	20% settlement agreements; 16% dismissals (36%)
<b>Breach of Agreement Alleged/Found</b>	9% of tenants are found to be in breach by the court	31% of tenants are found to be in breach by the court
<b>Writ Issued/Executed</b> <i>(landlord authorized to perform an eviction)</i>	8% resulted in a writ being issued 4% resulted in the writ being executed	31% resulted in a writ being issued 9% resulted in the writ being executed

example. These on-site legal clinics allow Break the Cycle attorneys to provide services in a familiar and convenient location to students experiencing dating abuse, sexual assault, or stalking. The youth who visit these clinics receive trauma informed protective legal assistance.

Other partnerships are designed to address barriers that might otherwise prevent District residents from accessing legal service and make it easier for them to connect. For example, LCE has partnerships with various senior centers, subsidized senior housing buildings, and churches as part of its Active Intake Project. LCE and *pro bono* attorneys hold periodic legal intake clinics where they complete legal health assessments that help individuals identify areas where they might benefit from legal assistance, such as public benefits, debt, housing, health care, and probate matters. LCE complements this work with a mapping project in which it compares these outreach patterns with their clients' addresses to see if they are sufficiently strategic in reaching people who need their services. LCE connects with community organizations in geographic areas where this mapping reveals they need additional outreach. Discussed elsewhere in this Report is a creative collaboration with Carlos Rosario International Public Charter School, through which legal services providers reach clients with legal issues such as immigration and family law. NLSP, for example, conducts intake and provides services in D.C. Public Libraries in Northeast and Southeast D.C. The Network of Victim Recovery of D.C. ("NVRDC") provides trainings at American, George Washington, and Georgetown Universities.

Other providers collaborate with community organizations to serve clients in addition to identifying them. Tzedek D.C.

("Tzedek"), for example, collaborates with Little Lights Urban Ministry. Together they host programs in public housing where they can offer residents both legal and core human services. In one location, the residents pick up diapers and canned goods while also receiving financial stability information and credit-related review and advice. Similarly, DCVLP works with My Sister's Place to provide legal, counseling, and housing resources to domestic violence survivors in one place.

These partnerships between legal organizations and CBOs can also take on a broader agenda. In 2016, for example, legal and other providers serving the immigrant community in the District, Maryland, and Virginia joined together to form the DMV Immigration Alliance. Established in response to concerns about changes in Federal immigration policy, over a dozen local service providers, religious organizations, law schools, law firms, and interpreters, came together to help protect immigrants facing deportation. The DMV Immigration Alliance offers legal clinics, advocates for policy change, and shares best practices across the coalition.

Providers praised the power and effectiveness of their collaborations with community organizations, but also stressed that they can be difficult to maintain. The DMV Immigration Alliance, for example, relies on one provider to act as convener. According to one member, the effort would be much less successful without that organization's efforts to maintain it, a role that requires work and dedication. Other organizations report that, even when embedded in the community, residents may not take advantage of services. The Latin American Youth Center, for example, had a difficult time getting immigrant youth to access legal



services even when offered either next door with a trusted partner or at the center itself. The team had to think about the shifting needs of the client community and adjust in order to best meet its needs. Finally, providers noted that an increased community presence requires increased resources to better meet the needs of residents. There has to be a connection between the outreach and a full range of legal services, from information to extended representation.

## Other Collaborations

Providers identified a number of other important collaborations that have significantly affected District residents. Many of those are discussed at length in other parts of this Report. For example, many organizations have successful collaborations with the D.C. Courts that result in a large number of low-income clients receiving legal services. As described above, court-based projects, same day representation programs, and PBC-run centers rely on the D.C. Courts for space. In recent years, the D.C. Courts have made efforts to expand and update that space – even under tight budgetary constraints.

Legal services providers also report opportunities to engage with the D.C. Courts on training, substantive, and procedural issues. Providers have been invited to help train judicial officers and court staff; contribute to judicial bench-books; and participate in bench-bar meetings. Providers are also involved in a broad array of court-sponsored committees (many branch-specific) that review court rules, policies, and procedures – large and small. These collaborations have improved the experiences of legal providers and low-income litigants in the D.C. Courts.

As is further discussed in the section on *pro bono* attorneys, there are robust and important partnerships between legal services providers and private and government *pro bono* attorneys. These attorneys provide essential help in assisting low-income clients through full, limited, or brief representation. They volunteer in a variety of settings, including resource centers and community-based clinics. Providers and clients alike depend on the work of these *pro bono* attorneys to help close the justice gap in D.C.

## Community Engagement

Over the last 10 years, more organizations have moved toward community-engagement models of service provision. The purpose of developing these connections with the client community is to ensure that providers' services are aligned

with articulated community needs. This orientation helps organizations to identify priorities and refine resource allocations. Community members also play key roles in advocacy campaigns.

This Report refers to community engagement generally as it relates to any formal or informal arrangement whereby providers work with clients toward a shared goal. For some legal services providers, however, “community engagement” is a term of art. The “Community Engagement Continuum” is used among certain legal services providers to describe different levels of client participation and how those levels achieve specific goals. The lowest level of engagement, “inform,” for example, involves providing information to clients so that they may understand their problems and potential solutions. “Share power,” the highest level of engagement, places clients in the role of

## The D.C. Consortium of Legal Services Providers

The D.C. Consortium of Legal Services Providers is a coalition of 34 member organizations, all of which provide direct legal services to low- and moderate-income District residents.<sup>225</sup>

The Consortium's mission is to coordinate the delivery, expand the availability, and improve the quality of legal services and advocacy for poor and disadvantaged people and groups in D.C. Over its history, Consortium members have joined together to improve the legal services network and to conduct coordinated advocacy on legislative and other policy issues of importance to the client and greater District communities, particularly in the areas of public benefits and housing.

In addition to the case handler and affinity groups hosted by the Consortium and the ongoing work on the Community Listening Project (as discussed earlier in this Report), the Consortium regularly undertakes a range of activities to advance the work of the legal services network. This includes providing intensive training for new attorneys, interviewing and endorsing candidates for D.C. Bar office, and other activities. The Consortium is an irreplaceable forum for the District's large number of legal services providers to come together to keep up to date about each other's activities, collaborate on shared areas of interest, and pursue shared strategies around service delivery.

final decision makers, and promises that providers will implement what community members decide. The levels in between, “consult,” “involve,” and “collaborate,” range from obtaining feedback from the public to partnering on all decision-making and incorporating clients’ advice whenever possible. Many legal services providers are determining where their goals regarding community involvement fall along this spectrum.

Relationships with community members that drive client-centered services can be both formal and informal. A manager from Bread illustrated how building relationships in the community and becoming a trusted provider has helped not only to identify problems, but also to understand their root causes and find appropriate solutions. She described how a well-intentioned property manager approached her organization to ask if food could be delivered to residents who were hungry. When Bread attorneys spoke informally to residents about their need for food, they learned that the problem was lack of access to a grocery store, not lack of access to funds for groceries. What the residents actually wanted was a nearby bus stop. Bread could have temporarily solved the problem by delivering food to the residents, but that would not have dealt with the underlying issues of isolation and lack of transportation.

Similarly, NVRDC attorneys learned that their clients often did not feel comfortable interacting with the criminal justice system. Based on this feedback, NVRDC partnered with a community organization to offer restorative justice as an alternative to criminal justice. Restorative justice involves collaboration among victims, wrongdoers, and other community members to heal the harm that has been done, and to make the affected person and/or community whole. Integrating restorative practices not only was a response to client feedback, but also created the opportunity for clients to be active participants in resolving their own problems.

Collaborations with community members also can be formal and part of the mission and structure of the legal services organization. Bread, for example, has created a model that values and celebrates the input of community members in both the organizational leadership and in its activities. Bread’s Board of Directors includes consumers and the organization engages the client base in advocacy activities. Bread also provides training to community members involved in advocacy efforts and stipends to compensate for their time. Legal Aid has developed a formal structure

for engaging community members through its Community Advisory Council, comprised of eight former clients. The group provides feedback to Legal Aid about the services the organization provides and the policy positions it takes. Legal Aid hopes that the Community Advisory Council members also will support advocacy initiatives by providing testimony and helping to engage other community members.

WLCH has a particularly strong emphasis on community engagement. People Power Action (“PPA”) is a group of advocates that grew from WLCH engaging community members in conversation about the CLP’s findings, especially the dearth of affordable housing in D.C. With support from WLCH, these community members formed PPA. PPA members initially spent time learning about power, the dynamics of politics, and decision-making processes in the District. With this grounding, PPA became engaged in advocacy around affordable housing, the D.C. budget, and D.C.’s Comprehensive Plan. WLCH reports that working in partnership with PPA has made its advocacy efforts more effective.

Some providers see these partnerships with community members as only the beginning. They believe that effective community engagement in the future will allow community members to participate more actively in the identification of advocacy initiatives and in the recruitment and engagement of other community members. The grass roots advocacy coordinator at WLCH, for example, envisions community members co-leading advocacy-rights talks, facilitating trainings, and creating meeting agendas. They would develop and implement work plans and even host their own meetings which would, in turn, influence the advocacy work of D.C.’s legal services providers. Developing lead advocates to take on their own campaigns and community-based advocacy efforts would help expand the reach of providers and ensure that they are working in partnership with their client community.

Many organizations that are engaging community members in advocacy, whether provider- or client-driven, described having to recalibrate strategies to suit new partnerships. A Bread manager, for example, explained that consumers and attorneys may employ different tactics in their advocacy. Residents may be more comfortable advocating publicly rather than negotiating privately for a resolution – and vice versa. Organizational partners and residents voiced a commitment to finding approaches that are suitable and productive for everyone involved.

# Powerful Allies: Medical-Legal Partnerships

Medical-legal partnerships are powerful collaborations that leverage both areas of expertise; medical professionals more ably identify ways that access to legal services can improve a patient's health, while lawyers are able to connect with clients and gain access to substantive information that can improve the legal case. Through robust data and evaluation efforts, legal services providers are now able to demonstrate the individual, community, and economic impact of this approach to cross-professional service delivery.

For over 30 years, Whitman-Walker Health has provided medical and legal care to members of the LGBTQ+ and HIV+ communities as well as patients of the health center. By addressing health-harming legal needs like workplace harassment and insurance coverage, disability income, mismatched identity documents for transgender persons, and immigration relief, their client-patients are healthier and safer. All employees of the health center, Whitman-Walker Health lawyers and their insurance navigation team work in partnership with in-house medical, behavioral health, addiction, nurse care managers, and other providers to provide holistic care to address the pressing barriers to health and wellness.

Bread for the City Legal Clinic was founded in 1991 as a medical-legal partnership with what was then the Zacchaeus Free Medical Clinic (founded in 1974). The legal clinic initially provided assistance to patients whose applications for disability benefits were being denied. It became clear, though, that patients also needed legal assistance with housing and

family law matters. As a result, in 1995 Zacchaeus Free Clinic (medical and legal) merged with the well-established Bread for the City – a large food pantry with a clothing program and a social services clinic – to provide holistic services to tens of thousands of D.C. residents. Today Bread for the City's Legal Clinic provides help to medical patients on a range of matters, including securing safe housing, stable family relationships, and critical safety net benefits, such as public health insurance coverage.

Children's Law Center works side-by-side with pediatricians in D.C. through its partnerships with Children's National Medical Center, Mary's Center, and Unity Health Care. By working together, staff at CLC and these medical centers can identify and address the root causes of a child's health problems – issues such as unsafe housing conditions that lead to poor health. For example, Children's Law Center partners with the D.C. Department of Health and Children's National Health System's IMPACT D.C. (Improving Pediatric Asthma Care in the District of Columbia) to identify long-lasting solutions that will protect children with asthma in low-income neighborhoods – where a child is 20 times more likely to end up in the emergency room than a child living in Ward 3. Through its BUILD Health Challenge grant, it is focusing on the intersection of

pediatric health and housing conditions law and building a nationally replicable model to reduce childhood asthma. The partnership also helps address the needs of children with disabilities who aren't receiving appropriate supports in school, and families whose insurance is wrongly denying necessary medical benefits or services.

Building on these successes and with increased focus on social and structural determinants of health, there is a growing interest and presence of collaborations between medical and legal service providers to address health-harming legal problems in the District, including initiatives at D.C. Public Schools School-Based Health Centers and beyond. For example, Georgetown's Health Justice Alliance is a partnership between its Law Center, its Medical School, and MedStar Georgetown health clinics to more holistically meet the needs of District residents.





## | Systemic Advocacy

There has also been a significant increase in legal services providers' work on a broad array of systemic advocacy efforts. These efforts were not necessarily new – many providers had been participating in some form of impact advocacy before – but they have become even more targeted and strategic over the past 10 years. This has meant the allocation of resources to support dedicated staff time and positions, increased coordination and coalition building among stakeholders, and more strategic approaches to reform. While most of these efforts are focused locally, providers mentioned that in areas like immigration and Federal safety net programs, Federal policies are also implicated.

Providers recognize that these investments are critical. While most legal services organizations see individual representation as their primary mission, systemic advocacy still plays a vital and complementary role by addressing chronic problems that affect large numbers of people. As one organizational leader described, specializing solely on direct services and individual client representation at times frustrated his organization's efforts to improve the lives of clients. It became clear that they needed to address issues

like the housing crisis, gentrification, and racial injustice directly if they were to make a broader difference. Other attorneys described this work as having a positive impact not only on clients, but also on attorneys and staff. One legal director explained how difficult it is for attorneys to argue the same cases day-after-day without working to address the underlying issues. Systemic work, she said, counters the burnout that accompanies the frustration of seemingly intractable conditions that cause repeated injustice.

Providers described a heightened focus on coalition building to achieve issue-area impact advocacy goals through court-based, regulatory, and legislative actions. Providers reported that these structured coalitions allow advocates to respond quickly to developments. A growing number of these coalitions recognize the need for partnerships with non-attorneys. Several providers noted that legislative advocacy has been particularly effective when done in collaboration with entities that have strong community ties, such as faith-based organizations. It also has been effective to bring in outsiders and non-attorney experts on relevant issues (e.g., health care professionals, public health researchers), and also

## At Risk of Losing a Multi-Generational Home

Ms. Childs, a 91-year-old homeowner, was facing foreclosure on her home of almost four decades. She had fallen behind on her bills after being financially exploited by family members, and her reverse mortgage company filed suit in D.C. Superior Court to foreclose on the few thousand dollars the lender paid toward property taxes and insurance. Legal services attorneys successfully argued on Ms. Childs' behalf to delay the court proceedings and, with the extra time granted, identified ways to avoid a foreclosure sale and eventually helped save her home.

Stories of homeowners like Ms. Childs prompted the D.C. Council to enact a "Reverse Mortgage Foreclosure Prevention" pilot program, providing \$500,000 in funding to assist senior homeowners facing reverse mortgage foreclosure. Legal Counsel for the Elderly and other legal services providers worked with D.C. Council staff to refine the bill and supported clients and their family members who testified before the Council about their foreclosure experiences.



to engage clients in systemic advocacy efforts.

Along with the growth of systemic advocacy, several legal services providers described approaching their efforts in a more strategic manner than in the past. A manager from the School Justice Project, for example, described shifting to a more proactive approach to systemic work. When her organization initially began focusing on systems change, they let the issues presented in their cases direct their impact advocacy efforts. They considered it a success when a case they had taken on in the general course of business set precedent that might help other similarly-situated clients. Now, the organization identifies systemic advocacy goals in advance and uses that agenda to identify cases that can bring about reform. Similarly, a manager from Legal Aid explained that his organization does not rely solely on its own cases to identify issues to appeal. Legal Aid attorneys review the court docket to identify common issues that could benefit from representation; once identified, Legal Aid will take a case if the client is unrepresented or serve as advisor or *amicus*. They also will move for publication of an unpublished case that might have impact. Notably, many of these systemic efforts also exemplify the power of collaboration among legal services providers who identify the cases, *pro bono* law firms who can provide the necessary resources to advance more complex litigation, and community groups that have established relationships with the client community.

## The Power of Systemic Litigation: Terrace Manor

In 2011, the owner of a large Southeast D.C. apartment complex, Terrace Manor, entered into a contract to sell the property to Sanford Capital LLC (“Sanford”). Sanford subsequently entered into an agreement with the tenant association to make much-needed property repairs. Instead of honoring its commitments, however, Sanford willfully allowed the property to deteriorate. Frustrated tenants left the building and eventually only 13 of the 61 units were occupied.

In 2016, the D.C. Office of Attorney General (“OAG”) filed a complaint against Sanford and its management company on behalf of the tenants. Sanford and its affiliates agreed as part of a D.C. Superior Court-approved abatement plan to make repairs and to address the numerous, longstanding health and safety conditions affecting the tenants. Those repairs were never made and instead, in an attempt to avoid compliance with the abatement plan and to circumvent the tenants’ right to purchase the property through the Tenant Opportunity to Purchase Act (“TOPA”), Terrace Manor LLC (“Debtor”), a wholly-owned subsidiary of Sanford, filed for bankruptcy in March 2017.

It was at that time that the tenant association retained Bread for the City and, on a *pro bono* basis, the law firm of Arnold & Porter, to represent the association in the bankruptcy proceeding. It also continued to receive community organizing support from Housing Counseling Services (“HCS”), which had been involved with the property since 2011.

Throughout the proceedings, the Debtor tried to speed up the process in order to sell the property to one of its two preferred buyers with no guarantees about the scope of renovations or the future affordability of the property. In Summer 2017, the Legal Aid Society of the District of Columbia agreed to file “proofs of claim” for 11 tenants arising from the housing conditions. Days before the bankruptcy hearing to determine the buyer for the property, the tenants, the tenant association, and OAG resolved their monetary claims with the Debtor. The Debtor also agreed to select the tenant association’s preferred buyer, WCSmith. In the settlement, the 11 tenants received a total of \$360,000 to compensate them for their years of suffering under terrible conditions. OAG also negotiated for \$325,000 in fines and compensation for former tenants at the property. But perhaps most importantly, the tenants received the benefits of an extensive agreement that Bread and Arnold & Porter negotiated with WCSmith, which included ongoing rent protections, immediate relocation to safe housing in the same neighborhood, and the right to return to a redeveloped Terrace Manor that will remain affordable for not just these tenants but future tenants as well.

Bread, Arnold & Porter, Legal Aid, HCS, and OAG each played a vital role in obtaining relief for the former and current tenants of the property. The tenants of Terrace Manor also deserve significant credit for their victory. It was their determination and years of endurance in the face of horrific housing conditions that led to their favorable outcome.

# The Power of Systemic Litigation: SNAP<sup>172</sup>

In August 2017, the Legal Aid Society of the District of Columbia, in partnership with the law firm Hogan Lovells LLP and the National Center for Law and Economic Justice, filed a lawsuit alleging systemic failures in the D.C. Department of Human Services' ("DHS") administration of Supplemental Nutrition Assistance Program ("SNAP") benefits. The suit, filed on behalf of individual clients and Bread for the City, alleged that SNAP recipients wrongfully had their benefits terminated, delayed, and/or suspended, often without notice, forcing them to turn to emergency food programs for help.

In March 2018, the U.S. District Court for the District of Columbia granted the plaintiffs' motion for class certification, and in June 2018, issued a preliminary injunction against DHS requiring it to comply with strict Federal time frames for processing applications to recertify eligibility for food stamps. In issuing this order, the court found that DHS' own data showed that it failed to process 40% of SNAP renewal applications within the time period mandated by Federal law. While the court declined to issue a preliminary injunction with respect to initial application processing, it nevertheless ordered the agency to submit reports on its progress with compliance on that piece of the program as well.

This serves as a powerful example of the importance of systemic litigation in advancing the interests of District residents and ensuring that they receive the benefits to which they are entitled.

## Systemic Litigation

Systemic litigation is an important tool for creating large-scale, positive change for members of the client community. Some providers reported using systemic litigation with greater frequency since the time of the 2008 Report. One such successful litigation in the housing arena centered on improving conditions in Terrace Manor, a 61-unit apartment complex in Southeast D.C. Tenants of Terrace Manor lived in terrible conditions with a multitude of housing code violations, including rodent and roach infestations, non-working heating and cooling systems, severe plumbing and roof leaks, and untreated mold.

## Appellate Litigation

Appellate litigation is another critical strategy for improving outcomes for both individuals and the client community at large. The D.C. Court of Appeals sees a high percent of cases filed *pro se* at rates ranging between 50-90% in cases like agency appeals from OAH (e.g., public benefits, unemployment compensation), family law matters, and the full range of civil matters that arise in the D.C. Superior Court (e.g., debt, foreclosure, landlord and tenant).<sup>173</sup> This demonstrates the need for legal services in this area.

Since the 2008 Report, several providers have either initiated or grown their appellate work, with a few organizations now maintaining appellate practices. In some instances, appellate litigation is necessary to achieve justice in an individual case. At other times, particularly where administrative bodies or trial courts are repeating the same legal error, appellate litigation can result in a precedential decision that helps ensure justice for a larger group. This makes appellate litigation a key strategy for achieving individual and systemic justice.

In 2004, Legal Aid created the Appellate Advocacy Project in response to the growing need for appellate advocacy for individuals living in poverty in the District. The goal was to assist with individual litigation needs and to create useful precedential case law to benefit larger groups. Through this Project, Legal Aid litigates appellate matters at the D.C. Court of Appeals, both as counsel for such individuals and as an *amicus curiae*, and assists other legal services organizations handling appellate matters. The Project, comprised of an attorney director and a full-time fellow sponsored by an area law firm, often identifies cases outside of Legal Aid's existing clients through intake and referrals from the court or other legal services providers. The Project also actively searches the D.C. Court of Appeals' online docket to find cases it might pursue. In all circumstances, Legal Aid evaluates the case at the appellate stage to determine whether the individual interest is sufficiently significant, whether the Project's involvement would help the court reach the correct decision, and whether the case addresses a broad legal issue for which a favorable resolution by the D.C. Court of Appeals could help the client population.



## The Power of Appellate Litigation: The Individual Client and the Community

One example of the individual and broader impact of appellate practice is *Wylie v. Glenncrest*<sup>174</sup> a case litigated in the D.C. Court of Appeals by the Legal Aid Society of the District of Columbia. Although Ms. Wylie had already been evicted before coming to Legal Aid, it was able to represent her on appeal and obtain a remand so that she could have a chance to present her defense, which was that she had paid all of her rent. Although her eviction could not be undone, she won the right to sue her former landlord for wrongful eviction.

Notably, the decision has proven helpful to many other individuals facing eviction and other legal challenges without lawyers to help them. The opinion makes clear that cases should be decided on the merits, rather than on procedural grounds whenever possible; courts have a responsibility to conduct meaningful inquiries, especially for litigants without lawyers; a court cannot simply accept the word of a lawyer over the word of a litigant but, in cases of such conflict, must hear sworn testimony and make credibility findings; court forms should be understandable by individuals without lawyers; courts should be understanding of unrepresented litigants and treat them fairly and compassionately; and courts must endeavor to understand the real-world obstacles that impoverished individuals face in pursuing litigation.



Photo: D.C. Courts

## Legislative Advocacy: D.C. Language Access Act of 2004

Since the 2008 Report, language access advocates have engaged in a multi-year campaign to amend the D.C. Language Access Act of 2004. The law is intended to guarantee oral language interpreter services and some document translation for those who interact with the D.C. government. Since the law's passage, advocates have been concerned about inconsistent enforcement and a lack of meaningful accountability. The D.C. Office of Human Rights educates agencies and tries to hold them accountable, but it has had limited power to compel compliance. In 2014, the D.C. Language Access Coalition, which includes many legal services organizations, worked with D.C. Council member David Grosso to introduce legislation to make improvements to the law. The bill took more than four years to pass, however.

In the meantime, advocates pursued other strategies, including litigation, to address what it viewed as language access violations. In 2015, the Washington Lawyers' Committee for Civil Rights and Urban Affairs brought a lawsuit against the District under Title VI of the Federal Civil Rights Act of 1964 and under the District of Columbia Human Rights Act. The lawsuit ended in settlement. In January 2019, Mayor Bowser signed the Language Access for Education Amendment Act of 2018. Although the bill contains improvements to the original law, it is subject to appropriations and fails to add several improvements that advocates feel are important, such as a private right of action, accountability for charter schools, and mandated hiring of Language Access Coordinators whose sole role would be the coordination of language access to serve impacted students and their families. Thus, the advocacy work continues.

# Legislative Advocacy to Stop Automatic Drivers' License Suspensions for Unpaid Debts

Tzedek D.C. co-led a coalition of legal services providers and faith and civic groups that, with advice and support from the UDC David A. Clarke School of Law Legislation Clinic, successfully advocated for a law that stopped automatic suspensions of licenses for people who had unpaid traffic debt or who had failed to appear at a traffic hearing. Without the ability to drive legally, these already vulnerable District residents had been harmed by the loss of access to vital services and employment that would not only sustain them but allow them eventually to satisfy their outstanding debt. Roughly 126,000 people had their licenses suspended in D.C. between 2010-2017 due to unpaid traffic debt, and thousands were arrested for driving without a license. This advocacy campaign scored a major victory: over 65,000 drivers had their driving privileges restored by The Traffic and Parking Ticket Penalty Amendment Act of 2018.

The campaign was a collaborative effort involving stakeholders that included community organizations and District residents affected by the policy. In testimony, clients and coalition members argued that suspending licenses for non-payment of debt perpetuated poverty and had a disparate impact on African Americans in particular: African Americans, who comprise 47% of D.C.'s population, accounted for about 80% of D.C. residents whose licenses were suspended between 2011 and 2016.

CLC also has a dedicated appellate group comprised of a Special Counsel, attorneys, and a paralegal. That group litigates individual cases, files *amicus curiae* briefs on relevant issues, and works with trial attorneys to develop strategic approaches for complex litigation and to create the best record possible from an appellate perspective. Another organization, DV LEAP, works directly and with *pro bono* partners on appellate cases in the domestic violence context. DV LEAP's work is not limited to the District, but instead is conducted throughout the country, and at all levels, including the Supreme Court. DV LEAP works closely with local domestic violence providers. Other legal services providers in the District litigate individual appeals, although typically without a dedicated appellate specialist on staff.

## Policy Advocacy

Legal services providers reported dedicating more resources to advocacy regarding legislation, rulemaking and agency policies than they did at the time of the 2008 Report. Budget advocacy allows providers to argue for sufficient funding for programs, services, and interventions that can help clients achieve greater stability. Engagement directly with District agencies and with the D.C. Council in its oversight role allows providers to identify common bureaucratic barriers that providers experience and offer solutions. Legislative advocacy is another tool to create new or improved public approaches to serving the needs of the client community, as well as reversing and halting policies that are counterproductive. And importantly, public advocacy ensures that the interests of the District's low- and moderate-income community are highlighted during the policymaking process. Public policy that is informed by the experiences of individual residents has the potential to have a broad community impact – including for those who never make it to a legal services office.

In recent years, there have been several areas in which legal services organizations have worked to shape policy decisions at the D.C. Council and at District agencies. These have ranged from efforts to highlight the need for more affordable housing for low-income District residents, to reforming the District's special education services, to advocating for expansive “ban the box” legislation to remove barriers to employment and housing for people who formerly were incarcerated.

# Temporary Assistance for Needy Families (“TANF”) Reform

Thousands of District families receive Temporary Assistance for Needy Families (“TANF”) benefits. This support plays a crucial role in the lives of low-income families by providing cash assistance, job training, job readiness, child care, tuition assistance, case management, and other services.<sup>175</sup> When Congress created the TANF program, it put in place a 60-month lifetime limit for families receiving Federally-funded TANF benefits (with some exceptions). Beginning in FY 2011, the District took steps to impose this limit on its TANF population by annually decreasing a family’s benefits until all TANF payments were cut off at 60 months. This so-called TANF cliff would have been devastating to 6,000 low-income District families, including more than 10,000 children, who were poised to lose their benefits.<sup>176</sup> In 2017, the Mayor and D.C. Council collaborated with advocates and enacted TANF reforms, including the elimination of the 60-month lifetime limit for families receiving benefits.<sup>177</sup> The reform effort also raised monthly payments to families: a family of three that would have received \$441 in monthly benefits prior to the changes in TANF, for example, saw those benefits increase to \$576.<sup>178</sup>

Post-reform, these families will continue to receive benefits past 60 months while following an individual responsibility plan that includes requirements for work, job training, or education.<sup>179</sup> The reforms also provide safeguards for specific at-risk populations, including those who experience barriers to employment such as limited literacy, a learning disability, a physical or mental impairment, those who are at risk of homelessness, or those whose children are at risk of entering the foster care system because of family poverty. The reforms also improved the process for obtaining exemptions for individuals with disabilities or those caring for children with disabilities. Finally, no TANF recipient can be cut off from benefits “if the unemployment rate for customers without a high school degree is higher than 7%.”<sup>180</sup>

Legal services providers played an instrumental role in advocating for these important TANF reforms. Recognizing that falling over the TANF cliff would have far-reaching effects for thousands of vulnerable families, attorneys from several

legal services organizations, even those that did not specialize in public benefits, began working in coalition to protect these families. The TANF coalition (“Team TANF”) included legal services, social service, and policy advocacy organizations and employed various strategies for change. Organizations used the D.C. Council’s agency oversight and budget processes to highlight the damage that the TANF cliff would cause to their clients, argued for delays to implementation of the TANF cliff, and recommended policy changes to assist families who would be affected by the cut-off. Coalition members also advocated in support of legislation introduced in late 2015 that would allow the program’s most vulnerable families to receive TANF payments for a longer period of time.<sup>181</sup>

Ultimately, the Mayor convened a working group on the issue, inviting Team TANF members to join the D.C. Department of Human Services, D.C. Council offices, TANF service providers, and TANF participants in designing a new TANF policy that would protect families from an arbitrary cut-off. That working group, which met in 2016, ultimately recommended an outright reversal of the TANF time limit for all families in the program, as well as protections shielding families from excessive sanctions.<sup>182</sup> These recommendations were translated into new legislation, which passed the D.C. Council in 2017 and went into effect on April 1, 2018.<sup>183</sup>

The campaign to reform TANF was successful in large part because of cross-cutting and strategic collaborations among advocates working together for change. While the multi-year, multi-pronged campaign to eliminate the TANF cliff would have been a challenge for any one organization, effective partnerships and coalition building vastly expanded advocates’ reach and capacity. As a result, the coalition protected thousands of families from the potentially devastating loss of essential benefits. It is also a good example of legal services providers advocating on an issue that strikes at the core of one of the greatest forces driving civil legal need – poverty.



# Operational Changes

Over the past 10 years, legal services providers have made changes in staffing that reflect shifts in priorities and financial realities. Some of these changes are in response to an emerging scope of work, such as hiring policy staff. Others are reflective of funding pressures, such as the need for increased development staff to cultivate and maintain sources of revenue. Providers have shown immense adaptability as they have adjusted operations to meet these needs.

## Legal Staffing

Legal services providers depend on the talent and expertise of their staff to serve. In addition to their training and skill, the sheer number of attorneys is crucial to increasing access to justice for low- and moderate-income District residents. As discussed at

the beginning of this Report, staffing at legal services organizations has been affected by often dramatic resource fluctuations over the past 10 years. The legal services network has always been drastically underfunded. The 2008 recession, however, dealt a stunning blow to staffing levels at a time when the demand for services was skyrocketing. By 2009, legal services providers had suffered budget losses

of over \$4.5 million, representing a loss of over 25% of the combined budgets of the District’s legal services providers,<sup>184</sup> which had a significant impact on staffing. Cumulatively, legal services providers cut 21 full-time attorneys as a result of this budget crisis, and terminated an additional 30 non-lawyer positions, including paralegals, case managers, social workers, and directors of systemic advocacy. This represents a 12% reduction in attorneys, and a 37% reduction in non-legal staff.<sup>185</sup> This loss of attorneys and staff significantly reduced the number of people serving the low-income community and thereby frustrated efforts to address the justice gap.

During the years of recovery, legal services providers have been able to fill positions that were lost during the recession. The number of attorney FTEs rose to 243 in 2014, up from 140 in 2009. Public funding played a critical role in making this increase in staff possible, as did the philanthropy of District law firms and individual lawyers.

Because of perennial underfunding of the legal services network, there has been a long-standing practice of using fellows and other attorneys who are funded in whole or in part by an entity other than the legal services provider. Area law firms and corporations often serve as fiscal sponsors of these fellowships. For example, since 2005 more than 35 Equal Justice Works (“EJW”) fellows and more than

15 Skadden Fellowship Foundation (“Skadden”) fellows have been placed with organizations that are either D.C. Consortium members or provide direct legal services to low-income District residents.

Fellows can be an incredible resource to organizations. They may allow organizations to incubate new ideas or offer targeted services to special populations.

For example, Legal Aid

currently has a Skadden fellow who is working on a project designed to help District residents address problems related to their incarceration as they rebuild their lives post-release. The fellow focuses on barriers to housing, public benefits, and employment through direct client representation, community outreach and policy advocacy. CLC currently hosts an EJW fellow working on developing a model for culturally competent legal representation for LGBTQ foster youth by directly representing youth, engaging in coalition building and outreach, and training stakeholders. The fellow has completed and published a practice kit for District child welfare practitioners, testified before the D.C. Council

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*Over the past 10 years, organizations have recognized that ongoing training is crucially important to make legal staff aware of changes in the law and best practices, and to enhance the skill and efficiency of providers.*

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on a bill addressing LGBTQ cultural competency for foster parents, established relationships with local and national community partners, directly represented foster youth who identify as LGBTQ, and provided case consultations on other similar cases.

Some legal services organizations also have benefitted from the participation of volunteers or loaned staff to supplement their own staff. For example, loaned associates and paralegals are funded by their law firm-employer but spend part or all of their time at a legal services provider's office for a set period, typically ranging from 6 months to a year.<sup>186</sup>

## Training

Over the past 10 years, organizations have recognized that ongoing training is crucially important to make legal staff aware of changes in the law and best practices, and to enhance the skill and efficiency of providers. The 2008 Report described the desire of legal services providers to offer substantive and skill-based training to staff. This meant general management training for supervisors and administrators, substantive skills for legal staff, including attendance at national conferences, and computer software and data management training for support staff.<sup>187</sup>

The intervening years have seen growth in this area. Some organizations have identified individual staff or committees who focus, at least in part, on internal training efforts. DCBF generously subsidizes skills trainings for the staff of its recipient organizations. Organizations like the Washington Council of Lawyers, a voluntary bar association dedicated to promoting *pro bono* and public interest, sponsors numerous low-cost trainings often targeted at the legal services provider community or those providing *pro bono* service – including an annual two-day, intensive trial skills program. The Consortium and other groups of providers have collaborated on training programs targeted to certain areas of practice or categories of staff, like new hires. Beyond skills trainings, providers described the emergence of training in new areas such as advocacy, racial equity, cultural competency, and trauma-informed practice.

## Training on the Impact of Trauma

Legal services providers described the necessity of and increased focus on training the legal services community about the impact of trauma. Providers recognize that the attorney-client relationship can be impacted by the trauma experienced by the client and that it is important to develop strategies to address that dynamic. Courts and other systems also are learning more about how to make their own processes more trauma-informed. Providers, particularly managers, also stressed the importance of training their staff on the impact of trauma that is experienced vicariously. The significant demands placed on legal services attorneys and other professionals engaging with those living in poverty is not new. Demanding caseloads focused on problems that touch the core of client health, safety, and well-being, and exposure to those who have experienced trauma, can cause emotional strain and burnout. But while the impact of these experiences on first responders has been recognized for some time, acknowledging the effect on members of the legal profession is a more recent consideration.

Several organizations described offering training to staff on recognizing the signs of vicarious trauma and developing strategies to address it. Others described being more attentive to finding ways for line staff attorneys to engage in work beyond direct representation, such as systemic or community engagement, as a way to experience their work in a different way. Some providers attempt to counter the emotional strain of legal services work by focusing on organizational culture. Several legal services managers described the development of office policies and programming designed to enhance self-care and personal wellness. Providers agreed that these efforts, while seemingly small, were important to keep staff healthy and motivated. *Pro bono* professionals noted that exposure to these issues is also important to *pro bono* attorneys, who may be even less accustomed to working with clients who have experienced trauma. Recent D.C. Courts judicial trainings have also included this important topic.

# Maintaining Lawyers in Civil Legal Services: Loan Repayment Assistance Program

With the high cost of living in the District and the pressure of student loans, it remains difficult to hire and retain a qualified and diverse pool of civil legal services attorneys. According to a national study conducted by the National Association for Law Placement, the median salary for an entry-level civil legal services attorney in 2018 was \$48,000, an increase of only \$8,000 since 2008. This is less than entry level public defenders (\$58,300), local prosecutors (\$56,200), and attorneys in other public interest organizations (\$50,300). Nationally, attorneys who remain in civil legal services for over 11 years make a salary of \$69,400. This remains significantly less than long-tenured public interest attorneys in other fields, including public defenders (\$96,400), local prosecutors (\$84,400), and lawyers at other public interest organizations (\$80,500).<sup>188</sup> These salaries are substantially less than those made by private sector attorneys. By comparison, in 2018 a starting salary at a large private firm in a city like Washington, D.C. was \$180,000 - \$190,000.<sup>189</sup>

The D.C. Bar Foundation runs two loan repayment assistance programs to address this concern and make it possible for talented attorneys to enter civil legal services and continue practicing in the field.<sup>190</sup> The publicly funded LRAP, part of the Access to Justice Initiative, supports lawyers who live and work in the District; the second program is privately funded and supports lawyers who live outside of the District but work in D.C. The programs provide one-year, interest-free, forgivable loans of up to \$12,000 per year to help attorneys serving low-income District residents pay their educational loans. According to the D.C. Bar Foundation, since 2007 the public LRAP has provided over \$4.4 million dollars in educational loans to over 271 attorneys.

As is discussed in *The Future of Access to Justice* section, providers recognize that further training for staff, boards, *pro bono* attorneys, and other supporters will be critical in the future. This is especially true as providers continue to work in close partnership with community organizations and members on issues ranging from community outreach, advocacy, community engagement and organizing, to racial justice.

## Growth of Non-Legal Staff

Providers have also grown the number of non-legal staff to strengthen the organization, respond to community needs and take advantage of funding opportunities. According to the provider survey, in 2014 there were 107 total FTEs who were non-attorney professionals, and 38.5 FTEs who were other support staff. In 2005, legal services providers employed approximately 80 FTEs who were not attorneys.<sup>191</sup> This growth represents an important evolution in the network's resource allocation. When data were collected for the 2008 Report, many providers were still debating the value proposition of hiring staff whose time would not be primarily focused on direct service provision. With overwhelming caseloads and countless clients with meritorious cases being turned away because of lack of capacity, organizations were hard pressed to spend every available dollar on attorney hires. Over time, however, organizations recognized that bringing on other staff could advance their organizational impact in important ways.

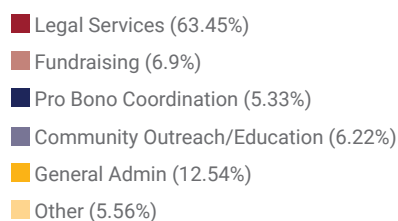
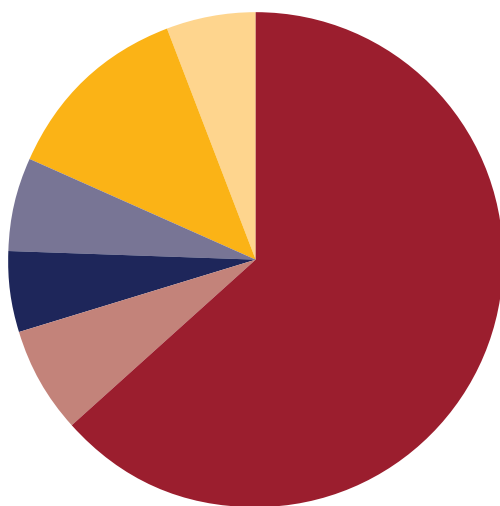
Several organizations, such as WWH and Bread, have long-standing holistic services provision models where medical, social work and other staff are co-located with legal staff. Recognizing that multidisciplinary responses are needed to address the legal and non-legal challenges of clients, and that lawyers alone cannot address the challenges confronting people living in poverty, other organizations have followed suit by integrating non-lawyers such as social workers and case managers in-house. Managers who have incorporated this type of staff into their organization over the past 10 years have described the ability of legal staff to collaborate with colleagues with other perspectives on case strategy and client engagement as particularly important.

Some of the new staff hired over the past 10 years also are focused on organizational health and sustainability. Non-attorneys like paralegals and investigators can help distribute case-related tasks in a more efficient

way. Managers also described the growing importance of development staff, *pro bono* coordinators, community organizers, data analysts, and communications specialists. These professionals amplify the work being done directly with clients in countless ways, like shoring up needed financial resources and *pro bono* support, elevating practice, allowing attorneys to focus on representation rather than administrative tasks, and raising the profile of the work being done in order to further organizational goals.

In the immigration field, local providers reported increasing capacity by hiring accredited legal representatives.<sup>192</sup> These representatives are not lawyers but can represent clients in proceedings before the U.S. Department of Homeland Security, the Executive Office for Immigration Review immigration courts, and the Board of Immigration Appeals. This innovation has been particularly important as organizations grapple with a huge influx of immigration cases caused by ongoing changes in immigration policy and practice.

### Distribution of Time of Paid FTEs at Surveyed Legal Services Providers in 2014\*



\*This chart reflects the allocation of FTE time at surveyed legal services providers. For the purposes of this chart, FTEs include attorneys, non-attorney professionals, management, and other support staff. FTEs working on cases for which there is a right to counsel are included in this calculation.

These staffing changes can bring about shifts in organizational culture. Board members and other leadership may need to be convinced that allocating resources away from direct legal representation is a worthy investment. Legal staff need to adjust to having non-lawyers and clients in the spaces that had previously been just for attorneys. And organizations need to assess whether traditional funding streams cover these non-legal staff or whether new resources can be identified to support these staffing changes.

The role of certain non-legal staff, such as *pro bono* professionals and community engagement specialists, are discussed in other parts of this Report. The following are two examples of non-legal personnel – social workers and development staff – whose increased presence in legal services organizations was highlighted as particularly important.

### Social Workers

Providers described the important benefit of their collaborations with social workers and other related professionals. Social workers help lawyers with crisis intervention, empathic and trauma-informed client interviewing, and understanding systems outside of attorneys' expertise, such as the mental health system. Social workers also help attorneys understand their clients' emotional health and the support those clients need to participate fully in their legal cases. For example, in one Bread case, a legal matter caused a client severe anxiety. As a legal filing deadline approached, the client no longer wanted to communicate with the attorney about the case. A social worker suggested that the attorney call the client to talk, but not about his legal case. By the third call, the client, on his own, let the attorney know that he was ready to discuss his case and make decisions about what to do. Had the attorney





not had this guidance, she might have withdrawn from the case because she lacked direction from the client.

Collaboration with non-lawyer professionals also can link attorneys to individuals who may not have otherwise sought legal services. By working closely with lawyers, social workers and other related professionals better understand how and when a lawyer can be helpful in a matter. Clients who already trust one professional may connect more easily with a lawyer when they are in need of legal help. In addition to helping with referrals, social workers and related professionals who work with attorneys benefit from understanding how the law and legal system works. Often, they become more effective advocates for their clients. They might submit stronger disability benefits applications, for example, or encourage their clients not to miss important appeal filing deadlines to preserve the right to back benefits from the date of their clients' applications.

Collaborations with non-lawyer professionals can also advance the anti-poverty goal of civil legal aid. For example, Bread's Social Services program noticed during walk-in hours that the volume of requests for help getting an identification card ("ID") from the Department of Motor Vehicles ("DMV") was second only to the need for assistance with housing. Attorneys in Bread's Legal Clinic realized that the DMV had begun to impose more stringent requirements for obtaining an ID. These requirements made it particularly difficult for low-income community members who needed DMV-issued IDs to obtain employment or access other critical

services such as housing. Bread's social workers and attorneys worked together to address the problem. While Bread's Social Services program gave information about obtaining an ID, Bread's Legal Clinic hired an attorney to represent clients referred by the Social Services program, conducted trainings to help other legal and non-legal providers navigate the various systems involved, and advocated within relevant government agencies to change policies and practices.

CLC also has a thriving social worker program that complements its legal work. CLC launched its social worker

program in 2010 to partner with its guardian *ad litem* ("GAL") programs and its representation of children's best interests in abuse, neglect, and private custody matters. The role of the GAL is to advocate for the client's safety, well-being, and best interests. In determining what is in a client's best interests, a GAL must conduct a comprehensive investigation and consider many aspects of a child's life. CLC social workers play an essential role in that investigation by providing a clinical assessment and recommendations about the young client's needs, who can best care for the child, what types of mental health services would most effectively treat and support the child, and what visitation arrangements are safe and appropriate. CLC social workers can provide these assessments while also considering the clinical nuances of mental health and trauma, the dynamics of family systems, and the importance of cultural competency in daily practice. The social workers collaborate with attorneys to develop a sound legal strategy backed by clinical judgment, as well as to help strengthen attorneys' advocacy efforts, which, in turn, produces more meaningful outcomes for CLC's clients.

## Development Staff

Over the past 10 years, several legal services organizations have increased their development staff in order to secure greater and more diversified sources of revenue. These staff have become critically important as organizations seek a wider array of funding sources such as grants from local and Federal governments and private foundations. Grants are becoming more focused on specific interests such as health, economic inequality, or racial justice, rather than

simply supporting an increase in the number of attorneys or legal representations. To be successful, grant applications need to draw connections between the priorities of the funding organization and the recipient. Providers described the need to dedicate staff time to tracking and reporting on outcome measures set by funders. They also focused on the importance of being nimble and responsive to funders while still directing their own responses to client problems.

In addition to securing established sources of funding, development professionals also reported an emphasis on cultivating relationships with institutional and individual donors. For example, associates in District law firms run the “Generous Associates Campaign” to raise money for Legal Aid. The campaign has been extremely successful. It raised \$2.15 million in 2018, approximately 30% of Legal Aid’s budget. Similarly, CLC has its “Champions for Children” campaign, an annual fundraising competition spearheaded by its Advisory Board which includes over 30 rising leaders at District law firms and corporations. In 2018, that campaign raised more than \$1 million. Since 2009, the DCBF has run its “Go Casual for Justice” campaign where law firms, corporate law departments, banks, and other workplaces raise funds through dress down days and other activities. In its 2017–2018 campaign more than 65 organizations participated and raised over \$60,000.

Despite the obvious benefits, it can be challenging to add development staff and not all providers have done so in the same way. With finite resources, investment in this type of administrative function needs to be balanced against direct service delivery. Managers discussed the need to find creative ways to keep overhead low and to keep client-serving activities at an acceptable percentage of the grant budget. Some reported balancing competing demands by hiring development consultants instead of staff, outsourcing grant writing, and engaging development staff in program work.

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*Providers have grown the number of non-legal staff to strengthen the organization, respond to community needs, and take advantage of funding opportunities.*

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## Raising the Bar in D.C. Campaign

As a matter of principle, the legal community recognizes that it has a critical role in ensuring equal access to justice. The D.C. Access to Justice Commission promotes private law firm giving through its annual Raising the Bar in D.C. Campaign. The Campaign’s goal is to substantially increase financial support to the District’s legal services community by establishing benchmarks for law firm giving. Each year, the Commission recognizes and celebrates those firms that have donated at three benchmark levels – Platinum, Gold and Silver – for donating .11%, .09%, or .075% of D.C. office revenue respectively to local legal services organizations. Because of the structure of the Campaign, firms of all sizes can participate, and firms must increase their giving when their revenues increase to qualify for each level of giving.

Since the Campaign began in 2011 the number of participating firms has grown significantly (from 23 to 43), aggregate giving has increased by more than \$3 million (from \$3 million to \$6 million), and the firms collectively have donated more than \$37 million to legal services organizations.

Notably, these figures do not include the millions of additional dollars in giving by law firms that do not participate in the Campaign and the substantial individual philanthropy provided annually by private law firm attorneys to the legal services network.

## D.C. Bar Pro Bono Center

The D.C. Bar Pro Bono Center is responsible for a substantial number of efforts that expand access to justice for D.C. residents.<sup>193</sup> It recruits, trains, and mobilizes *pro bono* attorneys to take cases serving low-income individuals who are at risk of losing their homes, their livelihoods, and their families. It also helps small businesses and community-based nonprofits needing legal assistance. It operates several court-based resource centers and offers legal clinics in a variety of areas, from bankruptcy to small business to immigration. It also runs projects to promote community and economic development, affordable housing, and small businesses, and helps law firms and legal services providers develop and enhance *pro bono* programs through efforts like the Pro Bono Partnership and Pro Bono Initiative – which bring together *pro bono* professionals to share information and collaborate on strategy. The D.C. Bar Pro Bono Center also hosts an extensive series of trainings for attorneys interested in performing *pro bono* service in child custody, housing, public benefits, asylum, bankruptcy, and more – as well as emerging topics of interest to the legal services and *pro bono* communities.

The D.C. Bar Pro Bono Center operates a monthly Advice and Referral Clinic at two locations which offers unrepresented individuals the opportunity to discuss with *pro bono* attorneys certain kinds of matters governed by D.C. or Federal law, including bankruptcy/debt collection, consumer, employment, family, health, housing, personal injury, probate, public benefits, and tax matters. The Clinic provides general information, advice, and brief services free of charge, and refers eligible cases for full representation. It also runs the Advocacy & Justice Clinic, a partnership with legal services providers and many of the District's largest law firms and Federal government agencies which arranges for full representation in housing, family, public benefits, personal injury defense, and consumer law matters. More than 300 cases were placed in 2018.

The D.C. Bar Pro Bono Center also manages two efforts to provide legal information to District residents. The first, LawHelp.org/DC, provides D.C. residents with legal and self-help information on topics related to D.C. and Federal law, as well as referral information for D.C. legal services providers, and is maintained in collaboration with the D.C. Consortium of Legal Services Providers and with funding from the D.C. Bar Foundation. The second, a Legal Information Help Line, is an automated system of recorded messages providing basic information on more than 30 legal topics, finding an attorney, and the availability of free legal services. The help line is available 24 hours a day, 7 days a week in Amharic, English, French, and Spanish. Finally, it manages a comprehensive clearinghouse of information on *pro bono* opportunities and training resources at ProBono.net/dc. Through all these efforts, PBC touches the lives of more than 20,000 D.C. residents each year.

## Pro Bono in the District

The District has a strong *pro bono* culture with a robust network of lawyers committed to serving District residents. Thousands of D.C. lawyers embrace their professional obligation to serve low-income residents through *pro bono* service of all kinds, ranging from one-stop clinic opportunities, to extended representation, to larger projects. Efforts by the American Bar Association<sup>194</sup> and the Pro Bono Institute incentivize firms to participate in *pro bono* and legal industry publications consider *pro bono* participation in developing law firm rankings.<sup>195</sup> D.C. Bar and judicial leaders, at both the Federal and local levels, and the D.C. Bar have been steadfast in their support of *pro bono* efforts over many years.

The D.C. Rules of Professional Conduct recognize that “every lawyer, regardless of professional prominence or professional work load, should find time to participate in or otherwise support the provision of legal services to the disadvantaged,”<sup>196</sup> and court resolutions call on bar members to, at a minimum, accept one court appointment, provide 50 hours of *pro bono* legal service or, when personal representation is not feasible, contribute the lesser of \$750 or 1% of earned income to legal assistance organizations.<sup>197</sup> As the largest unified bar in the nation, with over 70,000 members in the D.C. area, and thousands of Federal government

attorneys and internal counsel who are eligible to perform *pro bono* service, this makes for a promising formula for success.

Nevertheless, this culture has been tested over the past 10 years. The recession and its aftermath led to changes in the law firm business model. There are smaller classes of new associates, who some describe as the “engine” of *pro bono*. A greater emphasis on cost cutting and efficiency has made the business case for *pro bono* more prominent, such as marketing it to firm leadership as a way for junior lawyers to gain professional skills.<sup>198</sup> And many law firms have grown their national and global profile, which has the potential to draw attention away from local concerns. Despite these challenges, the District’s community of *pro bono* lawyers have come together in important ways over the past 10 years to support the needs of low- and moderate-income District residents.

Despite the recognized importance of *pro bono* and the large community of attorneys engaged in its practice, it is difficult to assess the extent to which *pro bono* efforts meet the needs of low- and moderate-income District residents. Many measures of *pro bono* practice among

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District law offices consider work on national and global issues in addition to local representation. This might include participation in national class actions, litigating issues affecting civil, constitutional and economic rights, lobbying the Federal and local governments, and advising and representing nonprofit organizations in the U.S. and abroad. Nevertheless, it is demonstrative of the law firm community’s commitment to *pro bono*.

## Help for a Struggling Student

15-year-old Darnell had been struggling in school for years. His school was ignoring his special needs, leaving him behind his classmates and struggling to catch up. His mother, Ms. Curtin, wanted him to be in a classroom where he truly could learn; she knew that an individualized education program (“IEP”) would help. Though she requested an IEP multiple times, school officials refused to provide one. In the meantime, Darnell continued to suffer at school, was repeatedly suspended, and fell behind.

Legal services attorneys partnered with a team of *pro bono* lawyers to help. The legal team initially helped get Darnell the necessary evaluations, which finally led to an IEP. When the school failed to implement any of the educational services outlined in his IEP, the attorneys fought to make sure it complied. When it failed to do so, attorneys successfully secured an order requiring the school to fund Darnell’s placement in a full-time therapeutic school that met his needs. Darnell now attends class regularly and truly is learning for the first time.





# Snapshot on Pro Bono Participation

While it is difficult to measure the extent of practice dedicated to local representation, there are several indicators that provide a window into the growth of overall participation in the District:

50  
hours

- In 2017, 41 of 70 firms that responded to a D.C. Circuit Judicial Conference survey<sup>199</sup> had more than 35% of lawyers meet the standard of 50 hours or more of service. 16 firms had 50% or more attorneys at that level, and 4 had 60% or more.<sup>200</sup>

69  
participating  
firms

- The number of firms that participate in the D.C. Bar Pro Bono Initiative<sup>201</sup> has grown from 41 in 2001 to 69 in 2019. The number of hours at the firms surveyed in 2018 was 967,626, with 67% devoted to helping people of limited means or the organizations serving them.<sup>202</sup>

5K  
attorneys in  
Honor Roll

- The *Capital Pro Bono Honor Roll*, which recognizes attorneys who have provided either 50 or more or 100 or more hours of *pro bono* service that year, has continued to grow.<sup>203</sup> The first Honor Roll in 2011 had just over 3,000 attorneys.<sup>204</sup> In 2018, the Honor Roll exceeded 5,000 with over 3,000 in the High Honor Roll category of 100 hours or more. Since the Honor Roll requires self-reporting, these numbers are likely to vastly underrepresent the number of attorneys performing *pro bono* service.

While it may be difficult to determine how much *pro bono* activity in the District is directed toward low- and moderate-income residents, many legal services providers reported significant participation of *pro bono* attorneys. In response to the Commission's surveys, 22 providers reported that *pro bono* attorneys helped serve their clients in 2014, primarily through individual representation. For example, in both 2017 and 2018, CLC reported placing about 400 cases with *pro bono* attorneys in areas such as adoption, guardianship, custody, education, and housing.<sup>205</sup> In 2017, Legal Aid reported that more than 38,700 hours of *pro bono* services were provided to its client community, including work on over 250 individual matters referred to its network of *pro bono* attorneys throughout the City.<sup>206</sup>

In addition to taking individual cases, *pro bono* lawyers undertake activities such as:

- Developing and litigating systemic matters.
- Advocating for legislative or regulatory changes.
- Assisting with outreach and other public education efforts.
- Conducting initial client interviews, either in-person or over the telephone.
- Developing training manuals.
- Staffing community and court-based resource centers.
- Representing community-based nonprofits as their general counsel.
- Researching model programs in other jurisdictions.
- Serving on boards of directors of legal services or other community organizations.

Law firms have increasingly taken innovative and collaborative approaches to *pro bono* service. Several firms have adopted so-called signature projects that apply special focus to a certain area of law, often in partnership with legal services providers and sometimes with their own corporate clients.<sup>207</sup> (See the *D.C. Right to Housing Initiative* and *Housing Right to Counsel Project* sections.)

Federal government attorneys also have become an essential part of the delivery of civil legal services in the District.<sup>208</sup> While many Federal government attorneys are not members of the D.C. Bar, a special court rule, championed by the Commission, permits them to provide *pro bono* services in the District.<sup>209</sup> The Interagency Pro Bono Working Group, the steering committee for the Federal Government Pro Bono Program, has close to 50 participating agencies.<sup>210</sup> Many agencies have a dedicated volunteer *pro bono* coordinator and written *pro bono* policies and work to promote *pro bono* and volunteer engagement.<sup>211</sup> Federal government attorneys perform *pro bono* service in an individual capacity and, for many agencies, must take leave when doing so. Federal government attorneys serve clients through numerous legal services organizations, such as CLC, DCVLP, NLSP, LCE, Legal Aid and more.<sup>212</sup> The relationship between Federal government attorneys and PBC has become particularly

strong over the past 10 years. Twenty-eight Federal agencies staffed PBC's Advice & Referral Clinic in 2016. Federal government *pro bono* attorneys staff the clinic every month of the year at both of its locations, making them the most significant source of volunteers for that Clinic.<sup>213</sup> They also accept more cases from PBC's Advocacy & Justice Clinic than any single law firm, averaging over 65 cases each year.

Finally, the past 10 years have seen increased participation by in-house counsel in the delivery of *pro bono* legal service, in part due to three-way partnerships among legal services providers, in-house counsel, and law firms. For example, Skadden's Impact Project,<sup>214</sup> launched in 2012, provides *pro bono* legal assistance to low-income District children and families in the areas of custody, housing, and domestic violence. The firm partners with Bread, Legal Aid, and CLC to support these efforts, and pairs its attorneys with in-house counsel from its own client base.

The past 10 years have seen shifts not only in the provision of *pro bono* services, but also in the administration. The increased presence of full- or part-time staff devoted to *pro bono* efforts within law firms, the Federal government, and legal services providers is one of the most striking changes since the 2008 Report. All of the firms that participated



## Promoting Collaboration in Pro Bono

The Washington Council of Lawyers hosts a quarterly *Best Practices in Pro Bono* series,<sup>215</sup> a forum for robust dialogue on issues such as addressing common *pro bono* challenges, developing procedures that will enhance the *pro bono* experience for clients, attorneys, and institutions, and making the greatest impact through *pro bono* work. Each fall, as part of the ABA's *National Pro Bono Week* celebration, the Washington Council of Lawyers organizes *D.C. Pro Bono Week* through the efforts of a cross-sector working group. The week features opportunities to perform *pro bono* service, learn about *pro bono* opportunities, get training and learn new skills, meet other *pro bono* attorneys, and see *pro bono* work in action at local courts and community locations. Professional organizations like the Association of Pro Bono Counsel<sup>216</sup> provide similar support to its members.

in the Judicial Conference Standing Committee’s report had either a full-time (65) or part-time (5) individual managing its *pro bono* program, the majority of whom were attorneys.<sup>217</sup> In addition to increasing *pro bono* staffing, law firms have developed policies that cover the expectations and importance of participation.<sup>218</sup> Many also create incentives to encourage *pro bono* work. Similarly, the majority of legal services providers who responded to the 2014 survey had staff either full- or part-time dedicated to supporting *pro bono* efforts, including recruiting *pro bono* attorneys, screening, placing and tracking cases, and providing mentoring and technical assistance. In total, there were 22 FTEs, slightly over 5% of all staff allocation, engaged in these activities.

As described above, the District’s bar provides hundreds of thousands of hours each year to *pro bono* service. Yet *pro bono* lawyers are needed now more than ever to meet the needs of the thousands of unrepresented District residents facing legal challenges alone.<sup>219</sup> To help meet this need, the Commission, the D.C. Courts<sup>220</sup> and the D.C. Bar each have asked firms to redouble their efforts to engage in *pro bono* service. The D.C. Courts made increased availability of free, *pro bono*, and low-cost civil legal assistance a priority

of their 2018–2022 Strategic Plan, and the Chief Judges of D.C.’s local courts have initiated a campaign to engage more *pro bono* attorneys in serving local litigants. The D.C. Bar convened a new Pro Bono Task Force in 2018 to develop strategies to broaden D.C. Bar members’ engagement in local *pro bono* activities. That effort will both look at new ways to involve *pro bono* attorneys locally but also identify barriers that may serve as a disincentive to lawyers looking to volunteer. All stakeholders, including the D.C. Courts, have committed to being open to structural or procedural changes that might make local *pro bono* service easier and more appealing.

These efforts have come at an ideal time. *Pro bono* professionals report that attorneys are increasingly interested in *pro bono* opportunities, particularly those just entering firm practice. Though the national political climate is partly motivating this trend, it is crucially important to emphasize *pro bono* service on behalf of low- and moderate-income District residents and work that takes place in our local District courts. To achieve the goal of increasing access to justice at a time when there is growing competition for *pro bono* hours, it is critical that attorneys and firms dedicate those hours to local *pro bono* service.

## Protecting Seniors from Exploitation

Ms. Martin was a 78-year-old woman living with her husband on a fixed income. Despite being nearly deaf and with limited sight, she was the primary caretaker for her developmentally disabled adult granddaughter, Joan. One day, Joan attempted to purchase a car, but the dealership required a co-signer. A salesperson drove alone to the address Joan provided for Ms. Martin’s home. This man confronted Ms. Martin and directed her to sign a folded piece of paper for her granddaughter. What he failed to tell her is that by signing, she (not Joan) would become the primary buyer of the car. Caught off guard, exhausted, and wanting to help her granddaughter, Ms. Martin signed. Once she realized what had happened, she tried to reach the dealership to cancel the contract, but her calls went unanswered.

A *pro bono* attorney working with a legal services lawyer was able to negotiate the return of the car to the dealership in exchange for a cancellation of the contract. The attorney also worked out an agreement with the underwriter of the original loan to erase any negative information on Ms. Martin’s credit report resulting from the original contract.





## | Law School Programs

The District of Columbia is home to six law schools that each engage in access to justice initiatives: American University's Washington College of Law ("WCL"); The Catholic University of America, Columbus School of Law ("Catholic"); Georgetown University Law Center ("Georgetown"); The George Washington University Law School ("GW"); Howard University School of Law ("Howard"); and the University of the District of Columbia David A. Clarke School of Law ("UDC"). The focus on educating law students about the justice gap and creating awareness of their ethical obligations to serve has grown over the past 10 years. Through legal clinics, externships, *pro bono* and other volunteer work, impact projects, experiential learning courses, and community legal education, law students are exposed to a range of access to justice initiatives and develop skills to make effective contributions on behalf of low- and moderate-income residents.<sup>221</sup>

### Law School Clinics

Each law school offers multiple in-house clinics providing direct legal services to District residents. Law students, under the supervision of faculty, represent clients in the D.C. Court of Appeals and D.C. Superior Court, as well as in Federal Courts and both D.C. and Federal administrative tribunals. Clinics provide services in a wide range of civil law areas. The Clinical Law Center at Howard, for example, includes the Child Welfare and Family Justice Clinic which represents adults involved in child abuse and neglect cases in D.C. Superior Court, and the Fair Housing Clinic which represents D.C. litigants in housing discrimination and landlord/tenant disputes. UDC's Housing & Consumer Law Clinic and General Practice Clinic represent D.C. residents with small claims, landlord/tenant, probate, public benefits, custody, and child support disputes in D.C. Superior Court and at OAH. In addition, all D.C. law schools participate in and financially support LSIC, a consortium legal services clinic through which attorneys and law students represent litigants in the Landlord and Tenant, Small Claims, and Domestic Violence Branches of D.C. Superior Court, as well as in immigration matters.

Given students' part-time availability and the need to ensure that they receive adequate supervision, caseloads in most law school clinics are purposefully small. To increase the



*Law students are exposed to a range of access to justice initiatives and develop skills to make effective contributions on behalf of low- and moderate-income residents.*

number of residents they serve, law school clinics partner with local legal services organizations and staff court-based resource centers. The Families and the Law Clinic at Catholic, for example, staffs the Family Court Self-Help Center. LSIC provides advice and assistance to litigants in Landlord and Tenant Court and in the Domestic Violence Division.

In addition to individual client representation, law school clinics undertake impact litigation and policy reform initiatives. The Public Justice Advocacy Clinic at GW, for example, partnered with WLCH and represented disabled residents in D.C. homeless shelters, raising Americans with Disabilities Act and Fair Housing Act claims. GW's Prisoner



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***Law school clinics have the flexibility to adapt and change their programs to fill service gaps and meet emerging community needs.***

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and Reentry Clinic advocates for policy reforms to improve access to justice for formerly incarcerated individuals and families. UDC’s Legislation Clinic undertakes policy projects on behalf of nonprofit and community organizations advocating for improved economic security and workplace protection, including the driver’s license suspension issue discussed earlier in this Report.

Several law schools offer transactional and community economic development clinics designed to build small business opportunities, create affordable housing, and strengthen economic development in D.C. neighborhoods. Students in Georgetown’s Social Enterprise and Nonprofit Law Clinic and WCL’s Community Economic Development Clinic, for example, work with CBOs and use transactional law to preserve and create assets for underserved D.C. communities.

Law school clinics have the flexibility to adapt and change their programs to fill service gaps and meet emerging community needs. The Public Justice Advocacy Clinic at GW, for example, partnered with Bread to represent clients facing a newly discovered problem – the inability to obtain the identification documents necessary for accessing government programs. Similarly adapting to meet community needs, the Health Justice Alliance Clinic at Georgetown engaged law students to address the underlying causes of recurrent health problems in low-income communities. To do so, the clinic began integrating law

students into Georgetown University health clinics to help families overcome legal barriers that negatively impact their health.

UDC in particular has prioritized the clinical experience and has the largest clinical requirement of any U.S. law school. Each student enrolled in the law school volunteers more than 600 hours prior to graduation, and each year UDC faculty and students together provide more than 100,000 hours of legal services to District residents.

### **Externships, Pro Bono, and Other Public Interest Work**

Each D.C. law school offers opportunities for students to “learn by doing” through field placements and externships at legal services providers, nonprofit organizations, courts, D.C. government and Federal agencies, and the D.C. Council. Under the supervision of on-site attorneys, students provide a range of civil legal services and engage in D.C.-based advocacy.

*Pro Bono* programs at D.C. law schools also engage students in access to justice activities. Although students in *pro bono* programs provide law-related services to people who are economically disadvantaged or to community organizations, they are different from clinics or internships in that students do not receive credit or pay. There are many volunteer



opportunities for law students in the District. Examples of those opportunities include:



WCL students provide legal assistance at the D.C. Bar’s Landlord and Tenant Resource Center, the Family Court Self-Help Center, and WLCCR’s Worker’s Rights Clinics.



GW students partner with WLCH and participate in the Hypothermia Outreach Project.



Howard students staff The Veterans Pro Bono Legal Clinic in partnership with The Veterans Consortium, NLSF, and the Washington DC VA Medical Center.



Catholic students offer free tax preparation services to D.C. residents through the Pro Bono Income Tax Assistance program. Those with legal questions or tax disputes are referred to the law school’s Low-Income Taxpayer Clinic.

Some area law schools require all students to engage in public interest work. UDC, for example, requires students to volunteer more than 600 hours prior to graduation, and many UDC students work in D.C.-based legal aid organizations to satisfy this requirement. Other schools strongly encourage and incentivize public interest work through service awards or summer stipends. Georgetown, for example, guarantees funding for students undertaking public interest work during the summer, and UDC and WCL offer summer stipends to students engaged in full-time public interest work.

Law schools also sponsor legal literacy initiatives that reach individuals and communities across the District using know your rights presentations and other community legal education vehicles. Georgetown’s Street Law Clinic, for example, deploys law students to teach practical law courses

and conduct mock trials in D.C. public high schools, charter schools, rehabilitation centers, and transitional housing. WCL sponsors The Marshall-Brennan Constitutional Literacy Project, a law-related education program that promotes democratic engagement, constitutional literacy, and legal advocacy by placing law students in high schools to teach courses in constitutional law and oral advocacy. Students in Catholic’s clinic conduct “know your rights” presentations at workshops and fora sponsored by CBOs.

## Integrated Experiential Courses and Access to Justice Research

D.C. law schools increasingly integrate experiential learning throughout their curricula and offer opportunities for students to provide civil legal assistance and tackle access to justice barriers. This approach aligns with research that demonstrates that “if law schools are serious about producing graduates who engage in *pro bono* and who will work to solve the access to justice problem, then *pro bono* service alone cannot be relied upon to achieve the desired result. *Pro bono* service must be connected to or part of the curriculum. Law schools must teach the value of *pro bono* service and its complexities as they teach other skills and values.”<sup>222</sup>

UDC requires J.D. students to enroll in and successfully complete two, seven-credit clinics before graduating. Students in Catholic’s Law and Public Policy Certificate Program design a public policy proposal during their final year of law school and advocate for its implementation. Students have implemented projects, in collaboration with D.C. nonprofits or government agencies, to address problems ranging from the need to expand services to domestic violence survivors to enhancing the nutritional content of school lunches.

Georgetown’s Technology, Innovation and Law Practice practicum offers students the opportunity to collaborate with legal nonprofits to design and develop apps to enhance their service capability. The course culminates in the Iron Tech Lawyer competition. In 2017, one student team worked with AJE and developed “Know Your Rights: Advocate for Your Education,” an advocacy app that assists parents representing children in suspension and school expulsion cases. Another team worked with El Centro Hispano and ONE D.C. to develop the “Wage Theft, Employment Discrimination & Workers’ Compensation Intake Assistant”

app. Georgetown also has a practicum course specifically focused on access to justice issues. These efforts are affiliated with Georgetown's Justice Lab, which looks locally and nationally at access to justice issues.

Law schools also conduct research and undertake empirical studies that help legal services providers better understand the needs of the D.C. community and the workings of local tribunals. For example, faculty from Catholic's Law School and School of Arts & Sciences helped design, administer, and draft the *Community Listening Project*.<sup>223</sup> Similarly, faculty from GW's Prisoner and Reentry Clinic has conducted empirical field studies exploring the impact of lawyer representation on case outcomes and the efficacy of experimental court models employed in D.C. Superior Court. Students also can serve as creative problem-solvers who help low-income community members overcome barriers to getting out of poverty.

### Opportunities for Collaboration

While collaboration between law schools and other stakeholders exists, there remain opportunities for expanding joint initiatives. For example, law schools can serve as incubators for innovative ideas and have the capacity to identify and pilot new models for meeting the needs of those who cannot afford attorneys. The development of the D.C. Affordable Law Firm, as discussed earlier in this Report, is a perfect example of this type of synergy.

Law schools have access to faculty, students, and facilities, and operate under fewer restrictions than legal services providers. Academic institutions can be incubators of innovation as they are well situated to test new models and promote wide ranging policy reform. Local law schools have the capacity to create multidisciplinary teams using experts from other university departments to conduct empirical studies and evaluations. Law faculty can partner with legal services providers and deploy students to do research and writing to support litigation and other access to justice projects that providers do not have the time or resources to undertake. Students can use this work to fulfill writing requirements in first year and upper level courses.

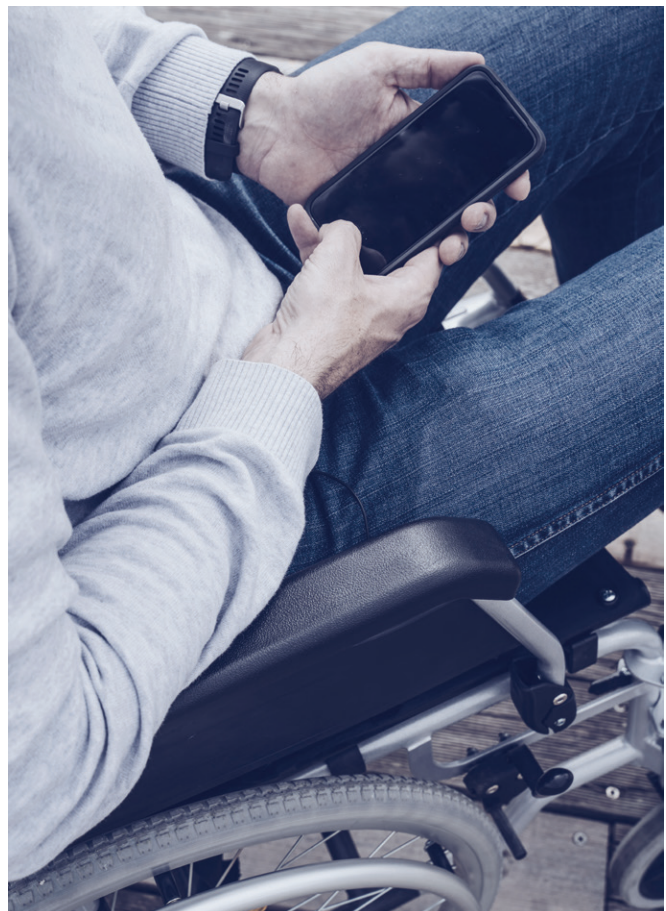
Over the past 10 years, D.C. area law schools have filled important direct service gaps, provided limited legal

assistance, and engaged in widespread educational outreach to the D.C. community. Through clinics, *pro bono* programs, and other curricular innovations, law schools are training the next generation of lawyers to be effective advocates committed to expanding access to justice. Given that many D.C. law students become members of the D.C. Bar, these endeavors lay the foundation for continued public interest and *pro bono* service to D.C. residents.

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*Through clinics, pro bono programs, and other curricular innovations, law schools are training the next generation of lawyers to be effective advocates committed to expanding access to justice.*

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# The Role of District Agencies, the Office of Administrative Hearings, and the Courts

Public entities like government agencies, administrative bodies, and the courts play a critical role in providing District residents access to vital services and fora to resolve disputes. It can be daunting to access these systems, particularly for those residents living in poverty. As discussed at length in this Report, insufficient capacity within the legal services network means that thousands of vulnerable individuals must proceed alone, without legal representation. In the case of agency decisions, legal services providers reported that District residents can be erroneously denied access to or terminated from social safety net programs. This puts added pressure on the adjudicative bodies that resolve disputes involving these agencies, such as OAH and the D.C. Court of Appeals (which has jurisdiction over agency appeals). At D.C. Superior Court, the challenge lies with incredibly high case volumes, strained resources, and thousands of litigants who proceed without the benefit of counsel. In the past 10 years, these public entities have made significant efforts to expand access to justice which should be applauded, yet more work remains.

## | District Agencies

Legal services providers cited navigating District agencies as one of the most challenging aspects of their work – a challenge that is shared by low-income District residents accessing those systems on their own. Even for residents who have lawyers (and particularly for those who do not) issues like agency unresponsiveness, misinformation, and overly bureaucratic procedures are impediments to the low-income community’s ability to access civil justice. As discussed in this Report, legal services providers have utilized different strategies to address these ongoing issues, such as developing relationships with agency personnel, testifying about agency performance at D.C. Council oversight hearings, pursuing policy change through rule-

making and legislative advocacy, and using the appellate process to address agency-related decisions that are capable of repetition. Legal services providers noted that at times these approaches have paid some dividends and slightly reduced the need for formal adjudication of agency disputes. At the same time, the majority of their work still involves ensuring that the process works as it should and that clients receive whatever benefits they are entitled to – suggesting that legal advocacy can be necessary in order to ensure that these agencies function as intended. Providers noted a shared interest in continuing to work on process improvements while also assisting District residents in individual cases.



## I D.C. Office of Administrative Hearings

OAH plays a crucial role in the District’s civil justice system. OAH was created by the D.C. Council in 2001 and began formal operations in 2004. Centralizing OAH into an independent administrative tribunal and professionalizing its 33 Administrative Law Judges (“ALJs”) created a formalized system that has improved access to justice for unrepresented litigants. The ALJs hear cases challenging the decisions of District agencies, boards, and commissions. Most OAH decisions may be appealed to the D.C. Court of Appeals. Because these issues are so important to the day-to-day lives of District residents, a fair, timely, and thorough adjudication is essential.

The issues raised at OAH touch upon some of the most important safety net programs for low- and moderate-income residents, such as those administered by the D.C. Department of Human Services (SNAP, TANF, Medicaid/Healthcare Alliance eligibility, and other benefits programs; homeless and housing services); D.C. Department of Housing and Community Development (tenant petitions concerning rent increases, housing code violations; and other complaints); D.C. Department of Employment Services (unemployment compensation benefits decisions); and D.C. Public Schools (student discipline appeals and residency violations).<sup>226</sup>

OAH has undertaken several initiatives to improve access to justice over the past 10 years. In the area of technology, litigants can now file online or by mail, fax, or e-mail rather than in person – a significant ease of access to litigants. Through a revamped website,<sup>227</sup> OAH now offers downloadable forms and practice guides on issues such as filing and preparing for a hearing. It also increased transparency by publishing some of its final orders on its website.<sup>228</sup> Providers commended OAH for recent improvements to its case processing, particularly its preparation of records for subsequent appeals.<sup>229</sup> This has allowed for more swift adjudication at the D.C. Court of Appeals.

As discussed in the *Public Benefits Practice* section, when OAH was first created, providers expressed concern that ALJs did not have sufficient training on relevant benefits programs and, more generally, on the issues facing low- and moderate-income residents. In the past 10 years, OAH has focused on its training program and ALJs now receive

training on the use of plain language in oral and written rulings, and on working with unrepresented litigants, those with disabilities, and those with limited English proficiency. Legal services providers made particular note of OAH’s success in providing access to interpretation services.<sup>230</sup> Legal services providers also welcomed OAH’s decision to convene an Advisory Committee to receive feedback from stakeholders, including non-governmental members. Providers reported specific successes through this effort in the area of unemployment insurance and public benefits.<sup>231</sup>

Like the D.C. Courts, OAH experiences a large percentage of unrepresented litigants. For example, of the over 2,000 unemployment insurance cases in FY 2017, 91% had no party represented; in public benefits appeals, 86% of the over 1,100 cases had no party represented; and 88% of the over 200 student discipline cases had no party represented.<sup>232</sup>

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*Like the D.C. Courts, OAH experiences a large percentage of unrepresented litigants.*

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OAH has instituted several strategies to ease access for those proceeding without counsel. In 2011, after consultation with the Commission and other stakeholders, OAH issued revised rules that were more user-friendly for those proceeding without counsel. In that same year, after consolidating operations into one facility, OAH established a Resource Center to assist litigants. The Resource Center was designed to offer written materials such as legal services provider lists, guides on legal process and substantive areas (offered in different languages), and computer terminals to prepare filings. Notably, some of these materials were developed in partnership with Catholic. As discussed in the *Education Law* section, OAH also provides space for an on-site legal clinic operated by AJE for those litigants with school discipline cases.

OAH and providers have noted certain areas for future focus. The legal community needs to direct more attention to increasing the opportunities for OAH litigants to have access to a range of legal services. Advocates emphasized the need to increase partnerships between OAH, legal services providers, and *pro bono* attorneys so that there is a greater attorney presence at OAH to assist litigants. Legal services providers applauded the creation of the Resource Center but expressed concern that a lack of consistent and adequate staffing has limited its utility. They found that when there was an OAH Attorney Advisor available to staff the Resource Center, ensure materials were updated, and connect unrepresented litigants with legal service providers, it was at its maximum benefit – and hoped resources could be committed to prioritizing that role. Quicker case processing, for example, and more robust information sharing on individual cases could be improved by an increased use of technology.<sup>233</sup> These areas may serve as opportunities for more collaborative work among stakeholders and OAH leadership to further the significant steps already made to increase access to justice.

The Courts have taken several significant steps to facilitate access to the judicial system during the last 10 years, some in partnership with the Commission. For example, the Court created a series of specialized court calendars such as a Housing Conditions calendar within the Civil Division that was launched in 2010 which gives tenants a mechanism for seeking redress of housing code violations.<sup>236</sup> The Courts revised the D.C. Code of Judicial Conduct to make clear that, consistent with the need to maintain impartiality, judicial officers “should make reasonable accommodations that help litigants who are not represented by counsel to understand the proceedings and applicable procedural requirements, secure legal assistance, and be heard according to law,” of importance to the high percentage of litigants who proceed without the benefit of counsel. As is described elsewhere in this Report, based on the recommendations of a joint Commission-PBC report, the Superior Court issued an Administrative Order that permits limited scope representation, creating more opportunities for representation for those proceeding without counsel. The Courts also convene committees across their branches

## D.C. Courts

In any given year, the local D.C. Courts (“Courts”) handle well over 120,000 cases – D.C. Superior Court received almost 90,000 new case filings in 2018 alone.<sup>234</sup> Served by a unified Executive Office, the Courts consist of the D.C. Court of Appeals and the D.C. Superior Court that share jurisdiction over criminal and civil matters.<sup>235</sup>

The Courts take seriously their mission “Open to All. Trusted by All. Justice for All.” The Chief Judges of the D.C. Court of Appeals and the D.C. Superior Court, as well as its Executive Office, have a demonstrated interest in promoting these justice values in the court system. The Courts’ Standing Committee on Fairness and Access also examines access to justice issues in the courts for District residents who face challenges in accessing the judicial system.



Photo: D.C. Courts

# The D.C. Court System

The D.C. Court of Appeals is the highest court of the District of Columbia – one of only 11 jurisdictions with a single appellate court that serves dual roles as both an intermediate court of appeals and a court of last resort.<sup>237</sup>

As such, it is responsible for a wide range of duties including the review of individual decisions of the D.C. Superior Court, the interpretation and development of the law and its application for future cases, the review of final orders and judgments and specified interlocutory orders of the D.C. Superior Court, and the review of decisions of administrative agencies, boards, and commissions of the D.C. government.<sup>238</sup>

The D.C. Superior Court is the trial court of general jurisdiction for the District of Columbia. The Superior Court handles all local trial matters, including civil, criminal, domestic violence, family, probate, tax, landlord-tenant, small claims, and traffic. The Superior Court also operates the Multi-Door Dispute Resolution Division and a Special Operations Division that oversees areas such as interpretation services, the Social Services Division, the Crime Victims Compensation Program, as well as a variety of other on-site programs.<sup>239</sup>

The Courts are Federally funded and thus subject to Congressional appropriation. The Federal government funds judicial, clerical, and support staff compensation, as well as court technology, operating expenses, courthouses, and equipment at both the trial and appellate level. This means that the Courts may be impacted by changes in Federal budget policy or procedure, including Federal shutdowns. Similarly, local D.C. judges are nominated by the President and subject to confirmation by the Senate. The D.C. Judicial Nomination Commission screens, selects, and recommends to the President candidates for vacancies on the D.C. Superior Court and the D.C. Court of Appeals; the President then has 60 days to nominate a candidate to the Senate.<sup>240</sup> There is no timeline within which the Senate must act on the nomination. The Courts have experienced delays in candidates being confirmed by the Senate in a timely fashion. The resulting vacancies have had a significant impact on the day-to-day operations of the courts.

to generate feedback from legal services providers and other stakeholders on court practice and relevant court rules and to make practical changes in court process and administration.

The Courts also have supported the creation of several specialized programs to serve litigants. As is discussed in more depth elsewhere in this Report, the Courts helped establish walk-in, self-help, and legal resource centers located on-site at the courthouse complex. The Courts also created space for legal services providers to operate court-based and attorney-of-the-day projects. In addition, the Courts created a Language Access Advisory Committee in 2015 in response to goals set by a comprehensive language access plan to address the needs of LEP litigants. The Committee, chaired by a judge and composed of legal services attorneys and court personnel, has implemented numerous initiatives including: developing multilingual signs for court buildings with information about language services; creating a process for submitting feedback about language access in the Courts; offering training to judges and court staff; and contracting with trained professionals to translate hundreds of court forms into multiple languages.

The Courts have programs that incorporate alternative dispute resolution in Family Court and some civil calendars and created a new program that identifies *pro bono* counsel to make mediation in the D.C. Court of Appeals available to those who are otherwise unrepresented. The Courts have deployed court staff to serve as navigators for the veteran population and launched another navigator program in 2018 to assist litigants in landlord and tenant and small claims cases which comprise its highest volume calendars.

Further, the Courts have pursued several important technology enhancements, such as e-filing, public access to some case documents, and live streaming of arguments at the D.C. Court of Appeals. In August 2017, the Courts launched a new website that is mobile-friendly, language accessible, and more easily navigable. The website contains online calendars, important information and services for litigants, and a live chat function for the Civil Division. The Courts have incorporated an electronic information board in the main D.C. Superior Court building with information about case schedules and eLobby in some of its branches to ease check-in. The Courts also contracted with an external

provider to create a series of interactive interviews that will enable users to complete basic court forms online and have reached out to legal services providers to bring their expertise and guidance to the development of the interviews.

All these efforts are in addition to the work being done in many individual court branches to increase access to justice – many of which are discussed in more depth in *The Practice of Civil Legal Services in the District* by Issue Area section.

Despite this important work, significant challenges remain. The D.C. Court of Appeals and the D.C. Superior Court see high percentages of litigants proceeding without counsel, based on data provided by the D.C. Courts for calendar year 2017.<sup>241</sup> In that year, for example, the D.C. Court of Appeals saw *pro se* participation at the time of filing ranging from 50% to 90% depending on case type. In D.C. Superior Court, of cases disposed in 2017 there were *pro se* participation rates such as:



97% of plaintiffs in small estate matters in the Probate Division.



88% of petitioners and 95% of respondents in the Domestic Violence Division.



83% of plaintiffs and 93% of respondents in divorce/custody/miscellaneous cases in Family Court.



97% of respondents in paternity and child support cases in Family Court.



88% of designated respondents.<sup>242</sup> in the Landlord and Tenant Branch of the Civil Division, in contrast to the 95% of plaintiffs who were represented.



75% of plaintiffs in Housing Conditions cases in the Civil Division.

The challenges for these *pro se* litigants are significant, as discussed in *The Importance of Civil Legal Services* section. Low-income litigants find it difficult to understand and navigate the court system. The disputes that typically bring low-income families and individuals into the court system—housing, small claims, child support, custody—are often heard by divisions of the courts with high volume dockets which create additional challenges. Courtrooms that handle such cases can appear rushed and under-resourced. As discussed elsewhere in this Report, the court-based centers and projects that currently exist are important but are extremely busy and cannot provide or secure full representation for everyone who seeks help.

In January 2018, the Courts issued their 2018-2022 Strategic Plan.<sup>243</sup> The plan identified a number of important core priorities, the first being “access to justice for all.” In it, the Court mentioned several ways they would advance this strategic priority, including calling for greater civil legal assistance (with particular emphasis on *pro bono*); expansion of the availability of assistance and information in the area of self-help (including on-line court services); the reduction of wait times; language assistance; online court services; mobile applications; text notifications; and services for special populations such as the use of court navigators. The plan also prioritized “fair and timely case resolution” to limit continuances and delays and improve case scheduling, increased use of alternative dispute resolution, the use of problem-solving courts, increasing the timeliness and transparency of the rules process, and using technology in accomplishing these goals. Another goal is a “resilient and responsive technology” to continue to enhance information technology capabilities to better serve the public and use of information technology infrastructure to promote efficiency in court services.

All of these goals are extremely important, and reflect the feedback received from legal services providers about areas for continued focus in the Courts. To accomplish all of this, the Courts cited their ongoing collaboration with City and community partners, and community agencies – which will indeed be critical to achieve these laudable goals. The Commission looks forward to working with the D.C. Courts to advance our common mission of access to justice.





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# The Practice of Civil Legal Services in the District by Issue Area

The following issue-area sections are based in part on information that legal services providers reported in their survey responses. The surveys solicited information about types of cases (e.g., Bankruptcy) that were grouped together under practice area-headings (e.g., Consumer). The quantitative data provided in each practice area below reflects those case-type groupings.<sup>244</sup> As specific providers may categorize a type of case under different practice areas, these groupings helped maintain consistency as much as possible as in order to quantify and compare the work of legal services organizations. The case-types that fell into particular practice areas are listed before each issue area described below. Each issue-area section then continues with an overview of practice, followed by a snapshot encapsulating the survey data, and concludes with a summary of practice changes obtained primarily through listening sessions with legal services providers and other community stakeholders.

# | Consumer

## Overview of Consumer Practice

The provision of legal services in the area of consumer law has grown substantially since the 2008 Report. This growth is largely born out of the need: District residents living in poverty in a period of rapid gentrification and rising cost of living are more likely to experience consumer issues such as foreclosure, debt collection, fraud, identity theft, and discrimination in access to financial services. Vulnerable populations such as the immigrant community are particularly susceptible to exploitation due to circumstances such as language barriers, literacy issues, and the mere prevalence of their personal information in public systems, as well as, in recent years, anxieties caused by Federal immigration enforcement policies which have led many immigrant households to disengage from the legal system.<sup>245</sup>

For many low- and moderate-income District residents, their home is their only asset. Often real property has been in a family for years, providing not only a sense of economic stability but a firm grounding in the community. For these families, foreclosure can be economically and personally devastating. Low-income families have “grossly fewer resources to draw on when they come under financial pressure ... [even] over smaller amounts like credit card debt.”<sup>246</sup> And the consequences of financial strain can be more devastating. There were 75% more personal bankruptcy filings in the District in 2012 than 6 years prior,<sup>247</sup> and many of the petitions were filed without the assistance of counsel.

Further, the lack of access to legal services can be particularly consequential in this area of practice. Consumer law is complex to navigate. While negotiated settlements can often resolve disputes (e.g., a payment plan to repay existing debt) the power imbalance created when one side lacks counsel can make that exceedingly difficult to negotiate – and settlement as a general matter is less amenable to effective self-help solutions. Cases where the defendant lacks counsel are more likely to end in default, a result that not only impacts the individual litigant but “people’s belief in the fairness of the justice system.”<sup>248</sup> Defaults are more frequent for those who face barriers to appearing in court.

This power imbalance is especially acute in debt collection, an area of consumer law that has grown since the 2008 Report and that some have described as “the greatest threat to the consumer protection system.”<sup>249</sup> As more individuals are unable to pay their debts, the business of debt collection

*District residents living in poverty in a period of rapid gentrification and rising cost of living are more likely to experience consumer issues such as foreclosure, debt collection, fraud, identity theft, and discrimination in access to financial services.*





*For many low- and moderate-income District residents, their home is their only asset.*

is on the rise. This can put low-income litigants at an even greater disadvantage, pitting represented, institutional entities against unrepresented, low-income litigants unskilled at raising legitimate defenses or negotiating a favorable settlement: “After paying pennies on the dollar for old accounts, debt buyers pursue consumers for the full dollar value shown. Ignoring whether the debt is already paid or actually belongs to someone else, debt collection lawsuits have flooded courts across the country. If an affected consumer is unaware of a legal challenge, default judgments can and have been entered resulting in wage garnishment, bank account seizure and negative items on credit reports.”<sup>250</sup> Debt-related law suits can have long lasting and

severe consequences for an individual’s financial future, and collateral effects on his or her psychological well-being and family stability.

There are similarly significant consequences for District homeowners who experience hardship. If a homeowner in the District fails to pay his or her annual real property taxes within a specified time period, the home is subject to a tax sale at which the tax lien may be sold for as little as the amount of the outstanding tax bill.<sup>251</sup> Homeowners fail to pay taxes for many reasons, including lack of funds, diminished capacity of the homeowner, inability to afford dramatically (and suddenly) increased tax rates due to improper property classification by the District, confusion about tax payment responsibility after a mortgage is paid off, or delivery to a resident who fails to transmit it to the property owner. Following a tax sale, a successful bidder must file an action in D.C. Superior Court to foreclose the owner’s right of redemption. The property owner has an opportunity to redeem the property before the suit is filed by paying certain costs and back taxes. However, many homeowners are unaware of their redemption rights, how to exercise them or

## Consumer Case Types



Bankruptcy



Car Purchase and Repair



Debt Collection



Defective Product



Home Repair Dispute



Identity Theft/  
Identity Fraud



Predatory Lending



Student Loan



Utility Termination



Other

When the survey was created, foreclosure cases were grouped with the Housing issue area, rather than Consumer. Because attorneys practicing consumer law confirmed in the listening session that foreclosure cases typically are part of the consumer practice, those cases are discussed in the Consumer section under “Changes In Consumer Practice Over the Past 10 Years,” but are not included in the quantitative section, “Consumer Practice Among Surveyed Organizations: A Snapshot.”

even how to get updated information regarding the amount of taxes owed. Residents who are elderly or disabled also may be unaware of certain programs that can qualify them for tax relief.<sup>252</sup> The homeowner can still redeem the property after the suit is filed, but the costs may increase to include reasonable attorneys' fees and costs incurred by the bidder in any action to foreclose.

Deed theft or mortgage fraud is another major issue in the low-income community, particularly for elderly residents. This problem frequently takes the form of a foreclosure rescue scam in which vulnerable homeowners facing foreclosure are offered alleged financial assistance. A homeowner may believe assurances that he or she is getting a legitimate home loan, but in reality, the homeowner signs a document that transfers the home to the person allegedly offering assistance or to a "straw purchaser." A homeowner may even unknowingly agree to be a tenant in his or her own home and, if rent is not paid, may become subject to eviction. While the homeowner may be given an opportunity to buy the house back after a certain period, it is typically at a cost that far exceeds the amount loaned or paid and usually far exceeds what the homeowner can pay. In the meantime, for the cost of the money owed (which may be only a few thousand dollars), the purchaser obtains the deed to the property and all the equity the homeowner had built up. Then, as part of the fraudulent transaction, the purchaser obtains a new, much larger mortgage against the property, stripping the equity. For elderly residents who have owned their homes for many years, this equity can be substantial and the homeowner's only asset of value.

Among other forms of deed theft are attempts by family members or acquaintances to steal the deed—for instance, by forging the document or a power of attorney—and mortgage fraud schemes which include offers by purported lenders to provide refinancing in exchange for an upfront fee. In such schemes, the "lender" may take the fee without ever providing the assistance or the refinancing may be on misleading and predatory terms.

These are just some of the types of fraud faced by District residents. In general, fraud continues to be a major problem in the District. According to the Federal Trade Commission, in 2016 the D.C. Metro region had the highest number of fraud-related consumer complaints of any U.S. metropolitan area at more than 35,000, almost 9,000 of those in the area of identity theft. In the District alone there were more than 11,000 complaints of fraud, identity theft, other consumer complaints, and scams.<sup>253</sup> This is a pervasive problem – something that faced the District at the time of the 2008 Report as well. As discussed above, providers noted that the upturn in the housing market has brought about more fraud and equity stripping scams. For example, one provider reported receiving 3–4 forged deed cases in just a two-week period.

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***According to the Federal Trade Commission, in 2016 the D.C. Metro region had the highest number of fraud-related consumer complaints of any U.S. metropolitan area.***

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Given these issues, there is an overwhelming need for consumer legal service. Moreover, because of the complexities of litigating these cases, having a lawyer is essential. For example, in addition to often involving complicated legal claims and defenses, including those arising out of complex and sometimes highly

technical consumer financial protection laws, consumer law cases are often factually complicated, document intensive, and time consuming. They require investigation into issues like property classification, whether procedural requirements have been satisfied, uncovering complicated shell games designed to hide the true nature of the transaction and to strip equity from homes, and can involve complicated title and probate issues. And having a lawyer makes a difference. For example, according to data cited in a White House Legal Aid Interagency Roundtable study published by the U.S. Department of Justice, a Maine legal aid group represented 550 low-income consumers over a 3-year period in cases that collectively involved \$1.86 million in alleged debt, and "won all but two of those cases" – i.e., over 99%.<sup>254</sup> By the same token, a study of 45,000 debt collection cases in 40 Texas counties noted that "the debt collector won most of the time... [but] when the consumer appeared with a lawyer, the collectors' win rate dropped to less than 5%."<sup>255</sup>



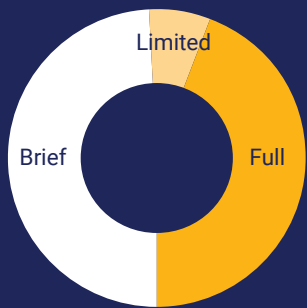
# Consumer Practice Among Surveyed Organizations: A Snapshot

# 10

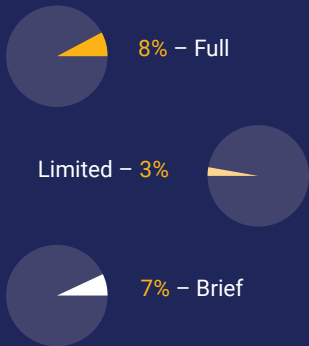
Ten organizations that responded to the survey reported providing consumer legal services in 2014.



Based on survey results, there were 9 paid FTE legal services attorneys working on consumer law matters in 2014, accounting for 4% of the total paid FTE legal services attorneys.\* This is an increase from the 2005 survey responses which showed 5 paid FTE legal services attorneys working on consumer matters.<sup>256</sup>



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 825 consumer cases, limited representation in 126 cases, and brief services in 913 cases.



Providers reported that consumer matters accounted for 8% of full representation cases, 3% of all limited representation cases, and 7% of the cases receiving brief services across all practice areas in 2014.<sup>257</sup>

\*There are additional paid FTE legal services attorneys who reported offering legal services in the area of foreclosure, as discussed in the *Housing* section.

## Changes in Consumer Practice Over the Past 10 years

Despite its documented importance, consumer law was a predominantly unmet need when the Commission’s 2008 Report was written. In that Report, the Commission noted that “unaddressed consumer issues can have far-reaching and devastating results, such as the loss of one’s home... [yet d]espite these potentially serious consequences, few legal services providers are available to assist low-income residents in this area.”<sup>258</sup>

The legal services community responded and while there is still great need, the landscape has changed somewhat for the better. Providers already doing consumer law grew their practices. For example, Legal Aid’s Consumer Unit grew from one attorney to a 6-7 attorney unit in the intervening years. Attorneys with experience in consumer law came together to create a new organization, Tzedek, whose mission is to safeguard the rights and interests of D.C. residents facing debt-related problems. Both of these organizations joined LCE, PBC, and NLSP as the primary providers of support in consumer law, with a few other providers, such as LSIC doing a small amount of this work. Nevertheless, the vast majority of respondents in consumer cases are appearing *pro se*.<sup>259</sup>

While the consumer law landscape has changed somewhat, its core legal issues largely remain the same. In 2018, providers shared that the most prevalent consumer problems for which District residents seek legal help continue to be home ownership preservation, debt collection defense, and credit-related repair. Providers also reported an increasing demand for help with certain

emerging problems such as identity theft as more personal information is available electronically. Providers developed some niche practices such as counseling and assisting economically vulnerable individuals with matters involving proposed transfers of structured settlement annuities and assisting in breach of contract and unlicensed contractor cases. In the area of bankruptcy, PBC operates a stand-alone clinic and trains *pro bono* attorneys to represent individuals filing personal bankruptcy by providing advice, preparing the petition and related schedules, attending the meeting of creditors, and otherwise handling all aspects of the Chapter 7 bankruptcy process.

Consumer providers such as Legal Aid and LCE reported that foreclosure, while always an area of practice, was an area they have had to prioritize in order to accommodate changes in client need. With the collapse of the housing market and the recession that followed, mortgage foreclosure became a more prominent concern. A change to the way lenders initiated foreclosures directly in court led to an exponential growth in the number of court filings in foreclosure matters.<sup>260</sup> Providers also reported needing to develop more in-depth experience defending against condominium foreclosures in response to a 2014 legal development that allowed condo associations to initiate foreclosures and wipe out mortgages related to the property, resulting in significant losses of equity by homeowners and lenders scrambling to figure out what to do. In all these areas, providers pivoted to meet the growing need in order to preserve home ownership.

With this greater emphasis on foreclosure work, other consumer areas that were also growing in need were receiving insufficient attention by necessity. This development substantially informed the creation of Tzedek. Seeing that foreclosure work remained a large percentage of consumer work and was getting meaningful attention, Tzedek was designed to fill other consumer-related gaps like debt collection, car repossession, financial crime victim support work, credit repair, student loan defense, utility shut off defense, and the need for systemic policy reform and increased community outreach and empowerment programs in consumer and debt-related areas.

Many of the efforts pursued by legal services providers in this area have been focused on court practice. After the increase in foreclosure filings, for example, the court worked with legal service providers and other interested

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*Legal services providers have devoted significant resources to try to address the power imbalance inherent in debt collection cases and the harmful effects such cases can have on economically vulnerable individuals.*

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stakeholders to establish early case resolution procedures. Court-sponsored mediation, which was already available, was scheduled earlier in the case, allowing homeowners a meaningful opportunity to find a sustainable solution without first having to go through pretrial litigation and dispositive motions. Providers also worked with the court to develop a revised entry of default notice in mortgage foreclosure cases that encourages the homeowner to attend the next hearing despite the default and advises the homeowner that legal services attorneys and housing counselors will be available in the courtroom as a resource. Providers also successfully encouraged the court to keep initial scheduling conferences available to litigants despite the entry of a default, giving the homeowner an opportunity to address the court even without having filed an answer. Providers acknowledged that this can create some additional work for the court but is an important avenue of last resort for low-income parties facing mortgage foreclosure cases.

The court also established a consolidated calendar to handle foreclosure cases on the same day each week, thus enabling legal services providers and housing counselors to develop a new court-based project focused on the needs of distressed homeowners. As discussed earlier in this Report, the creation of Administrative Orders to allow for same day, limited scope representation facilitated these projects, which were described by one lawyer as a “game changer” in providing consumer law services. Now, consumer attorneys are regularly in the courtroom for initial hearings in judicial foreclosure cases to provide legal information, referrals, and representation to low-income homeowners. Similarly, LCE covers the real property tax foreclosure docket each week, serving as a resource for at-risk homeowners and representing clients in tax foreclosure cases.

The court has also seen growth in debt collection matters. While the court used to hear debt collection matters on one day a week, it has added a second day to accommodate the increased volume. Case filings in the Small Claims Branch, while not exclusively debt collection, rose from 7,096 in 2017 to 9,261 in 2018.<sup>261</sup> As discussed at the outset, these cases often involve liquidated debts (e.g., credit card, loans, medical, etc.) owned by an original creditor or purchased by a debt buyer. Since these collectors are typically corporate entities, they are required by court rule to have counsel. The defendants, however, are rarely represented and there are high rates of default. It is estimated that 71% of Responders in Small Claims matters disposed in 2017 were appearing *pro se*, for example.<sup>262</sup> Based on an informal analysis of court dockets and case dispositions in 2016, Legal Aid found that an estimated 42% of cases on the small claims debt collection calendar resulted in a default or default judgment being entered on the initial hearing date. Other providers see default rates that total well above half of the defendants on any given day.

Legal services providers have devoted significant resources to try to address the power imbalance inherent in debt collection cases and the harmful effects such cases can have on economically vulnerable individuals. In 2012, Legal Aid and LCE began a court-based initiative to provide same day legal services to low-income defendants with debt collection matters. There, attorneys work to protect clients

from judgments or unfavorable settlements that can have a devastating impact on people living in poverty. With the addition of Tzedek, there are now three legal services providers that work collaboratively to provide direct, same day assistance to litigants with debt collection matters in small claims court. The court also worked with providers on a series of debt collection reforms targeted at increasing access to justice, such as improving systems for litigants to connect with free legal services before mediation, as well as working with stakeholders to implement substantial revisions to the standard complaint form and instructions to defendants. The court has also created a committee to look at technology-based reforms.

PBC also operates the Consumer Law Resource Center when initial hearings in collection matters are heard. Here, litigants receive information about debt collection and other consumer-related legal areas, such as home improvement contract disputes, security deposit refunds, small claims cases, vehicle or utility disputes, and violations of the Consumer Protection Procedures Act. The Small Claims Resource Center is open on a different morning each week and staffed by the NLSP in partnership with UDC's School of Law. Here, litigants involved in or interested in filing a small claims proceeding can receive legal and procedural information. At both resource centers, litigants receive referrals to legal services providers, and limited services such as assistance with basic court pleadings and documents.

## Addressing Economic and Legal Problems from Debt Collectors

Ms. Johnson, a Ward 5 resident in her mid-50s who supports her daughter and granddaughter, took out a credit card during a time of stability and fully expected to pay the balance. Shortly thereafter, she unexpectedly lost her job. Despite her best efforts to find a new job, she had been unemployed for nearly two years when she was sued by a debt buyer for her defaulted credit card. Distressed by the lawsuit and the turn her life had taken, she sought assistance in court and met legal service attorneys. The legal services attorney she worked with was able to negotiate a continuance in the case for four months. During the continuance, she was fortunate to find a new job and a secure income. On her next court date, she was able to settle the case and, with the help of a legal services attorney, reduce her debt by half.





The court and providers have worked together to ensure that litigants are aware of these court-based services. One observation noted by providers is that individuals with consumer problems, even those already at court, weren't as likely to understand that they had a legal problem or take advantage of court-based legal services as compared with other court-based centers. Attorneys thus pursued targeted ways to reach clients. Providers worked with the court to ensure their services were cited during the morning announcement, and attorneys are present in the courtroom and specifically identified by the court. On the Small Claims collection calendar, providers have developed a process by which defendants who are waiting for their case to be mediated can request to meet with a legal services attorney beforehand. Across all calendars focusing on consumer law matters, the court makes direct referrals of cases with unique needs or in situations where the client appears to be particularly vulnerable. This is especially true in default situations where personal service is obtained on a senior or in cases of reverse mortgages. There, LCE will reach out to the homeowner to talk about eligibility for legal services and/or to provide information about the court process. Providers noted that this has resulted in a more robust and streamlined court-based practice that helps clients "get through the maze."

The court has also engaged in rules reform, developed smaller working groups to troubleshoot court practice and procedure, and held listening sessions to hear directly from litigants about their court experiences. Legal services providers have conducted trainings for judges on substantive issues like foreclosure and related issues like elder abuse and financial exploitation. While there is certainly more work to do, these serve as examples of positive, collaborative developments.

Consumer law providers have also focused increasingly on community outreach projects and partnerships outside of the court in order to help address consumer-related issues, mitigate the practices of debt buyers, and proactively reduce the prevalence of default judgments. Providers conduct community outreach and preventative financial literacy education to better equip individuals vulnerable to consumer-related legal problems and have developed programs to assist District residents with credit repair. Providers have also used creative approaches to deal with emerging problems. For example, providers reported that the immigrant population is increasingly reluctant to appear

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*There has also been increased focus on consumer issues within the District government, an area of additional opportunity and collaboration.*

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in court due to concerns about more aggressive immigration enforcement – resulting in more default judgments for that population. To address this concern, one provider produced a public service announcement in Spanish to let individuals know how they can secure assistance outside of the court setting.

As in the other issue areas, consumer law practitioners and their clients have benefitted from collaborations with other attorneys – as described above – and with community organizations:

- NLSP operates economic security and student loan workshops in D.C. Public Libraries.
- Tzedek provides legal advice during community programs run by Little Lights Urban Ministry, conducts consumer law presentations at food distribution sites like Capital Area Food Bank, works with financial counselors at the Capital Area Asset Builders, and operates a financial literacy program at the Ward 7 Collaborative and UDC Community College.
- LCE holds events at senior centers across the District to discuss homeownership preservation.
- Legal Aid serves as the host site for a certified financial coach through the Consumer Financial Protection Bureau Financial Coaching Program.

In addition, several providers described targeted outreach to those serving other populations who may have co-existing financial concerns, such as victims of domestic violence or victims of crime.

There has also been increased focus on consumer issues within the District government, an area of additional opportunity and collaboration. The Mayor and the D.C.

Attorney General convened a Consumer Task Force that brings together legal services providers with District government offices. The D.C. Office of the Attorney General (“OAG”), which has for decades done varying amounts of affirmative consumer work, created a stand-alone Office of Consumer Protection which has substantial civil enforcement authority. Providers see this development as a positive step towards highlighting and addressing consumer-related concerns in the District.

Finally, legal services providers have pursued systemic advocacy efforts in the area of consumer law – again, in collaboration with each other and other stakeholders such as *pro bono* law firms. Among the policy issues the community has addressed include: reform of automatic suspension of driver’s licenses for failure to pay traffic debt; eliminating license suspension as a consequence of unpaid civil court judgments; increasing protections for low-income earners under wage garnishment policies; strengthening requirements for debt collection lawsuits; and structured settlement legislation. Consumer providers have also appeared as *amicus* in important consumer law cases.

Despite these many positive developments, providers caution that needs continue to grow and to outpace provider capacity, with the significant consequences to individual litigants detailed above. There is a substantial need to ensure that at-risk populations are aware of their rights and have the necessary legal information and assistance to protect themselves and their livelihoods. One growing challenge providers reported was the significant overlap between consumer and probate law, often necessary to preserve home ownership from one generation to the next or to address a foreclosure issue. This presents a challenge for the many providers who don’t have internal probate expertise, an area where there is also a lack of *pro bono* resources. Generally, providers noted that placing consumer cases with *pro bono* counsel is difficult due to the prevalence of conflicts with banks and other lenders – although Federal government attorneys (absent an agency conflict) have emerged as important resources for these cases. Still, this puts pressure on legal services providers themselves to meet this growing need.

## At Risk of Losing a Home Due to a Medical Crisis

Ms. Ward was a single working mother who became a proud homeowner after years of saving. Unfortunately, Ms. Ward fell behind on her mortgage payments when a blood clot left her with unforeseen medical expenses. She eventually hired a law firm that promised to help her avoid foreclosure. But when her lender filed a foreclosure action, her lawyers failed to appear in court or do anything to defend her case. One day, a stranger came to Ms. Ward’s door and informed her that he had purchased her home at a foreclosure auction.

*One day, a stranger came to Ms. Ward’s door and informed her that he had purchased her home at a foreclosure auction.*

She soon discovered that the sale had occurred after a default judgment was entered against her in the foreclosure case. Ms. Ward was devastated that the law firm she had retained and had been paying for a year had failed her.

Ms. Ward came to a legal services organization for help. Legal services attorneys first prevented her from being forced out of her home by the auction purchaser. Next, they successfully argued that she never had been properly served in the case and the court vacated the default judgment and reversed the foreclosure sale. The attorneys then helped Ms. Ward secure a loan modification that lowered her interest rate and brought her mortgage current. Finally, the legal services organization teamed up with a *pro bono* attorney from a private law firm to help Ms. Ward bring a malpractice action against her previous lawyers, which was eventually settled.

# | Disability and Health

## Overview of Disability and Health Practice

Issues related to health and disability status impact a significant portion of low- and moderate-income District residents. The practice of health and disability law encompasses a wide range of issues, including eligibility and coverage barriers, physical and mental health care, and discrimination based on disability status. Access to legal information and services is critical, as many District residents are not versed in their rights and therefore rarely assert them. Without a lawyer, it can be very difficult to achieve a favorable result. Those District residents who experience health issues or a disability can also be more susceptible to the types of challenges that impact other low-income District residents, like access to employment, education, or consumer protections. Thus, there is significant overlap between the issues discussed below and several other issue area discussions, particularly the *Public Benefits* section which has an extensive discussion of health- and disability-related public benefit programs.

### Access to Health Care

Significant attention has been paid historically to the dire effects of living without health insurance, culminating in the passage of the Affordable Care Act (“ACA”) in 2010. The ACA expanded access to health insurance for low-income residents of the District.<sup>263</sup> D.C. was the second jurisdiction to implement the Medicaid expansion for childless adults. In 2010, the District moved over 35,000 people from the locally funded D.C. Healthcare Alliance (“Alliance”) program to Medicaid, making these individuals eligible for the more robust service offerings of Medicaid and shifting much of the attendant health care costs from local funds to Federal reimbursement. The locally funded Alliance was maintained to serve those who were still ineligible for Medicaid after expansion, such as undocumented immigrants and documented immigrants who are not yet eligible for Medicaid. Even before the ACA, District residents had a low uninsured rate, but it continues to drop; it was 6.7% in 2013 and 3.9% in 2018.<sup>264</sup>

Despite this high rate of insurance, District residents still face challenges obtaining high-quality, accessible health care. At times, access to legal services or other advocacy is

needed to obtain necessary treatment.<sup>265</sup> Of the problems that remain, timely access to services and the quality of the services themselves, on top of a lack of coordination, are at the forefront.<sup>266</sup> Participants in the Alliance face special challenges. Some are administrative, like the 6-month recertification requirement that is discussed at length in the *Public Benefits* section.<sup>267</sup> Providers also shared their concern that the immigrant community will, to avoid exposure to government agencies, refrain from accessing the program in light of the political climate and fear of being deemed a public charge.

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*Issues related to health and disability status impact a significant portion of low- and moderate-income District residents.*

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There is an extensive discussion in the *Public Benefits* section about the difficulties District residents face in navigating health-related benefit eligibility issues.

In addition, the limited number of health care facilities and primary care physicians in proximity to public health insurance recipients makes it difficult for them to utilize the full benefits of their health coverage. This is particularly true in Wards 7 and 8, where there are fewer pharmacies, urgent care, and vaccine locations, and a distinct lack of specialty care.<sup>268</sup> Services for low-income pregnant women are increasingly scarce, with two District maternal wards closing within the past few years.<sup>269</sup> Dental care can be difficult to obtain, as many dentists do not accept insurance and, even if they do, don’t participate in Medicaid.<sup>270</sup> This can lead to higher levels of dental disease and unmet treatment needs in comparison to the population at large.<sup>271</sup>

## Disability and Health Case Types



Access to  
Health Care



Discrimination Based  
on Disability



Involuntary  
Commitment Hearings



Private Health  
Insurance Disputes



Other

### Behavioral Health

Access to behavioral health is an area of increased focus in the District and among its community of legal services providers.<sup>272</sup> There is a growing understanding of issues like the impact of poverty and the consequences of experiencing trauma, either directly or vicariously. These experiences, which are felt by many low-income District residents, can have a significant impact on mental health and can manifest themselves in the home and in other settings like school.<sup>273</sup> And behavioral health can also play a critical role in the context of other legal matters, like court-involved youth and families,<sup>274</sup> those involved in family law disputes or experiencing domestic violence, or simply an individual for whom access to those services will ensure the type of stability that will make maintaining housing, employment, and other supports possible. Thus, legal services providers often find themselves, either directly or indirectly, trying to help their clients access these services.

Accessing behavioral health care can be challenging for low-income individuals because of the District's fragmented behavioral health delivery system: “[p]eople who need care, service providers, government leaders, and other stakeholders are regularly unaware of what resources are available and how to access those resources, [and t]here can be confusion when a service or level of care is needed about whether it exists.”<sup>275</sup> Those seeking behavioral health treatment confront a complex system with often multiple payers that is hard to navigate, from insurance companies, to government agencies, to the private sector, and even schools.<sup>276</sup> Certain issues are hard to address – limited capacity for behavioral health services in other languages; adequate capacity for substance use treatment and medication-assisted treatment; and transitional care

from acute psychiatric facilities as step-down services are limited to none. As a result, many individuals go without needed services. For example, one report found that 73% of youths with major depression did not receive any mental health treatment, and only about 16% received consistent treatment.<sup>277</sup>

Nevertheless, services are becoming increasingly trauma-informed, with an appreciation of the need for a more sophisticated approach to behavioral health issues. Coordination between the Department of Behavioral Health and Department of Health Care Finance through a new waiver initiative are small, yet promising opportunities. Providers noted feeling optimistic about the direction the District is taking in this area.

### Protection for District Residents with Health Issues and Disabilities

Those District residents with chronic behavioral health issues or disabilities can find themselves susceptible to issues like abuse and neglect. In these circumstances, legal assistance is important to ensure that their rights are protected, and allegations of mistreatment are investigated. Several legal services organizations (including the District's protection and advocacy entity, Disability Rights D.C. at University Legal Services (“ULS”)) provide support in this area. These providers also ensure that District residents have equal access to important services, such as service coordination, in-home supports, habilitation and supported employment readiness programs, and vocational rehabilitation.

The legal work done on behalf of those living with disabilities also can intersect with issues of discrimination. In their work



across different legal areas, legal services providers aim to protect individuals with disabilities from discrimination in employment (as discussed in the *Employment* section) and/or to secure reasonable accommodations in settings such as housing (as discussed in the *Housing* section) and schools (as discussed in the *Education* section).

## Changes in Disability and Health Practice Over the Past 10 Years

The field of health and disability law has been enhanced by many innovations over the past 10 years, and is increasingly framed as a social justice and health outcome issue, rather than simply a legal one. This has been accompanied by the growth of collaborations that promote screening for legal problems and social determinants of health that lawyers can address to improve health outcomes for District residents. Providers have also leveraged these professional alliances to advocate for systemic change through legislative advocacy and litigation strategies. Even in something like the name change context, having identity documents that match one's true self improves health, employment, housing, and education outcomes and reduces stress for every aspect of life. In this way, providing legal assistance to solve an identity problem sets the stage to exponentially improve all other aspects of life, including health. Addressing health-harming legal barriers can be a gateway to other services – a powerful statement for the critical role that legal services can play when there is collaboration among various disciplines.

## Health

As in other issue areas, the past 10 years in health practice has been marked by significant collaboration among attorneys and between providers and community organizations, particularly medical providers. While WWH has had lawyers on the health team since 1986 and CLC has been operating since 2002 at some of the District's highest volume children's health clinics, more organizations have begun recognizing the synergy between the legal and medical communities since the 2008 Report.

Providers noted how important it has been to be able to develop partnerships that foster strong connections and allow individuals in need of legal services to more quickly find lawyers. This has been particularly effective at organizations that have both medical and legal programs. For example, Bread developed a formal internal referral system between its social services and legal programs; in one year there were over 300 referrals. WWH has 14 bilingual paralegals focused on public benefits and insurance navigation who issue spot for health-harming legal problems and send clients to in-house attorneys as soon as any issue is identified. The same can be true for co-located medical-legal partnerships which are designed to promote this type of organic connection.

These partnerships not only ease access for District residents, but also support the formation of important professional alliances that have been effective in advancing

## Maintaining Needed Services

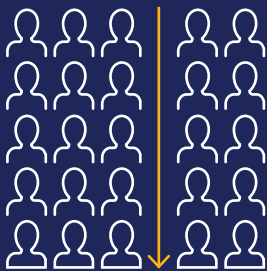
Mr. Lee reached out to a legal services provider after receiving a notice that his personal care aide hours were being cut. He relied on his personal care aide to ambulate safely to the restroom, to take his medication correctly, and to go out into the community. Because Medicaid's decision to cut these hours was scheduled for an administrative hearing, the matter was escalated immediately to a legal services attorney, who in just a 10-day period worked extensively with Mr. Lee's medical provider and Medicaid to resolve the multiple issues preventing the hours from being approved. The legal services attorney collaborated with opposing counsel from the D.C. Department of Health Care Finance and was able to resolve the matter before the benefits were cut and prior to the hearing date. With the help of his attorney, Mr. Lee was able to maintain his hours for the next 12 months.

*He relied on his personal care aide to ambulate safely to the restroom, to take his medication correctly, and to go out into the community.*

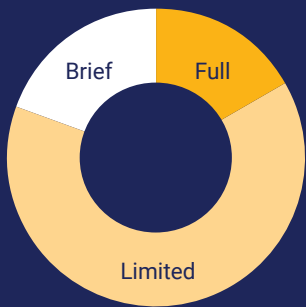
# Disability and Health Practice Among Surveyed Organizations: A Snapshot

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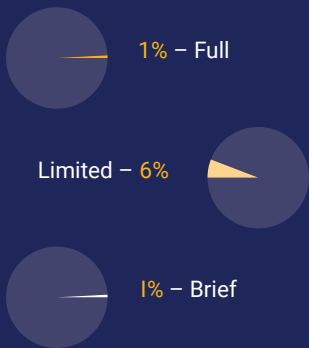
Eight organizations that responded to the survey reported providing health and disability legal services in 2014.<sup>278</sup>



Based on survey results, there were 10 paid FTE legal services attorneys working on health and disability law matters in 2014, accounting for 5% of the total paid FTE legal services attorneys.\* This is a decrease from 2005 survey responses which showed 15 paid FTE legal services attorneys working on health/disability matters.



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 77 health and disability cases, limited representation in 290 cases, and brief services in 88 cases.



Providers reported that health and disability matters accounted for 1% of full representation cases, 6% of limited representation cases, and 1% of the cases receiving brief services across all practice areas in 2014.

\*6 of the 10 paid FTE legal services attorneys worked for ULS which is focused on health and disability matters as the designated protection and advocacy provider in the District.

\*There are additional paid FTE legal services attorneys who reported offering legal services in the area of public benefits, as discussed in the *Public Benefits* section.

systemic change. Several coalitions, such as the Health Advocacy Coalition and the Alliance Coalition, promote greater access to public insurance programs. Their members include legal services organizations, health centers, health policy entities, and others focused on improving access to health care for District residents. Legal services providers also have collaborated with medical professionals to report on the state of health-related services in the District. For example, CLC published a report on the District’s behavioral health system in partnership with Children’s National Health System and the District of Columbia Behavioral Health Association,<sup>279</sup> and has published a series of report cards on children’s mental health care in the District.<sup>280</sup>

These alliances have been particularly powerful at the D.C. Council, where legal services providers have been active advocates. As discussed in the *Public Benefits* section, providers raise concerns in agency oversight hearings about the administration of benefit programs. They also advance substantive and budget-related initiatives to promote greater access to health care. For example, legal services providers have advocated for improvements in the Department of Behavioral Health’s School-Based Mental Health Program and have supported the District’s efforts to embrace a more trauma-informed practice across all of its areas of responsibility.

The 2008 Report highlighted providers’ work with District residents living with HIV. While that work continues, most notably by WWH, providers do note that attention has waned due to

the growing perception that HIV is easily managed with medication. Providers noted that these individuals, while living longer, still face challenges such as ensuring continued eligibility for benefits like private long-term disability or SSDI. According to the Federal Centers for Disease Control and Prevention, the District still leads the nation in the rate of HIV infection, with the chance of a person being infected with HIV in their lifetime at 1 in 13.<sup>281</sup> In 2015, there were 13,391 people reported as living with HIV and AIDS.<sup>282</sup>

## Disability

Providers shared some recent developments affecting District residents with disabilities, many of which implicate public benefits practice. For example, with the advent of Federally funded waiver programs, people with disabilities have a greater opportunity to live in integrated community settings.<sup>283</sup>

In the Fall 2018, the D.C. Department of Health Care Finance overhauled the long-term care assessment process. As a result, legal services agencies have been inundated with hundreds of requests for representation by District residents with disabilities facing service reduction and termination of their Medicaid home health benefits under the Medicaid State Plan and Medicaid Waiver for People who are Elderly and/or have Physical Disabilities. Aided by their home health provider agencies and Health Care Ombudsman Office, beneficiaries have filed requests for fair hearings at OAH.<sup>284</sup> Legal services providers represent a fraction of the beneficiaries facing service reduction and termination – 2017 data shows that OAH sees *pro se* representation in these areas in the 80–90% range.<sup>285</sup>

As in health, advocates for residents with disabilities have engaged in legislative advocacy over the past 10 years. One extremely important development was the passage of the Disability Services Reform Amendment Act of 2018, which reforms civil commitment for people with intellectual disabilities. The legislation ended commitments of persons with intellectual disabilities (with the exception of a person found incompetent in a criminal case). It recognized the

importance of supported decision-making agreements, allowing individuals to make their own care decisions with the help of friends, family members, and others they trust. The legislation also required the D.C. Department on Disability Services to create a formal complaint process that could be accessed by people receiving services and supports from the District’s Developmental Disabilities Administration. The disability rights coalition that played a significant role in this reform effort included legal services providers like ULS, Quality Trust for Individuals with Disabilities (“Quality Trust”), several law school clinics, disability-rights advocacy organizations, and medical partners. The District is only the fourth jurisdiction in the country to pass the law, after Texas, Delaware and Wisconsin.

Providers reported seeing the practical benefits of this change in the law almost immediately. Only months after it became law, Quality Trust prevailed in a case where the court, for the first time, cited the supported decision-making law. Through this work, Quality Trust has helped pave the way for District residents to regain independence.

Quality Trust also oversees the Jenny Hatch Justice Project,<sup>286</sup> which provides training on issues of importance to District residents living with a disability, including supported decision-making, alternatives to guardianship, and access to services.

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*Providers have also utilized systemic litigation strategies to advance the rights of people with disabilities.*

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Providers also have utilized systemic litigation strategies to advance the rights of people with disabilities. For example, ULS, along with AARP Foundation Litigation and Arent Fox LLP, represented people with disabilities in a systemic case seeking transition assistance from the District to facilitate access by nursing care residents to Medicaid community-based long-term care benefits under a waiver program to provide home health services. That work arose out of the *Olmstead v. L.C.* lawsuit that was decided by the U.S. Supreme Court in 1999. In 2018, attorneys at several disability rights organizations, including ULS, the Bazelon Center for Mental Health Law (“Bazelon Center”), and the National Center for Youth Law, filed a class action lawsuit against the District

## Securing Needed Benefits

Mr. Harrison was 60 years old and had no income at all when he turned to a legal aid organization for help. He had little hope since the Social Security Administration (“SSA”) had already denied his application for Social Security Disability benefits. The attorney submitted a new initial application for Mr. Harrison, which SSA approved in a record 6 months. SSA awarded him \$35,000 in retroactive benefits, plus \$2,154 a month going forward.



*Despite the positive changes that attorneys have achieved over the past 10 years, health and disability providers share many of the concerns those in the Public Benefits arena have about changes in Federal health and disability law and policy.*

on behalf of youth who they claim were unnecessarily institutionalized or are at risk of institutionalization.<sup>287</sup>

In addition, providers have developed projects to serve specific populations. For example, ULS provides legal aid and direct advocacy for D.C. residents with psychiatric disabilities in the D.C. Jail, in other D.C. correctional facilities, and in the Bureau of Prisons. Their attorneys work closely with the D.C. Department of Corrections, the D.C. Department of Behavioral Health, and the Federal Bureau of Prisons to facilitate access to services and public benefits including Medicaid, Interim Disability Assistance, and Supplemental

Security Income for D.C. prisoners with psychiatric disabilities who are returning to the community.

ULS also created a special program to address housing barriers faced by people with disabilities, especially people with mental illnesses, through systemic and individual advocacy for reasonable accommodations. As part of this program, lawyers work to address housing conditions and rights violations, as well as advocate on behalf of individuals with disabilities who are risk of institutionalization or eviction as a result of housing discrimination by public, subsidized, or private housing. Attorneys achieve these goals by filing grievances with mental health providers and the D.C. Department of Behavioral Health and/or complaints with the D.C. Office of Human Rights (“OHR”).

Despite the positive changes that attorneys have achieved over the past 10 years, health and disability providers share many of the concerns those in the Public Benefits arena have about changes in Federal health and disability law and policy, including rollback of Federal protections against discrimination in health care. They also voiced concern about the practical access issues for those in the undocumented immigrant community. They called for a continued vigilance among providers to ensure the rights of those impacted are protected.



# Education

## Overview of Education Practice

Education law is an area of significant need in the District and one that has experienced marked growth since the 2008 Report. For many low- and moderate-income District families, education is the public system with which they have almost daily contact. For parents of children with disabilities, local schools can be the primary source of necessary services. For District youth, access to educational opportunities can be the key to socio-economic advancement. Lawyers play an important role in helping families understand and access necessary educational services. They do so by addressing issues like school exclusion, by providing direct legal services to ensure that individual students' rights are being protected, and by making systemic legal changes to ensure equal access to schools.

Navigating the District's complicated public school system is challenging for families. The over 90,000 students who were enrolled in the District's public schools in 2017 were equally divided between schools operated by D.C. Public Schools ("DCPS") and independently operated public charter schools overseen by the D.C. Public Charter School Board ("DCPCSB").<sup>288</sup> Each charter school network operates as its own mini-school district, each of which is overseen by the Office of the State Superintendent ("OSSE") and the DCPCSB. While there is a framework of local and Federal law that all schools must follow, charters have a significant degree of independence to set their own policies and procedures

*For many low- and moderate-income District families, education is the public system with which they have almost daily contact.*

and are not subject to as many laws and regulations as DCPS. Navigating the network of public charter schools and traditional public schools can be confusing and overwhelming for parents. While there is an Ombudsman for Public Education and a parent resource center operated by AJE, there is still a significant need for legal assistance.

Accessing appropriate special education services can be particularly difficult for the families of children with disabilities.<sup>289</sup> Special education law and procedure is a complex framework of Federal and local law and regulations. Children's disabilities are not always identified and even when they are, parents find they often must advocate to ensure appropriate supports and accommodations are put in place. Parents often require expert help just to understand what their children need. Students with disabilities that manifest as behavioral issues are disciplined at disproportionate rates to their peers,<sup>290</sup> which can push students into the school-

## Education Case Types



Disciplinary Proceedings



School Transfers/  
Access to  
Education



Special Education



Title IX Complaint



Truancy

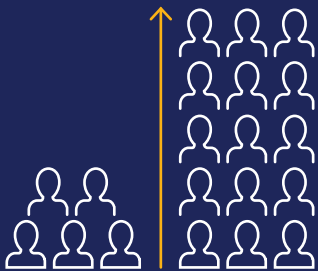


Other

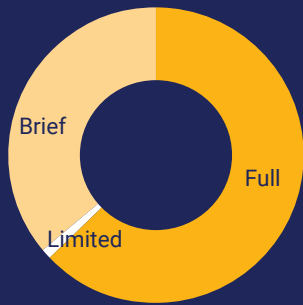
# Education Practice Among Surveyed Organizations: A Snapshot

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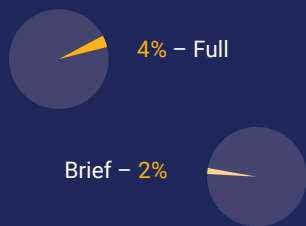
Nine organizations that responded to the survey reported providing education legal services in 2014.



Based on survey results, there were 15 paid FTE legal services attorneys working on education law matters in 2014, accounting for 8% of the total paid FTE legal services attorneys. This is an increase from the 2005 survey responses which showed 5 paid FTE legal services attorneys working on education matters.



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 416 education cases, limited representation in 7 cases, and brief services in 239 cases.



Providers reported that education matters accounted for 4% of full representation cases and 2% of the cases receiving brief services across all practice areas in 2014.

to-prison pipeline. Legal assistance can be essential to help parents navigate this complex system and to secure the services that their child needs.

School discipline actions, like suspensions and expulsions, also are issues that many District families face. Students of color and those with disabilities disproportionately experience disciplinary actions.<sup>291</sup> Parents have the right to administratively appeal disciplinary decisions at OAH, and legal assistance can be important to help families understand the procedural requirements and substantive issues they might contest. Efforts to minimize school exclusion are particularly important in the context of broader challenges around student engagement, success, and achievement. Students who are absent from school – either by choice or through exclusion – are more likely to fall behind in their grade level and become disengaged from school.<sup>292</sup>

Keeping students in school also promotes educational achievement. While the achievement gap in the District has narrowed, data still show that only one-third of students met or exceeded expectations in English with an even lower percentage (slightly over one-fourth) in math.<sup>293</sup> The achievement gap between white students and students of color remains large. Thus, for all DCPS students, and particularly those with disabilities or otherwise at-risk, staying in school with appropriate supports is essential. These issues are even more acute for justice-involved youth, like children in foster care or the juvenile justice system, as will be discussed below.

## Changes in Education Practice Over the Past 10 Years

The number of organizations providing education legal services has grown since the 2008 Report, as has the number of attorneys specializing in that work. Several legal services organizations have robust education practices, such as AJE, CLC, SJP, and ULS, as do some law school clinics. The Public Defender Service of the District of Columbia (“PDS”), CLC, and a specialized court-appointed panel provide targeted legal services to court-involved youth. The District also has an experienced bar of private attorneys who specialize in education law. While some work with low- and moderate-income clients, legal services providers reported that there are fewer private attorneys doing work for these clients than in 2008. In addition, both CLC and AJE supplement staff resources through *pro bono* programs. Legal services work on behalf of individual clients in education focuses primarily on disciplinary issues, special education, 504 plans pursuant to the Rehabilitation Act, and other legal issues that impact the equal access of students to education. Several other organizations engage in systemic or community work related to education: WLCCR leads parenting training activities; and the Bazelon Center has pursued several important systemic litigation matters.

Providers reported that this diverse group of special education attorneys is highly collaborative. The Special Education Advocates Roundtable (“SEAR”), for example, has worked together to develop case strategies in individual litigation as well as to advance important changes, such as improvements in the law through clarification of agency obligations, improved policies and procedures, and important legislative changes.

Systemic litigation has played an important role in special education law and practice. Lawyers succeeded in bringing about major changes through the *Blackman Jones*<sup>294</sup> and *Petties*<sup>295</sup> litigation, longstanding class actions begun in 1997 that concluded in 2014. That litigation led to a better functioning special education system, including a hearing office that resolves disputes, provision of evaluations and services to students, and transportation for students with disabilities. Another class action, *D.L. v D.C.*,<sup>296</sup> led to major reforms in how D.C. evaluates and provides services for students ages 3-5.

In 2015, advocates were instrumental in bringing about important special education legal reforms at the D.C. Council. AJE, CLC, and ULS joined other stakeholders in a working group at the D.C. Council to advocate for special education reforms to address systemic issues that prevented students from accessing necessary services. That effort resulted in passage of three pieces of legislation to enhance students’ Federal rights to a free and appropriate public education.<sup>297</sup> Some of the reforms that resulted from these successful efforts include: requiring schools to provide records to parents

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*Legal services work on behalf of individual clients in education focuses primarily on disciplinary issues, special education, 504 plans pursuant to the Rehabilitation Act, and other legal issues that impact the equal access of students to education.*



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## *Providers expanded efforts to ensure that families have access to legal information and support.*

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in advance of meetings; allowing for meaningful school observations; and shifting the burden of proof (persuasion) to school districts in certain cases. While these laws constituted a major win for children with disabilities and their families, certain provisions of the laws were contingent on funding. To secure the full benefits of the laws, SEAR successfully advocated for and obtained full funding from the D.C. Council.

While there have been major improvements in the law since the 2008 Report, special education services continue to be an area where legal advocacy is frequently needed. Special education providers reported increased difficulty in protecting students' rights after the 2014 termination of

the class actions described above, with an increase in the issues that led to the original litigation, namely delays in administrative review of legal claims and problems with the provision of core services like transportation for children with disabilities. The proliferation of public charter schools also has complicated education litigation, as charter schools are responsible for providing special education services despite sometimes limited specialized resources. This makes it all the more important to have access to legal help.

School disciplinary proceedings also have seen significant changes in the decade since the 2008 Report. In 2011, DCPS entered into a Memorandum of Understanding with OAH to have ALJs serve as hearing officers for the consideration of long-term suspensions and expulsions. Unlike prior hearings, which were held informally at schools, the new hearings are more formal. While generally positive, this change made the hearing process more intimidating for students and parents and increased the need for legal assistance. In 2017 there were approximately 216 student discipline cases at OAH, with 88% of cases with no party represented.

## Educational Access for Court-Involved Students with Disabilities

John was first found eligible for special education services while detained in D.C.'s long-term juvenile facility on a delinquency charge. He could not read, despite the fact that he was in the 10th grade and had been enrolled in D.C. Public Schools ("DCPS") since Kindergarten. He spent over four months in solitary confinement at D.C. Jail. During that time, he was provided work packets but no instruction or support. Given his inability to read, he could not complete the work packets on his own.

A team of special education legal services attorneys brought a complaint on John's behalf against DCPS, the Office of the State Superintendent for Education, and the D.C. Department of Corrections. As a result of their successful legal advocacy, John received 119 hours of tutoring, 36 hours of behavior support services, 7 hours of speech/language services, \$3,000 toward tuition for a post-secondary education or training program, and a laptop with software for students with learning disabilities. When John was released from D.C. Jail, he immediately enrolled in high school, worked diligently throughout the school year to complete his requirements, and ultimately graduated.





In response, providers expanded efforts to ensure that families have access to legal information and support. For example, in 2012 AJE worked with OAH to create a legal advice and counsel clinic to provide on-site legal assistance to unrepresented parents and students appearing for school discipline hearings. AJE served 122 parents and students at the clinic during the school years 2015–2016, 2016–2017, and 2017–2018. AJE has also worked in collaboration with Georgetown Law Center to develop a “know your rights” app for parents and students who appear at OAH for school disciplinary hearings. The app aims to make legal information more accessible to families so that they may understand and prepare for hearings.

Providers have also pursued reform in school discipline through

systemic litigation. For example, AJE worked with *pro bono* attorneys to prepare a class action complaint on behalf of families whose children had been expelled from a public charter school without a hearing. In response to a demand letter which attached the prepared complaint, the charter school revised its policies to ensure due process for students facing expulsion. In another case, AJE filed a class Office of Civil Rights complaint on behalf of students enrolled in a public charter school. The complaint alleged that the school discriminated against children with disabilities when it unilaterally disenrolled those who had missed school due to their disability and/or medical condition. As a result, the public charter school entered into an agreement requiring the school to take corrective action.

In 2017, AJE and UDC filed a state complaint alleging that DCPS schools, especially those located in high-poverty areas, were issuing undocumented suspensions primarily to students with disabilities. They found that these undocumented suspensions were for minor disciplinary infractions (e.g., arriving late or failing to wear the right shoes), that DCPS did not inform families of these suspensions, and that school officials incorrectly recorded the resulting student absences as “unexcused” or in some

cases “present” even though the child was not there. This practice endangered children by failing to account for their location and putting them at risk of being picked up by police for truancy and led to parents being investigated and prosecuted for educational neglect. Ultimately, OSSE found that DCPS violated both Federal law by unlawfully excluding students with disabilities from school, and local law by inaccurately recording the absences and thereby denying students necessary, legally required supports and

protections. OSSE ordered DCPS to take corrective action consistent with its findings, and DCPS ultimately revised policies and practices.

In the last decade, providers made other efforts to lay the foundation for policy reform. For example, AJE collaborated with the Council for Court Excellence<sup>298</sup> in reviewing,

analyzing and writing about school discipline data gathered from OAH. The resulting report highlighted DCPS and charter schools’ disciplinary policies and practices and the frequency of school exclusion.<sup>299</sup> The findings in this report played a critical role in AJE’s systemic advocacy efforts as well as in obtaining increased funding to address the problem. In 2016, AJE, GW Law School, and WLCCR collaborated with the Ombudsman for Public Education on revising the DCPS student discipline code, procedures, and practices. Through this collaborative effort, DCPS revised its notice of proposed discipline action to include a list of legal services organizations where families could get free legal assistance. DCPS also agreed to restrict school administrators’ ability to have parents waive their right to a school discipline hearing. Under the new process, parents cannot waive a hearing unless they have been connected with the central office and fully advised of their rights.

These efforts culminated in the pursuit of reforms intended to decrease the serious disparities in discipline of students of color and students with disabilities by limiting the ability of schools to use exclusionary discipline. In 2018, the D.C. Council unanimously passed the Student Fair Access to School Amendment Act of 2018. The law prevents schools

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*Partnerships between community organizations and legal services providers also help to connect families with legal information on all areas of education law more efficiently.*

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## *Providers have increasingly incorporated community education into their work.*

from suspending students for minor behaviors such as dress code violations or being late; limits unreasonably long out-of-school suspensions; and encourages schools to implement trauma-informed responses as alternatives to exclusion. The law came about after advocates formed the Every Student Every Day Coalition (“ESEDC”) which included legal services organizations (AJE, CLC, SJP, WLCCR), other legal advocates (D.C. Lawyers for Youth, American Civil Liberties Union of the National Capital Area), law schools (UDC), and community organizations (Sasha Bruce Youthwork). ESEDC developed a report based on DCPS discipline data that laid a strong foundation for the group’s legislative advocacy. Armed with this report, ESEDC members served on a D.C. Council working group to provide recommendations on proposed legislation that would limit the exclusion of children from school. Once implemented, this law will keep more students in school so that they may receive services that will improve their educational and life outcomes.

Partnerships between community organizations and legal services providers also help to connect families with legal information on all areas of education law more efficiently. Pediatricians often are among the most trusted professionals in a family’s life and see children at regular intervals. They are thus on the front lines to field concerns from families about educational issues. As discussed earlier in the Report, since 2002 CLC has partnered with several high-volume pediatric health clinics through its medical-legal partnership, providing training to medical providers on spotting educational issues that may need legal intervention. Similarly, AJE works in partnership with Mary’s Center, a Federally qualified health center, to operate a satellite intake office that is staffed by a bilingual educational support specialist. The goals of this Project are to increase the number of LEP and immigrant families that have support in the District’s education and special education systems and to provide legal assistance in education-related matters. This collaborative effort has increased access to educational supports and legal services for families who might not have otherwise received the help they need.

Providers have increasingly incorporated community education into their work. CLC regularly conducts “know your rights” sessions at the medical clinics with which they partner, as well as other sites. Sometimes these sessions are announced in advance, but others are less formal and happen organically, such as when there is a crowded waiting room of families waiting to be seen. AJE also has increased its outreach to students and families with separate “know your rights” trainings and tools that provide information to parents so that they can identify when a child’s struggles in school may be addressed through legal means. CLC has also incorporated parent advocacy training into its work. These efforts aim to help parents develop self-advocacy skills that can be utilized in the school system and beyond. CLC has found that even if former clients who have had this training return for additional legal help after the initial case has closed, they arrive in a better position after employing the strategies they have learned in doing their own advocacy.

Education advocates also have worked since the 2008 Report on issues related to justice-involved youth. A cross-sector working group was convened, for example, to address education barriers for students in the juvenile and criminal justice systems. The working group published a report in July

2018 proposing three legislative recommendations and 40 policy recommendations to improve education access and outcomes for court-involved students. Similarly, education attorneys working with older, court-involved students advocated together for the October 2018 introduction of legislation in the D.C. Council that, if adopted, would expand the special education attorney panel by enabling judges in the Criminal Division of D.C. Superior Court to appoint education attorneys to students, ages 17–22, with special education needs. This would allow the protections afforded by the Individuals with Disabilities in Education Act to be equally accessible and effective, regardless of income, race, age, court-involvement, or incarceration. As of 2018, OSSE has a full-time employee and a webpage dedicated to education for students in the justice systems.<sup>300</sup>

Despite these strides since the 2008 Report, providers have significant concerns for the future. Providers fear that many District children, especially those who are economically

disadvantaged or have special needs, still lack access to a high-quality, inclusive education with appropriate supports. Other providers expressed concern that their efforts have been focused on advocating for students with disabilities or other sub-populations, to the exclusion of children in general education. Those attorneys would like to focus more in the future on championing the rights of general education students to high quality instruction and safe and welcoming school environments. By way of example, AJE filed a complaint against DCPS alleging that the school system failed to provide vital documents in the native languages of 20 families and as a result, both DCPS and OSSE were found to be in violation of the language access law and were ordered to take corrective action. Actions like this could have an even broader impact for District families. Finally, some providers expressed a desire to work more closely on agency oversight so that entities like OSSE are stronger and can more effectively regulate and oversee education in D.C. and thereby improve outcomes for the District’s children.

## Education for Students with Severe Disabilities

Ms. Jimenez and her 15-year-old son, Juan, were recent immigrants and knew very little English. Ms. Jimenez’s son had severe cognitive and physical disabilities, was nonverbal and not toilet-trained, and had never attended school in his home country because of his disability. Ms. Jimenez believed that he had the ability to learn and desperately wanted him to receive an education. A legal services attorney first connected with Ms. Jimenez through a partnership with a local health center when the family was there receiving medical services. The legal services organization’s bilingual support specialist helped Ms. Jimenez to enroll Juan in his neighborhood school and to submit a request for special education services.

Although he was enrolled and eventually found eligible for special education and related services, Juan was not allowed to start school until an appropriate placement that met his needs was determined. The school moved so slowly in identifying an appropriate placement that legal services attorneys filed a due process complaint alleging that the school violated Juan’s rights. After successful litigation, Juan received both an appropriate school placement and compensatory education services to make up for the time he was waiting to be allowed to attend school. As a part of his compensatory education, Juan received music therapy and an assistive technology device to help him communicate at school and with his family at home.

*After successful litigation, Juan received both an appropriate school placement and compensatory education services to make up for the time he was waiting to be allowed to attend school.*

# Employment

## Overview of Employment Practice













Employment law practice is essential to the economic stability of countless low- and moderate-income District workers. These employees can face a multitude of employment-related legal problems including issues with benefits, wage and hour disputes, termination, unemployment and/or workers compensation, expungement, discrimination, and harassment. The negative consequences of any of these issues and the possibility of loss of income has the potential to deeply affect low-income households, compounding the need for assistance with housing, debt, public benefits, and other issues.

Maintaining a job, even if tenuous, is all the more critical when viewed against the backdrop of the District’s employment context. As discussed at the beginning of this Report, the District’s unemployment rates are higher than the national average, and those rates are even greater for residents of color.<sup>301</sup> Underemployment also is a significant problem. Many jobs in the District, especially those that are moderate- to high-paying, require advanced levels of education,<sup>302</sup> leading to a competitive low skill/wage job market. Many District residents who are able to secure

employment are living paycheck to paycheck because the cost of living in the region is one of the highest in the nation.<sup>303</sup> This means that most low- and moderate-income District workers are unable to accrue savings that could cover their basic needs if faced with unemployment.

This competitive and fragile employment environment makes low- and moderate-income residents particularly vulnerable to discrimination and other negative work experiences. The fear of losing one’s means of support and the power imbalances inherent in the employer-employee relationship leave employees less likely to raise concerns without outside support. This is particularly true among those who experience low-literacy or are members of vulnerable populations like the immigrant community. For thousands of District residents, a criminal record is a substantial burden that poses barriers to quality work, in addition to obtaining housing, professional licenses, financial aid, citizenship, public benefits, and admission into the military. Given these circumstances, there is a substantial need for employment-related legal assistance.

### Employment Case Types

 <p>Employment Discrimination Based on Disability</p>	 <p>Domestic Violence Affecting Workplace</p>	 <p>Employment Discrimination (Non-Disability)</p>	 <p>Employee Benefits</p>	 <p>Expungement</p>	 <p>Sexual Harassment</p>
 <p>Termination</p>	 <p>Unemployment Compensation</p>	 <p>Wage and Hour Claims</p>	 <p>Whistleblowing/Retaliation</p>	 <p>Workers’ Compensation</p>	 <p>Other</p>



## Discrimination in the Workplace

Ms. Douglas was an African American office manager with a high-risk pregnancy. Her supervisor refused to honor the accommodations her doctor recommended, including regular breaks for meals to address her erratic blood sugar. Ms. Douglas' coworkers were not understanding about her need for breaks and made derogatory comments to her when she had to delay a work task. While they treated Ms. Douglas with contempt, coworkers held a baby shower for a white colleague who also was pregnant. Ultimately, Ms. Douglas was forced out on early leave and her baby was born prematurely.

A legal services attorney pursued claims of discrimination and denial of accommodations against Ms. Douglas' employer and secured a \$57,000 settlement. With that settlement in hand to support her new family, Ms. Douglas was spared from returning to a hostile workplace.

*With that settlement in hand to support her new family, Ms. Douglas was spared from returning to a hostile workplace.*

## Changes in Employment Practice Over the Past 10 Years

Legal services providers practice a wide range of employment law, from the general protection of workers' rights to a focus on specific populations such as low-wage female workers and previously-incarcerated individuals. Within these practice areas, employment law attorneys have experienced many changes over the past 10 years. Some of these changes center on the provider community itself. The Employment Justice Center ceased operating independently in 2017, although many of its functions were absorbed by WLCCR. While grateful for this transition, some providers still noted the loss of a stand-alone organization focused solely on worker's rights and community engagement around those rights. At the same time, other providers applauded a growth in certain practice areas, such as those focused on removing barriers to employment caused by criminal records.

There have been several innovations in the practice of employment law designed to make legal services more accessible. WLCCR, for example, has expanded its drop-in workers' rights clinics at locations that are accessible to workers throughout the District. It operates weekly clinics at Bread in Northwest D.C., a bi-monthly clinic at ONE

D.C.'s Black Workers' Center in Anacostia, and a monthly clinic at Bread's Southeast D.C. location. At these clinics, low-income workers can walk in without an appointment and receive individualized legal advice and coaching. Brief services (i.e., letter writing, complaint drafting) are provided by volunteers under the supervision of an experienced employment law attorney. After the clinic, each case is screened by an attorney and referred for legal representation in a small percentage of cases.

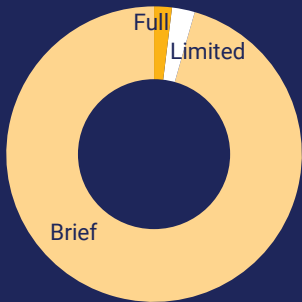
First Shift Justice Project ("First Shift"), whose mission is to help working mothers in low-wage jobs assert their workplace rights, provides community education on workplace discrimination and on the right to accommodation and other protections. First Shift staff help low-income workers develop strategies for communicating with employers to protect their rights through a broad range of services, including one-time consultations (particularly for those who exceed income guidelines) up to and including full representation. Volunteers assist women in reporting and stopping workplace harassment through a sexual harassment helpline. It offers trainings to medical providers and other professionals who have contact with its target population and has developed a series of fact sheets on common workplace concerns.

# Employment Practice Among Surveyed Organizations: A Snapshot

# 10

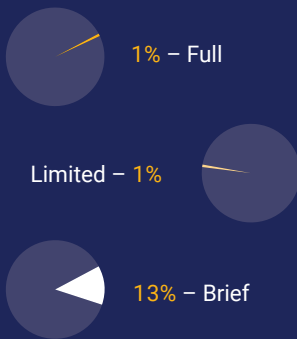
10 organizations that responded to the survey reporting providing employment legal services in 2014.<sup>304</sup>

Based on survey results, there were 7 paid FTE legal services attorneys working on employment law matters in 2014, accounting for 4% of the total paid FTE legal services attorneys. This is an increase from 2005 survey responses which showed 6 paid FTE legal services attorneys working on employment matters.



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 34 employment cases, limited representation in 44 cases, and brief services in 1,577 cases.

Providers reported that employment matters accounted for 1% of full representation cases, 1% of limited representation cases, and 13% of cases receiving brief services across all practice areas in 2014.



In 2011 Legal Aid expanded its practice of representing unemployment compensation claimants in administrative hearings before OAH and in matters involving overpayments and other issues at the Department of Employment Services (“DOES”). This complemented an existing practice of representing unemployment claimants before the D.C. Court of Appeals. This expansion was necessary because remedying improper denials of unemployment compensation claims may involve both OAH and the D.C. Court of Appeals. Both fora experience high rates of unrepresented individuals, and present significant challenges for those without access to a lawyer. For example, in 2017, 91% of the over 2,000 DOES appeals at OAH had no party represented.

Providers in the unemployment compensation practice report that their legal work in individual cases reflects systemic issues such as addressing delays in case processing and correcting legal errors made by claims examiners in denying benefits. Providers also help claimants navigate the challenging overpayment recovery process when it is determined that claimants improperly received benefits or received more than they were due. Legal services are critical here to help claimants understand and potentially access the process to waive the recovery of overpayments. These types of issues, if unaddressed, can leave clients in financial jeopardy, either without benefits that they need to stay afloat or repaying something that may have been waivable.

Providers expressed a growing concern about the rights of District residents to address discrimination in employment and housing. They shared concerns about case processing at OHR and called for reforms to make that forum more accessible to individuals.

Since 2015, LSIC's Expungement Clinic has guided low-income residents through the complicated legal process to clear their criminal records. The clinic provides free eligibility determinations and representation for indigent participants who have a criminal arrest, charge, or conviction that they wish to seal. Attorneys conduct intakes to determine the participant's record sealing eligibility. If the case is determined eligible, clients are connected with an attorney who files a motion with the court, handles any hearings or opposition motions that may occur as a result, and follows the case through resolution. LSIC is partnering with area law firms to conduct monthly trainings and develop *pro bono* opportunities. LSIC also is pursuing partnerships with and referrals from social services organizations to help reach more individuals in need.

As in other practice areas, employment providers have benefited from collaborations with each other and other community stakeholders. LSIC, NLSP, and PDS regularly provide day-long clinics for client intake and brief services on expungement and record sealing motions. The most recent summit included partnerships with a series of government entities, including DOES, OHR, the Mayor's Office on Returning Citizens Affairs, and Howard's Fair Housing Clinic. Each one of these partners provided information to attendees on housing and employment discrimination law, in addition to the expungement-related services.

First Shift's model of service provision also is based on collaboration with medical providers and other nonprofit organizations in the community. Almost all of their clients are referred by doctors, midwives, or social workers at the medical facilities where they are receiving prenatal care, or by a community organization that supports families, primarily Community of Hope and Mary's Center. Similarly, NLSP collaborates with organizations serving low-income D.C. residents through its Barriers to Employment Project. It operates three monthly clinics at D.C. Public Libraries to conduct intake and also cover barriers to employment and economic justice issues, including credit reports, student loans, and public benefits. NLSP also conducts know-your-rights presentations and on-site intake at AFL-CIO's Building Futures Pre-Apprenticeship Program, at the YWCA, and at the So Others Might Eat's Center for Employment Training.

The need for legal representation in employment matters is heightened because of the seriousness of clients' dependence on a regular paycheck to survive, and the inherent complications associated with seeking legal recourse from an employer. While providers are facing increased demand for employment services and are creating innovative partnerships to address those needs, the landscape of *pro bono* volunteers in this area has been inconsistent. While plaintiff side firms contribute to employment *pro*

## Helping a Client through Unemployment

Mr. Fitzpatrick worked as a mechanic for the D.C. government, but was fired after his driver's license was suspended. (He had lent his car to a friend who racked up parking tickets in his name.) After he was fired, Mr. Fitzpatrick applied for unemployment benefits, but his application was denied. To make matters worse, he never received his notice of appeal rights; after getting the runaround from the unemployment agency, he filed his appeal a day late. Legal services attorneys took on his case. Learning that he was never notified of his appeal rights, they filed a Motion for Reconsideration and secured a new hearing date. With the added help of his union, Mr. Fitzpatrick was able to receive the unemployment benefits to which he was entitled and eventually returned to work. The unemployment benefits helped his family make ends meet during a vulnerable time until Mr. Fitzpatrick was able to get his job back.

*The unemployment benefits helped his family make ends meet during a vulnerable time until Mr. Fitzpatrick was able to get his job back.*

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*Legal services providers practice a wide range of employment law, from the general protection of workers' rights to a focus on specific populations such as low-wage female workers and previously-incarcerated individuals.*

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*bono* efforts, most large firms have historically declined employment matters due to positional or actual conflicts. This categorically removes thousands of potential volunteers from the pool. Legal services providers can take only so many cases in-house and typically handle only the administrative claims. Outside or co-counsel assistance is needed for litigation.

Employment providers have been instrumental over the past 10 years in both promoting legislative change and ensuring that statutory advances in workers' rights are honored by District employers. These efforts have benefited not only from the work of legal services providers, but also from diverse coalitions that have included community members, faith-based organizations, trade unions, and the plaintiff's employment bar. Providers cited important advances like the increase in the minimum wage<sup>305</sup> and amendments to minimum wage and wage payment laws that increase available damages and hold general contractors liable for the wage violations of subcontractors. Providers also cited passage of the Protecting Pregnant Workers Fairness Act of 2014 and the Universal Paid Leave Act of 2014 as important developments. Providers are working with the new D.C. Office of Paid Family Leave to finalize regulations and develop a system that makes it possible for all workers to take advantage of the benefits offered by that legislation, which ultimately will provide up to 8 weeks of paid leave for District employees who are welcoming new family members, caring for family members, or dealing with their own serious health conditions.

The last 10 years also have seen significant changes in how the District calculates unemployment benefits. In 2009, Legal Aid worked with other advocates to support amendments to the D.C. Unemployment Compensation Act. These amendments, which passed in 2010, included important procedural protections for claimants in the appeals process and extended benefits to workers who lose their jobs to care for ill or disabled family members. In 2016, a coalition of unemployed workers, union representatives, advocates, and legal services providers petitioned the D.C. Council for an increase in benefits. At the time, the District had one of the lowest maximum benefits in the country – one which had not increased for 10 years. Through these efforts, that year the maximum benefit was changed from \$359 to \$425 per week and rose again in 2018 to \$432 per week, through an annual review by the District that was also required by that legislation. According to Legal Aid, more than 12,000 claimants received an average increase of \$1,344 per claimant through the first increase alone.<sup>306</sup>

Positive changes in the area of expungement and record sealing have created opportunities for more robust practice in that area of employment law. The Fair Criminal Record Screening Amendment Act of 2014 and the Fair Criminal Record Screening for Housing Act and the Fair Credit in Employment Amendment Act, both passed in October 2016, created new legal avenues for clients facing barriers to employment and housing due to background reports. Providers have conducted public education to ensure community understanding of these new “ban the box” initiatives.<sup>307</sup> Similar collaborations led to the passage of bills related to re-entry.

Providers emphasized the importance of legal services to effectuate these types of legislative changes. Any new law is prone to misinterpretation or misunderstanding by employers, which can lead to errors. At the same time, they offer a new set of rights that employees must learn to access and assert. This is especially true where rights are being offered for the first time, such as to employees in low-wage jobs whose employers had not independently provided any right to paid leave.

Finally, legal services attorneys have helped promote workers' rights through appellate advocacy strategies. For example, Legal Aid participated as *amicus curiae* in a case



that found an employee could challenge his termination as an involuntary resignation even while receiving retirement annuities. This holding provides protection for the District's over 35,000 workers.<sup>308</sup>

As in many other areas of the law, employment attorneys expect that the need for legal services will continue to exceed the availability. Providers hope to address this and other access-related problems through expanded education about rights and remedies, and through collaboration with community organizations that can help clients identify legal problems. Others hope to increase access through collaborations with other legal services providers. Providers also expect increased legislative activity around workers' rights, re-entry, and employment. For example, the D.C.

Council is considering an omnibus criminal record sealing bill and legislation that would remove barriers to securing professional licenses because of criminal records. The District has also been active on wage and hour issues, including taking actions to raise the minimum wage and eliminate the sub-minimum tipped wage.<sup>309</sup> While still ongoing, these developments demonstrate that employment law will continue to be an evolving issue and present a need for legal assistance to ensure workers' rights. Finally, employment attorneys expressed more generalized concern about the ripple effect of the political rhetoric around workers' rights and the curtailing of efforts by Federal agencies, including the Equal Employment Opportunity Commission and the Department of Labor, to enforce labor and employment law protections.<sup>310</sup>

## | Estate Planning and Probate

### Overview of Estate Planning and Probate Practice

Estate planning is a necessary service for many low- and moderate-income District residents, not just seniors and their families. Much more than just asset and tax management, estate planning is about creating a plan to deal with life's inevitable and unforeseen challenges. This might include appointing a surrogate decision-maker, for example, or a guardian for minor children in the event of death or disability. Individuals are likely to need legal assistance with the preparation of documents such as wills, durable powers of attorney, and advance medical directives.<sup>311</sup>

Many District residents, not just those who are low- and moderate-income, fail to prioritize estate planning over other more pressing needs of daily life. According to one study, only 4 in 10 American adults have a will or living trust, and while older Americans are more likely to have a will, the vast majority of younger Americans do not.<sup>312</sup> Based on the makeup of its population, the percentage of District residents who have completed appropriate estate planning is likely lower than the national average. Specifically, persons with lower income, less education and who are African American or Hispanic are less likely to have wills and other estate planning documents.<sup>313</sup> Further, persons in the types of non-traditional household

## Estate Planning and Probate Case Types



Adult Guardianship/  
Conservatorship



Estate Administration



Planning Documents  
(e.g., Will, Power of  
Attorney, Medical  
Directive)



Other

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*Much more than just asset and tax management, estate planning is about creating a plan to deal with life’s inevitable and unforeseen challenges.*

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arrangements that are common in the District have a special need for wills and other estate planning services. 14.5% of District children under 18 live in homes with non-parent relatives, and there are approximately 4,290 grandparents responsible for those children, about a fourth of whom live in poverty.<sup>314</sup> For these individuals, finding attorneys to prepare the necessary legal documents can ensure that a proper caretaker is appointed and that their grandchildren are financially secure after the caregivers die. The District’s aging population makes it likely that the low-income community’s need for estate planning assistance will continue to increase.<sup>315</sup>

Having a living will or a durable power of attorney for health care may also eliminate the need for a court to appoint a guardian to step in and make decisions for an incapacitated person, and thus presents another area of legal need. In the District, intervention proceedings are opened for adults 18 or older who are incapacitated and need assistance with health care, quality of life, or placement decisions or the handling of finances or other assets.<sup>316</sup> When these documents are not in place, the court may still consider the appointment of a guardian or conservator if the circumstances warrant – and there are court resources available to support that. Providers noted that the practice has seen a reduction in the need for guardians and conservators, with fewer cases filed than 10 years ago.

In addition to help with health decisions, clients who prefer or require help making financial decisions may benefit from a financial power of attorney (“FPOA”). FPOAs can become effective immediately when prepared and are not dependent on a person becoming incapable of making life decisions. They therefore are helpful for people who choose to and are capable of maintaining decision-making about matters other than finances. Unlike guardianships, FPOAs allow

clients to appoint the agents who will make their financial decisions. They do not have to cede the choice of decision-maker to judges, as they would in guardianships, or be barred from appointing people who would not pass required background checks.

Special needs trusts are another example of an estate planning tool that is crucial for certain residents. Many low-income clients who receive back benefits or lump sum or testamentary awards risk becoming ineligible for public benefits due to this influx of money. Their public benefits, however, can be protected by a pooled special needs trust created by organizations such as Shared Horizons.<sup>317</sup>

Providers also highlighted the importance of transfer on death deeds (“TODDs”) which became available in D.C. only in the past 5 years. TODDs are a new planning tool that allow clients to determine which person will get their home after they die without the use of a will. During the client’s lifetime, the client owns their home and keeps any tax benefits for senior homeowners. The client may change or revoke the TODD at any time before the home passes to the person named on the deed. This allows heirs to avoid probate and, since ownership is controlled by the deed, eliminates the problems that arise when a will is lost or destroyed.

Unlike the planning described above which can be done outside of a will, probate or estate administration is the process through which a decedent’s financial affairs are settled and property is distributed according to a will or intestacy laws. When a friend or relative dies, a District resident may stand to inherit such assets as real property, possibly held for generations within one family. This can be an essential means of accumulating or preserving wealth and ensuring economic stability for the family. For those living at or near the poverty line, even a small inheritance can make a tremendous difference in their quality of life. Moreover, given the shortage of affordable housing and declining rates of homeownership among low-income residents, the transfer of real property from one generation to another is an important means of curbing displacement of the District’s poorest residents and addressing the widening income inequality gap.

Not surprisingly, the probate and estate administration process can be difficult to navigate, particularly for those without an attorney. Competent legal counsel is critical

in this particularly complex area of the law, with the consequences to an individual and his or her loved ones' lives significant. Without legal assistance, a beneficiary of an estate may not take advantage of available exemptions or could risk losing the property entirely. Access to probate expertise is also essential for other legal services providers due to the significant overlap between probate and other legal areas such as consumer and housing. Addressing issues such as unpaid taxes or property liens presents yet another layer of complexity. In these cases, it is essential to have counsel represent clients in properly probating estates to transfer title for homeownership purposes.

## Changes in Estate Planning and Probate Practice Over the Past 10 Years

Providers reported being acutely aware of how few people have access to the legal help they need in the areas of estate planning and probate. Notably, providers in other legal areas expressed the concern that while not central to the subject of their representation, estate planning is an important collateral need that is often left unmet. For example, a family law attorney remarked that she helps numerous grandparents and other third-party caregivers in securing child custody but lacks the resources or expertise to assist the client with other estate planning services that might benefit the family. As discussed above, this overlap is not limited to family law. Probate issues arise in a broad array of civil legal areas, such as housing and consumer

law, but many legal services organizations lack in-house probate expertise.

Some providers attempt to bridge this gap through clinics. Several providers reported hosting power of attorney and wills clinics held either at downtown locations such as law firms, or in partnership with community organizations such as senior centers. These clinics allow providers to serve many more people in one session than would be possible individually; some offer clients same day service on a walk-in basis.

LCE holds clinics for wills and powers of attorney through its *Pro Bono* Project. Partner law firms host these clinics with LCE attorneys 4 to 5 times each year. During these clinics, law firm associates trained by LCE attorneys meet with clients who have signed-up in advance. LCE attorneys are available during the clinics to answer questions, review documents, and assist with notarization. These sessions are very much in demand; all of the 2019 clinics were full by mid-January 2019. Due to such limited capacity, LCE helps seniors who cannot attend the clinics through referrals, guidance, and mentorship. Through its program serving homebound elders, Project HELP, LCE attorneys conduct clinics focused on creating powers of attorney. These clinics take place at local senior buildings and happen over the course of two days. During the first session, the seniors watch a presentation on estate planning. In their follow-up appointment, seniors meet with an attorney and have their documents prepared and notarized.

## The Intersection of Probate and Housing

Mr. Jackson faced foreclosure on the house that he had lived in for decades. A reverse mortgage became due when his wife, the borrower, passed away. Mr. Jackson was now facing two legal issues: the foreclosure and the need to probate his wife's estate. A legal services attorney helped Mr. Jackson avoid foreclosure by probating his wife's estate and transferring the title into Mr. Jackson's name. In addition, the attorney was able to help Mr. Jackson identify a long-term solution to maintaining the home by using applicable U.S. Department of Housing and Urban Development surviving spouse rules that allowed him to assume the loan and maintain his homeownership.

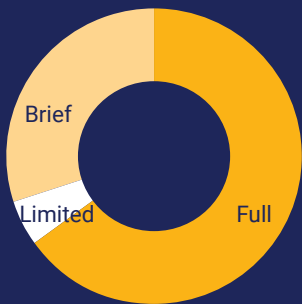


# Estate Planning and Probate Practice Among Surveyed Organizations: A Snapshot

# 6

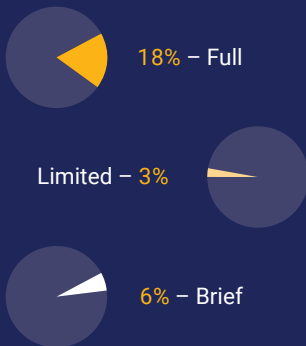
Six organizations that responded to the survey reported providing estate planning and probate legal services in 2014.

Based on survey results, there were 5 paid FTE legal services attorneys working on estate planning and probate law matters in 2014, accounting for 2% of the total paid FTE legal services attorneys. This is an increase from 2005 survey responses which showed 3 paid FTE legal services attorneys working on estate planning and probate matters.



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 1,679 estate planning and probate cases, limited representation in 132 cases, and brief services in 768 cases.

Providers reported that estate planning and probate matters accounted for 18% of full representation cases, 3% of limited representation cases, and 6% of cases receiving brief services across all practice areas in 2014.



For those matters that are court-involved, there are some limited court-based services to address the high number of litigants that are *pro se* – small estate matters in D.C. Superior Court’s Probate Division had 97% of plaintiffs unrepresented in cases disposed of in 2017.<sup>318</sup> In late 2018, the D.C. Superior Court took responsibility for a Probate Self-Help Center staffed by court personnel and open 5 days per week to provide information to litigants in those matters. That center replaced a Probate Resource Center that was formerly run by PBC one afternoon per week to serve unrepresented parties. During FY 2018 the center assisted 656 customers to understand the probate process and property distribution and prepare legal documents among other things.

Although useful, these limited services are often inadequate to meet the needs of individual clients. Thus, legal services providers such as LCE offer extended representation in individual cases. LCE also maintains a reduced fee panel for certain types of probate issues, like estate resolution, for clients who can afford to pay a small fee or flat rate for a discrete service. It also uses *pro bono* attorneys to serve clients in this area. One universal viewpoint expressed by providers, however, was the difficulty in placing probate cases with *pro bono* attorneys. While at times they offer the type of discrete task that is attractive to many *pro bono* lawyers (e.g., will drafting) other types of probate matters can be unpredictable. Some probate matters, particularly those that require tax, real estate or other expertise, can be much more complex and time consuming. Those with probate expertise are typically solo practitioners or in smaller firms that lack the resources to do extended *pro bono* work, and those unfamiliar with the practice are often reluctant to take it on as a volunteer.

To that point, providers pointed to the complexity of navigating probate issues in D.C. Superior Court and the need for reform to



accommodate the high percentage of litigants who access the Probate Division without counsel. That said, providers also reported positive collaboration with the court on certain identified needs. For example, based on litigant feedback, the court created a Guardianship Assistance Program to help with guardianship monitoring. It also instituted collaborative court-reform initiatives such as the Probate Court Compensation Committee, which includes guardians, conservators, and representatives from LCE, OAG, the Department of Behavioral Health, and the Working Interdisciplinary Networks of Guardianship Stakeholders (“WINGS”) initiative.

As in other issue areas, probate and estate planning attorneys have collaborated over the past 10 years to advance a systemic advocacy agenda. As a result of legislative initiatives led by WCL, LCE, and Quality Trust, the Probate Division is now required to monitor guardianships every three years to ensure that they still are needed. Legislation that resulted from this collaborative advocacy also now requires a thorough vetting of potential guardians, including criminal background checks, to help prevent exploitation. In addition, the D.C. Branch of AARP, the D.C. Long-Term

Care Ombudsman Program, and LCE have come together to support the passage of the Uniform Power of Attorney Amendment Act of 2017<sup>319</sup> and the Uniform Partition of Heirs’ Property Act of 2017.<sup>320</sup> These bills aim to clarify the law in important ways and provide protections for District residents.

Despite these positive developments, significant need remains in this area of practice. LCE noted that while it has developed successful home visiting programs and has been effective in increasing the placement of power of attorney and wills cases *pro bono*, meaningful need remains. In addition, since its services are only available to older District residents, there exists a parallel need to increase capacity for people under the age of 60. Creative approaches such as wills clinics and community education for these populations could provide opportunities for broader client outreach. Even more profound is the need for legal support in probate matters involving the disposition of complex estates that are time-intensive. Probate providers urged more attention to these important legal matters by both the legal services and *pro bono* communities.

## | Family and Domestic Violence

### Overview of Family and Domestic Violence Practice

At the time of the 2008 Report, the District was beginning to see the impact of the D.C. Family Court Act of 2001, which made extensive changes to how D.C. Superior Court handled certain family law cases.<sup>321</sup> As discussed at length below, that legislation and other reform efforts have brought many important changes to the function of the Family Court. Important changes also have occurred within domestic violence practice. Now, 10 years later, both family law and domestic violence remain critical areas of legal need for many low- and moderate-income District residents.

Disputes of child custody, paternity and support, and the need for protection from an abusive partner occur within families of all socio-economic statuses, with comparably high stakes. District children<sup>322</sup> from a diversity of backgrounds can find

themselves in need of legal assistance, whether they are at the center of a contested custody case or under court supervision through an abuse and neglect or delinquency matter. The difference, however, is that most low- and moderate-income District residents must face these complicated and emotional issues alone, without a lawyer by their side. While court-appointed counsel is available in some family law cases, the vast majority of those proceeding in the Family Court are not entitled to free representation. 83% of plaintiffs and 93% of respondents in divorce/custody/miscellaneous cases that were disposed of in 2017 were *pro se*.<sup>323</sup> And some classes of litigants, such as non-custodial parents in child support cases and respondents in domestic violence matters, have particular difficulty securing counsel. 97% of respondents in paternity and child support matters that were disposed of in 2017 were *pro se*; as were 88% percent of petitioners and 95% of respondents in domestic violence matters.<sup>324</sup> The District benefits from a vigorous

# Family and Domestic Violence Case Types



When the survey was created, domestic violence cases were grouped with the Family Law issue area, rather than in their own category. Because many providers now consider Family and Domestic Violence law to be distinct practice areas, the Commission held individual listening sessions for practitioners and reported the findings separately in the *Changes in Family and Domestic Violence Practice Over the Past 10 years* discussion below. As the survey included domestic violence as a case type under Family Law, the practice areas are not separated in the quantitative analysis under *Family and Domestic Violence Practice Among Surveyed Organizations: A Snapshot* discussion, however.

network of legal services providers. While providers have expanded services in their family law and domestic violence practices since the time of the 2008 Report, they are still unable to meet the District's considerable need.

While detailed treatment of all the issues facing District children and families far exceeds this Report's scope, what follows is a discussion of a few important areas of family law practice.

## Domestic Relations

Domestic relations proceedings such as divorce, child custody and visitation are among the highest volume filings in D.C. Superior Court, with close to 4,500 new cases filed in 2018 on top of the 1,200 plus cases that were pending at the beginning of that year.<sup>325</sup> Child custody cases represent a significant portion of legal services work in this area. In these cases, biological parents or third parties seek the assistance of the court in setting out or resolving disputes around the terms of legal and physical custody for the

children involved. These cases can present legal and factual complications that are taxing for both the court and the parties to resolve. Yet, as detailed above, the vast majority of litigants lack the benefit of counsel.<sup>326</sup> In a limited number of cases, the court appoints a guardian *ad litem* ("GAL") to represent the best interests of the child at the center of a custody dispute.<sup>327</sup> For low- and moderate-income litigants, the court relies on legal services organizations and *pro bono* attorneys to serve in this role, as there is no mechanism to pay GALs in private custody matters (in contrast to those attorneys who serve as GALs in abuse and neglect branch proceedings, as discussed below).<sup>328</sup>

The most common reasons for seeking a custody GAL include obtaining factual information relevant to the best interests of the child and/or information about the child's opinion, facilitating mediation or settlement, or identifying a specific custodial recommendation based on the relevant legal standard.<sup>329</sup>

## Paternalty and Child Support

There also is a significant need for child support enforcement services, including resolving issues of parentage and/or obtaining and enforcing child support orders. Regular child support payments provide essential financial assistance to families and children, particularly those living in poverty.<sup>330</sup> In 2017, the U.S. Department of Health and Human Services reported 44,051 active child support cases in the District,<sup>331</sup> impacting more than 69,000 children citywide.<sup>332</sup> In 2018, D.C. Superior Court handled over 2,100 new parentage and child support cases, on top of more than 800 additional pending cases.<sup>333</sup> Under Federal law, the District (through OAG) is required to provide services to assist families with establishing parentage, obtaining a court-ordered award of support, and collecting support payments. The petitioner in the majority of support cases is OAG, as D.C. is required to seek child support payments to offset public benefits like TANF or public health insurance. Thus, the percentage of petitioners in child support cases who were without counsel at the time of disposition in 2017 was very low, at 7%.<sup>334</sup> In spite of this statistic, few custodial parents are themselves represented in child support proceedings, as attorneys from OAG represent the interests of the District rather than the parent.

It is a challenge for many low-income non-custodial parents to meet the financial demands of an existing support order, however, and the consequences of not adhering to that order can be significant. The District has powerful collection tools at its disposal, including the ability to garnish wages and bank accounts, the right to intercept tax returns, the mandate to deny driver's and other licenses to delinquent parents, and access to a nationwide database of recent hires.<sup>335</sup> Legal assistance is thus very important to help those non-custodial parents negotiate terms that make it more likely that they will be able to meet their obligations. In contrast to petitioners in child support matters, as detailed above the vast majority of child support respondents were unrepresented by counsel at the time of case disposition in 2017.<sup>336</sup>

## Court-Involved Families and Children

Court-involved families are another relevant population. In 2018, over 500 abuse and neglect matters and over 1,800 juvenile matters were available for disposition.<sup>337</sup> Notably, these cases are unique in that court-appointed counsel is available for parents and children in abuse and neglect matters (through court panels and CLC) and juveniles

named in delinquency cases (through court panels and PDS).<sup>338</sup> Nevertheless, the legal interests of these families often intersect with other relevant matters, such as access to high quality mental health care or services for children with disabilities.

While these families may not present a significant area of unmet legal need, issues of importance to them have relevance to a much broader portion of low-income District families and account for much of the legal and policy reform agenda conducted on behalf of District children and families. A well-functioning child welfare system is a critical community need, and the District's system has long been the subject of litigation and reform efforts.<sup>339</sup> While a more thorough discussion of the child welfare system goes

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*The District benefits from a vigorous network of legal services providers.*

*While providers have expanded services in their family law and domestic violence practices since the time of the 2008 Report, they are still unable to meet the District's considerable need.*

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beyond this Report's scope, it is important to note that the legal services community, particularly CLC, has played a critical role in bringing attention to this important and vulnerable population.<sup>340</sup>

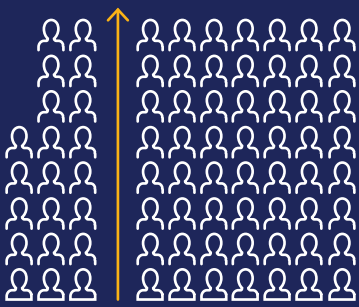
## Domestic Violence

Domestic Violence is an issue that thousands of District residents face each year.<sup>341</sup> In 2017 alone, the Metropolitan Police Department ("MPD") received over 35,000 domestic violence related calls, with the highest number coming from areas populated by the District's low-income community, consistent with national data.<sup>342</sup> Those who experience food insecurity have a significantly higher annual prevalence of intimate partner violence,<sup>343</sup> and women in the lowest-

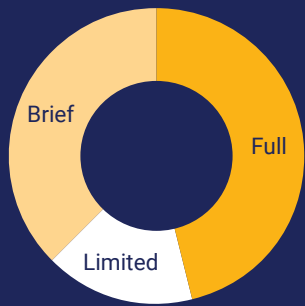
# Family and Domestic Violence Practice Among Surveyed Organizations: A Snapshot

# 15

15 organizations that responded to the survey reported providing family law services in 2014, which includes domestic violence legal services.

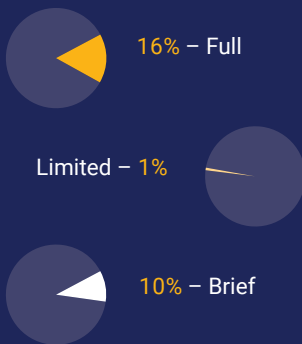


Family law providers made up the largest portion of the District’s civil legal services attorneys in 2014. Based on survey results, there were nearly 56 paid FTE legal services attorneys working on family law matters in 2014, accounting for 29% of the total paid FTE legal services attorneys. This is an increase from 2005 survey responses which showed 21 paid FTE legal services attorneys working on family and domestic violence matters.\*



Legal services attorneys that responded to the survey about 2014 case volume reported providing full representation in 1,541 family law cases, limited representation in 53 cases, and brief services in 1,239 cases.\*\*

Providers reported that family law matters accounted for 16% of full representation cases, 1% of limited representation cases, and 10% of cases receiving brief services across all practice areas in 2014.



\*The nearly 56 paid FTE family law attorneys in 2014 do not include the 37 additional paid FTE legal services attorneys working for CLC on abuse and neglect cases where there was a right to counsel. Attorneys funded to provide representation in right to counsel cases similarly were excluded from the FTE count in 2005.

\*\*The 1,541 family law cases do not include the 543 child abuse and neglect right-to-counsel cases for which CLC provided full representation in 2014.

*Domestic violence can create or compound economic challenges, putting survivors at risk of experiencing poverty and other civil legal needs.*

income households have substantially greater reported abuse rates than those in the highest-income households.<sup>344</sup> Survivors of domestic violence are more likely to experience homelessness; on a single day in 2017, of the 616 survivors served by local domestic violence programs, only 418 were able to receive emergency shelter or transitional housing assistance to escape violence in their homes.<sup>345</sup> One-fourth of homeless adults in D.C. families reported a history of domestic violence; one-third of unaccompanied homeless women cited violence as the cause of their homelessness or housing instability; and more than half of those women reported at least one act of violence against them during their period of homelessness or housing instability.<sup>346</sup>

Domestic violence can create or compound economic challenges, putting survivors at risk of experiencing poverty and other civil legal needs. Survivors can become financially dependent



on a violent partner, especially if that partner intentionally interrupts the survivor’s plans to pursue education or employment.<sup>347</sup> The mental and physical health problems that flow from exposure to domestic violence may inhibit a survivor from seeking and securing employment, which can in turn exacerbate those health and financial problems.<sup>348</sup> This makes it difficult for domestic violence survivors to hire an attorney, relocate, and obtain counseling or other forms of support.<sup>349</sup>

One in four women and one in six men will experience domestic violence at some point during their lifetimes,<sup>350</sup> and it often begins early in life; 69% of women reported experiencing it at age 25 or younger, with 22% experiencing it for the first time between the ages of 11 and 17 years.<sup>351</sup> 39% of District women have reported experiencing sexual assault, physical assault or stalking by a current or former intimate partner;<sup>352</sup> half of District women have experienced psychological aggression.<sup>353</sup>

There is increasing attention to the prevalence of and impact of domestic violence on youth. More than 5 million children witness domestic violence each year in the United States.<sup>354</sup> They are 15 times more likely to be physically abused and neglected themselves,<sup>355</sup> more likely to engage in risky behaviors such as alcohol or drug abuse,<sup>356</sup> have higher rates of suicide,<sup>357</sup> and are more likely to remain in violent situations as they grow older.<sup>358</sup> Nearly one-fourth of District middle and high school youth reported experiencing physical or sexual dating violence in 2017.<sup>359</sup>

For all of these reasons, the availability of legal support to assist those involved in domestic violence proceedings is crucial. It is equally important that these services be made available in as accessible a way as possible, understanding the physical and emotional barriers that might prevent domestic violence survivors from seeking help. Further, because domestic violence involves difficult issues such as trauma and the use of power and control, a skilled and well-trained cadre of providers to serve both sides of any case is particularly important to ensure a just adjudication of the issues at hand.

In 2018, there were over 5,500 new domestic violence case filings in the District.<sup>360</sup> Of total case dispositions in 2017, 88% of petitioners were not represented by counsel, and 95% of respondents were unrepresented.<sup>361</sup> In addition to

legal services providers, OAG helps survivors of intimate partner violence, family violence, sexual assault, or stalking get civil protection orders and prosecutes violations of civil protection orders. Nevertheless, the number of District residents seeking legal support is striking. In 2017, the District’s two DVICs (“one-stop shops” for survivors seeking information about resources, emergency services, and legal remedies) were visited by 6,638 individuals.<sup>362</sup>

## Changes in Family and Domestic Violence Practice Over the Past 10 Years

### Family Law

There have been several developments in the practice of family law since the 2008 Report. One shift relates to a change in practice at the District’s Child and Family Services Agency (“CFSA”). In 2012, CFSA developed a strategic agenda around four pillars, the first being “narrowing the front door” to families entering the child welfare system by engaging extended family to provide support to children whose parents are unable to provide necessary care.<sup>363</sup> Practically, what this meant for relatives of children who were at risk of removal from their biological parents is that the filing of a complaint for child custody in the domestic relations branch by that relative might prevent that child from entering the abuse and neglect system. Historically, that same relative might have pursued subsidized care of the child through the abuse and neglect system.<sup>364</sup>

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*These cases can present legal and factual complications that are taxing for both the court and the parties to resolve. Yet the vast majority of litigants lack the benefit of counsel.*

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This had significant implications for legal representation. Without the court-appointed counsel available in an abuse and neglect matter, parties found themselves looking for legal assistance to either file a complaint for custody or to defend the case. The court also saw an increased need for



*pro bono* custody GALs to represent the best interests of the children involved, particularly without a case worker who might provide evidence about the family circumstances. And relatives also needed help securing supports for the care of the children. While some legal services organizations have developed practices to provide legal assistance to relative caregivers in these circumstances, there is still a significant need for legal help. As the *pro se* percentages cited above demonstrate, providers helping biological parents in custody matters are already pressed to fill the need.

Many other changes cited by providers reflect the findings of a Family Law Task Force that was created in 2009 by the D.C. Bar Board of Governors and charged with making recommendations to expand access to justice and improve the administration of justice in the two branches of the Family Court where parties do not have access to counsel – domestic relations and paternity and child support.<sup>365</sup> Some of the challenges cited in the Task Force’s report included: the high rates of litigants unrepresented by counsel; the inability of legal services providers to meet the need due to limited resources; the difficulty in recruiting volunteers to take on *pro bono* family law cases; and the unique challenges faced by already overwhelmed families to navigate and attend court proceedings.<sup>366</sup> In our listening sessions, legal services providers noted that the resulting changes, many of

which came at the urging of family law practitioners, have vastly improved the experience of Family Court litigants. They were pursued jointly with the Family Court and built on a series of active court committees that brought together judicial officers, court staff, and practitioners to advise on court practice and procedure in virtually every area of the court.

For example, an increase in the number of Domestic Relations court calendars has helped address the types of case delays that were viewed as damaging for families struggling to find stability through the resolution of custody matters. Of note, however, is the fact that judicial vacancies have been a problem across the entirety of the court, leaving the court and providers alike always concerned about maintaining reasonable caseloads among its judicial officers. In Domestic Relations, the number of calendars ranged from 4.5 in 2010 to 6 in 2019.

The court has also expanded the use of technology. Providers lauded the use of electronic court orders in paternity and support. Many see this as an important change that greatly reduced the amount of time it takes to prepare orders that previously were handwritten, which at times made them hard to read and enforce. Legal services providers gave a specific example where the court changed its procedures to help them access information more efficiently. Previously, legal services providers seeking to review existing case records to make decisions about case acceptance were going to the court, in person, to request hard copies of documents from a file. To reduce the time and expense of these document requests, the court initiated a paperless process to electronically transmit copies of domestic relations documents to legal services providers without a fee. In a similar example, legal services providers went to the court asking for access to audio recordings of hearings on an expedited basis to facilitate determinations about providing representation, and/or preserving appellate rights – and the court agreed. Legal services providers shared that these changes have been very important to the function of their programs.

One of the biggest challenges cited by legal services providers is the high percentage of *pro se* litigants in Family Court. In this regard, legal services providers and the court have come together to develop supports for this category of litigants. The court’s long-standing commitment to the Family Court

Self-Help Center, a free walk-in service that since 2005 has provided unrepresented people with general legal information in a variety of family law matters, has been supplemented by the work of legal services providers and the larger family law bar. *Pro bono* attorneys volunteer to supplement the work of court staff, and legal services providers, particularly the PBC, have created materials like guides for self-represented parties, fact sheets and form pleadings on relevant family law topics. Video terminals display information about family and community events, and there are computer work stations available to litigants that can be used to complete court forms. In 2018, the Family Law Self-Help Center served 8,601 people, a demonstration of the significant need for legal services in family law matters.<sup>367</sup>

One of the most important developments for those proceeding without representation is the development of interactive interviews to assist litigants in completing basic court forms. While the court has engaged an outside provider to develop these across various branches of the court, including domestic relations, it was PBC's investment of the resources to develop this tool that in many ways laid the groundwork for the work happening now.

Legal services providers also mobilized to provide on-site services in areas of family law with the highest percentages of self-representation. In 2011, Legal Aid and Bread created the Child Support Community Legal Services Project, which established a Child Support Resource Center at D.C. Superior Court's Paternity and Child Support Branch to provide same day assistance to hundreds of custodial and non-custodial parents that each year navigate the District's court and child support system without a lawyer. That effort was made possible by the court's adoption of, initially, an Administrative Order allowing for limited scope representation in the Paternity and Child Support Branch, which in 2014 expanded to a court-wide Administrative Order, as discussed earlier in this Report.

One of the greatest challenges in the practice of family law is getting access to factual information and assessments that are needed to determine what type of custody order is in a child's best interest. One practitioner noted that for those litigants with financial means, mental health and social work professionals are utilized with increasing frequency to help evaluate and assess family members, provide evidence, and do clinical work in the context of a

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family (e.g., create visitation plans, provide parent coaching, provide literature and expertise). These types of resources are virtually unavailable to the vast majority of cases that involve the legal services community and those proceeding without counsel, however. Thus, legal services providers have advocated for the development of high-quality court resources to ensure this type of information is more universally available.

One example is the process by which the court conducts home studies and other assessments. In the past, the court relied on the Family Court Social Services Division to conduct home studies to provide information to the court about the home life of the relevant parties. Providers expressed concern that many of the staff conducting those home studies lacked the type of clinical expertise that would be useful to have when working with families involved in custody disputes, something echoed in the Family Law Task Force report. The court shifted its practice in response in November 2017 and created a multi-disciplinary team of custody assessors (trained social workers) and an investigator to conduct these home studies. The court also institutionalized the Program for Agreement and Cooperation ("PAC") through a 2016 Administrative Order, something that was urged by family law practitioners after a successful 2006-2009 pilot program.<sup>368</sup> The program supports parents in developing working relationships and communication while striving to keep focused on their children's needs.

One of the areas where family law practitioners have been most creative is in the development of programs to assist parties in resolving cases before trial. In 2009 the private bar, led by the D.C. Bar Family Law Community (formerly Section), developed an attorney negotiator program that was coordinated and staffed by experienced family lawyers

on a *pro bono* basis. The program was successful, with more than 1/3 of cases wholly or partially resolved at the initial hearing.<sup>369</sup> The Family Law Task Force urged the court to consider institutionalizing the program, which it did in 2015. Now, two court staff members serve as attorney negotiators to facilitate the efficient resolution of certain cases. In 2018, the attorney negotiators provided services in 414 domestic relations matters, with 77% of those cases resulting in settlement. Legal services providers noted the importance of this program to low- and moderate-income family law litigants, since participants are not required to have counsel in order to participate.

Similarly, the family law bar came forward to develop an alternative dispute resolution (“ADR”) facilitator program to assist litigants in resolving family law cases. Practitioners cited the important role ADR facilitation can play in high-conflict cases since it has an evaluative component, thus providing litigants with useful feedback that can often move the case along. One drawback to the program, however, is that it requires both parties to be represented by counsel, a relative rarity in family law cases involving low- and moderate-income litigants. Another barrier is that this is a fee-based service,

although legal services providers were quick to note that facilitators frequently exceed the current 1-2 *pro bono* case per year expectation. In 2017, parties in 38 cases were ordered to participate in this program.<sup>370</sup>

These bar-initiated programs supplement the court’s long-standing Multi-Door Dispute Resolution Division, which has served family law litigants (as well as litigants from other branches) for decades. In 2017, 874 domestic relations cases were referred to the program and of the 636 cases that were ultimately mediated that year, 39% settled.<sup>371</sup> The Family Law Task Force urged specific improvements to the program’s practices in family law-related cases, some of which have been implemented. For example, a small change like situating intake in the courthouse, rather than at the program’s office at another location, was cited as a pragmatic change that has increased the use of mediation in family law cases. A larger change has been the program’s examination of shuttle and video-conferencing mediation in cases with a history of intimate partner violence. Previously such cases, while not uncommon, were not eligible for mediation.

## Securing Custody

Ms. Charles is the single mother of an outgoing and happy 4-year-old daughter, Alexis, whom she has raised entirely on her own. The man who alleges to be Alexis’ father (paternity had never been established) filed a case requesting joint custody. Because he has serious drug abuse issues, including regular PCP use, had a history of physically and sexually abusing Ms. Charles, and has never been involved in Alexis’ life, Ms. Charles had serious concerns about his involvement. Ms. Charles and her Legal Aid lawyers fought the request for joint custody. The court ultimately awarded Ms. Charles sole custody with any visitation between the alleged father and Alexis to be at her discretion.

Ms. Charles receives TANF and had previously assigned her right to collect child support to the Government. During the course of the custody case, the Government filed a child support case against the alleged father in order to establish paternity and put a child support order into place against him. Ms. Charles ultimately opposed this case, because she was deeply afraid of what the alleged father might do to her or Alexis if he were ordered to pay child support. With the help of her legal services lawyers, Ms. Charles was able to persuade the Government to dismiss the child support case.





Legal services providers have tried to engage with the court in efforts to revise court rules and other relevant guidance to improve court functions. In January 2014, the court adopted practice standards for GAL practice in custody and related cases including roles and duties and qualifications for appointment.<sup>372</sup> These standards were the result of work done by legal services providers with experience representing children and adults in custody and related cases. Rules revisions were either completed or are pending in domestic relations and paternity and support, although providers voiced some frustration with the length of the rules promulgation process and to what extent their feedback was incorporated.

Finally, while most of the advocacy done by legal services providers has been at the court itself, there has also been significant appellate and legislative advocacy in the family law area. As discussed in the *Systemic Advocacy* section, in the last 10 years CLC has developed an appellate project focused on family law issues. Similarly, Legal Aid's Barbara McDowell Appellate Advocacy Project works to identify important family law cases that would benefit from representation and/or *amicus* participation. On the legislative front, Bread and Legal Aid regularly appear before the D.C. Council on child support/paternity issues such as opposing legislation to remove the Child Support Services Division from OAG and testifying at agency budget and oversight hearings. CLC has championed legislation that addresses the unique needs of children and families in foster care, a significant portion of its client community.

One last change cited by providers was the community's commitment to working with other legal services providers, particularly in the area of immigration. There was significant collaboration between family law and immigration providers in the wake of substantial changes in the immigration enforcement system in 2017. For example, Legal Aid conducts intake at Carlos Rosario International Public Charter School, and also gives presentations on legal topics at Briya Public Charter School. Pop-up clinics that assisted immigrant families in developing alternative custodial plans should a parent become unavailable were also quite frequent during this time and continue.

Despite all of these developments, the need for legal assistance in family law matters has not changed dramatically. Providers still report a need to expand capacity

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among legal services providers to support civil legal services in family law cases. Legal Aid, for example, has doubled the number of family attorneys in the last 10 years – but still lacks the capacity to take most family law cases. Several providers noted that “custody representation without domestic violence is hard to come by” since providers often prioritize family law cases with a domestic violence component due to the exigency of the issues in play, but also due to the availability of unique funding streams to support domestic violence work. Other organizations prioritize serving biological parents, leaving behind those third parties like relative caregivers who wish to seek custody. NLSP has a small Family Preservation program aimed at serving relatives of those children at-risk of removal from CFSA who may wish to seek custody. And even then, there is a perception that sub-sets of the client community, particularly men, are less likely to find help in custody matters or cases involving domestic violence.

Moderate income individuals are better served now than they were 10 years ago with the emergence of programs like the D.C. Affordable Law Firm, but they still find it difficult to secure legal assistance. Providers also noted that the court is increasingly reliant on the services of custody GALs as that practice has evolved, particularly when the parties involved do not have counsel and are less equipped to develop a complete factual record. CLC and DCVLP have developed robust practices in this area, with most of the work done through the use of *pro bono* lawyers. This is predicted to be an area of growing need in the future.

The Family Law Task Force included a recommendation to dramatically increase *pro bono* participation in family law matters, a goal that the court has also prioritized and is being studied by the D.C. Bar Pro Bono Task Force.

Legal services providers noted that family law cases are particularly difficult to place, despite the increased presence of high-quality *pro bono* programs within legal services programs that offer support to *pro bono* attorneys. It is important to develop creative solutions to make these cases more appealing to *pro bono* attorneys.

As discussed above, the availability of limited appearances has allowed legal services providers to serve more family law litigants who otherwise would not have access to legal assistance. Providers suggested that it would be beneficial

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***Providers suggested that it would be beneficial to have a same day representation project in the domestic relations branch that is comparable to the program in the Paternity and Support Branch.***



to have a same day representation project in the domestic relations branch that is comparable to the program in the Paternity and Support Branch. Several other providers reported success in providing unbundled and limited scope services in cases where full representation is not possible; others agreed this could be used more robustly in family law cases.

Access to high quality mental health assessments is often a critical piece of a custody determination. Providers reported that while they appreciate the improvements the court and the District’s Department of Behavioral Health’s Assessment Center have made to this process, the evaluations they currently receive are often insufficient in their analysis of implications for custody and limited by the short amount of time evaluators have to spend with clients. The recommendations also are not always meaningful or practical. Providers encouraged work to improve practice in this area.

Providers emphasized that expanding programs like the attorney negotiator and ADR facilitator program could result in much better outcomes for family law litigants and ease the need for judicial officers to conduct trials. While they applauded the court’s recent investment in institutionalizing the attorney negotiator program which supports unrepresented litigants – the vast majority of parties in Family Court – they thought the program would benefit from more staff. Similarly, providers suggested that while it was expanded from 1 to 2 cases, the *pro bono* aspect of the ADR facilitator project could be expanded further to serve litigants who have counsel but still are unable to pay the facilitator’s standard hourly rates. In the alternative, they considered whether creative solutions like limited scope representation could address the representation barrier that makes the ADR facilitator project unavailable to those without counsel. Providers also commented that these programs – now available in the Domestic Relations branch – would benefit other branches of the Family Court, particularly Paternity and Support.

Finally, providers noted that while the court has embraced structural changes to better litigants’ experiences, there are still important areas for improvement. There was a call for a universal scheduling order to promote uniformity among judicial officers and address practitioners’ frustration with the wide variability that currently exists. This echoes a

recommendation made by the Family Law Task Force and was incorporated into the court’s Domestic Relations Case Management Plan. Providers noted that while scheduling has improved since the 2008 Report, trials can still be spread across several days (and months) which is disadvantageous to all involved.

## Domestic Violence

During their listening sessions, domestic violence practitioners focused on the collaborative nature of their work, something that has only increased in the last 10 years. They work in coalition regularly both to enhance client representation and to achieve advocacy goals. While the DVIC is not new, the importance of this project and the level of collaboration cannot be overemphasized.<sup>373</sup> Having a single access point for victims of domestic violence to obtain legal and other supportive services is not only beneficial to domestic violence survivors, but to the providers themselves. Legal Aid, Bread, and DCVLP have projects focused on staffing the DVIC at both the Northwest and Southeast locations.

The existence of the DVIC has also served as a launching point for emerging improvements to service delivery. D.C. Survivors and Advocates for Empowerment (“D.C. SAFE”) took over primary responsibility for the function of the DVIC in 2008–2009, and in 2012, through a memorandum of understanding with other organizations, assumed the responsibility of centrally managing all legal referrals coming through the DVIC. Providers lauded the development of a shared intake system to facilitate case referrals and placement. By centralizing intake, D.C. SAFE can match clients to organizations that have the relevant specialization and can best serve their needs, something that has improved service provision across the board. It also relieves some of the burdens providers formerly felt in monitoring a large number of case referrals, many of which were not in line with their specialization. D.C. SAFE also manages a list serve that is used to share a list of available cases, which helps organizations communicate with one another to ensure cases are placed efficiently. This process is now being integrated into the Victim Legal Network operated by NVRDC, an approach that is discussed earlier in the Report.

Having a centralized intake system has also allowed providers to prioritize cases, including those with a high risk of lethality. D.C. SAFE launched a multi-disciplinary effort to isolate such cases. A lethality assessment is conducted on

all new cases, and those that are identified as high lethality are prioritized on the referral listserv. OAG noted that this assessment also has helped in determining what cases to bring. Providers noted that this lethality inquiry is targeted at addressing a unique dynamic, where the higher the lethality, the less someone is willing to engage an attorney for fear of confrontation. Prioritizing those cases eases the burden of finding representation and close to guarantees representation.

There are other ways in which legal services providers have collaborated on service provision in the last 10 years. For example, providers offer clinics jointly, such as the Domestic Violence Resource Clinic offered every week by the DCVLP, My Sister’s Place, and the District Alliance for Safe Housing (“DASH”). The Clinic offers free legal advice, housing referrals, and counseling to survivors of domestic violence, stalking, and sexual assault.

Another important change cited by legal services providers is the availability of LSIC to serve respondents at the courthouse. While there is a network of providers assisting petitioners in domestic violence cases, respondents have traditionally struggled to secure representation. However, those who represent petitioners note that having lawyers available for respondents can be helpful in resolving cases sooner and can lead to more buy-in from respondents, who feel better about the result when they have had access to legal assistance. And respondents facing contempt, for example, face serious consequences that warrant access to legal counsel.

While one of the greatest attributes of the DVIC is the fact that it includes community partners that are available to discuss a broad range of services domestic violence survivors might need, providers have pursued further efforts to meet survivors where they are. For example, legal services providers have forged relationships with community organizations devoted to special populations like those who have experienced trafficking or members of the LGBTQ community. Another provider is launching a project where intakes will be conducted at homeless and/or domestic violence shelters. D.C. SAFE has created special procedures to address the needs of the immigrant population, that may be particularly uneasy about engaging in the legal system. Spanish speaking individuals can work with D.C. SAFE directly, without involving MPD or other agencies.

In addition, providers conducted a series of trainings in the immigrant community to address concerns about seeking help in the changing political climate. Providers have conducted similar know-your-rights type seminars throughout the community. The need for community education was cited as particularly important. Despite their ability to serve so many clients in such an efficient manner, the attorneys expressed concern about their clients' abilities to pursue a remedy. Some clients do not understand whether their issues are criminal or civil, and unwittingly initiate a police investigation that they never wanted when they could have pursued a civil remedy.

There has been particular attention on the needs of youth experiencing domestic violence. As cited at the beginning of this section, youth are increasingly susceptible to intimate partner violence – but often unaware of or unable to access systems to seek legal protections. Several providers have launched efforts to reach youth where they are. For example, Break the Cycle provides services on-site at local public schools and created a safe schools model policy to help individual schools address dating and sexual violence among youth.<sup>374</sup>

Another significant change is the emergence of organizations that specifically support victims of crime. While not every case has a domestic violence component, these organizations – namely Amara and NVRDC – have become important allies to the existing domestic violence network. They have also helped bridge the gap between the civil and criminal systems, which is important for clients who must navigate both systems.

Providers also mentioned some positive improvements at the court itself. The integration of technology has manifested in several important ways. For example, the court has developed a series of interactive forms that enable litigants without a lawyer to complete a CPO petition. The availability of video conferencing in all the domestic violence courtrooms is a significant improvement, and standard at the DVIC in Southeast D.C. Providers also lauded the involvement of MPD in serving petitions.

There was cautious optimism about the use of other dispute resolution techniques, such as attorney negotiation and mediation. As discussed above, the Multi-Door Dispute Resolution Division has begun to make mediation available

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*While there is a network of providers assisting petitioners in domestic violence cases, respondents have traditionally struggled to secure representation.*

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to litigants with a history of intimate partner violence, who before were excluded from mediation. While legal services providers were encouraged by the opportunity to resolve cases in a non-courtroom setting, they emphasized the importance of ensuring that the professionals involved had the requisite training to appreciate the power dynamics at play in situations involving domestic violence.

Appellate practice plays an important role in the larger domestic violence community. DV LEAP was a leader in establishing a targeted appellate practice in this area of law. DV LEAP participates in the collaborative efforts described above. Because they work together, legal services providers and DV LEAP can more easily identify issues that are ripe for appeal.

Finally, the domestic violence community has developed a particularly robust coalition around systemic advocacy through the leadership of individual organizations and the D.C. Coalition Against Domestic Violence. This is evidenced by a recent legislative effort to amend the District's Intrafamily Offenses Act. Legal services providers have also advocated on issues like language access.

While there have been many developments in domestic violence practice since the 2008 Report, providers identified several areas that would benefit from increased attention in the future. The need for increased access to legal counsel was identified in two areas related to domestic violence practice. The first is an initiative to increase access to counsel for respondents. While providers noted the difficulty in securing *pro bono* counsel in these matters, initiatives like the one currently being pursued are promising.



In addition, providers noted the difficulty they often face in securing legal help for clients with related family law matters. One provider noted that every domestic violence client with children has a longer-term custody issue that will also need to be resolved. Most organizations said that their ability to help with the family law issues depends on the client and the issues involved, but that custody cases can be complicated and time consuming such that they simply lack capacity to take them on. What is particularly notable is that this difficulty exists despite the fact that family law providers often prioritize cases with a domestic violence component, as discussed above. Providers suggested looking at a better system to refer domestic violence survivors for family law assistance in different income ranges. Providers noted that the type of same day representation used in other parts of the Family Court might benefit domestic violence survivors dealing with family law issues. Indeed, this echoes a recommendation made by family law practitioners.

Along these same lines, providers urged better communication between the court's Domestic Relations Branch and the Domestic Violence Division. They find there can be a lack of consistency between practices and priorities,

sometimes leaving unrepresented parties vulnerable. For example, in a domestic relations context, a domestic violence survivor might be urged to modify a custody agreement or protection order without a full appreciation of the power and control dynamics at play. Providers also noted the difficulty in reaching custody determinations where there is the presence of domestic violence. While District law provides some guidance on this point, in practice providers cited the challenge in determining how much the quality of the relationship between the parents should impact the ability of the parents to have relationships with their child. Providers noted that the court has explored joint procedures to address collaboration between the branches, but that more could be done in this regard. Relatedly, providers urged more training opportunities on domestic violence for key stakeholders conducted by providers and those with direct contact with domestic violence survivors. This would include trainings for judges and court staff so that the court can become more trauma-informed.

## Finding Safety after Domestic Violence

Ms. Cook's partner tightly controlled her every movement. He tracked her location by phone, checked her social media postings daily, and scrolled through her phone each night. When she changed her phone password, he became enraged and struck her face, breaking her glasses. After she fled to bathroom, he grabbed a knife and threatened to cut her in front of their two young children. He then choked her until she passed out.

After more than a year of escalating violence, Ms. Cook sought help from legal services providers at a domestic violence resource clinic. A team of attorneys represented her in her petition for a civil protection order and defended against a petition her partner had filed against her based on false claims. The court eventually granted Ms. Cook a protection order along with full custody of her children. Her team of attorneys also connected Ms. Cook with housing assistance and counseling for her and her children to process the trauma they'd all experienced.

*Ms. Cook's partner tightly controlled her every movement.*

# Housing

## Overview of Housing Practice

As was the case at the time the 2008 Report was published, many low-income District residents face issues related to housing. In the earlier *Affordable Housing Crisis* section, we addressed contextual issues related to the lack of affordable housing. Here, the Report will describe some efforts legal services providers and other stakeholders have taken to address this crisis. Housing-related issues can arise in the context of other legal areas. For example, consumer law is implicated when an unscrupulous lender engages in predatory lending practices or when a homeowner fails to pay taxes and faces the dire consequences of foreclosure. These issues are discussed in the *Consumer* section.

Low-income District residents encounter numerous housing related issues where legal services can be of help. Renters may face the prospect of eviction or unsafe housing conditions. Those who hold vouchers are at risk of wrongful termination of a subsidy. People who are homeless need shelter or accommodations. For any of these residents, housing discrimination may be a concern. Regardless of the legal

problem, the outcome can have serious consequences. An overview of these issues follows.

## Eviction Proceedings and Other Landlord and Tenant Disputes

Consistent with nationwide trends, renters outnumber homeowners in the District.<sup>375</sup> This is especially true in lower-income neighborhoods, where lack of economic resources coupled with the affordable housing shortage has made homeownership largely unattainable. As a result, assistance with landlord and tenant disputes traditionally encompasses a substantial component of legal services work. Renters need legal assistance for a wide variety of landlord and tenant disputes, including eviction proceedings, rent increases, housing code violations, safety deposit returns, and other health or safety issues.

The involvement of an attorney in a landlord and tenant dispute can be powerful. Because landlords typically are represented in legal proceedings and tenants are not, tenants generally are at

## Housing Case Types



Eviction



Foreclosure



Homeless Shelter



Housing  
Conditions



Housing  
Discrimination



Unlawful Eviction



Condo and Co-op Conversion and Sales/  
Tenant Opportunity to Purchase



Property Tax Sales



Public and  
Subsidized  
Housing



Rent Control



Other

When the survey was created, foreclosure cases were grouped with the Housing issue area, rather than Consumer. Because attorneys practicing consumer law confirmed in the listening session that foreclosure cases typically are part of the consumer practice, those cases are discussed in the Consumer section under "Changes to Housing Practice Over the Past 10 Years." Since they were grouped with housing for the survey, the quantitative section based on survey responses, "Housing Practice Among Surveyed Organizations: A Snapshot," groups those answers with Housing.

a disadvantage. Tenants facing eviction, for example, might not be aware of available defenses without the assistance of counsel. A landlord's failure to maintain the premises in compliance with housing codes may be a viable defense to a claim for failure to pay rent. The Federal Fair Housing Act or the D.C. Human Rights Act may afford a tenant with disabilities a defense to certain claims. A tenant living in publicly subsidized housing may raise the landlord's failure to comply with regulatory requirements as a bar to suit. But if a tenant fails to articulate a defense to the landlord's claim, the court may enter a judgment giving the landlord the right to evict without any further proceedings. As discussed in the *D.C. Right to Housing Initiative and Housing Right to Counsel Project* section, the presence of counsel improves outcomes for tenants raising defenses and helps avoid the types of agreements or judgments that lead to eviction.

Unrepresented landlords can also face challenges in navigating the Landlord and Tenant Branch. While an estimated 95% of plaintiffs in cases disposed in 2017 had counsel,<sup>376</sup> there are a small number of landlords, often those renting a room in their primary residence or renting out a second property, who have trouble navigating the system because they cannot afford a lawyer. For these landlords, the lack of legal information or counsel may lead to procedural errors that will preclude them from obtaining the rental fees to which they would otherwise be entitled.

Landlord and tenant proceedings are among the highest volume in D.C. Superior Court. In calendar year 2018, there were over 31,000 new landlord and tenant actions filed.<sup>377</sup> During that same year, the U.S. Marshals Service executed 1,384 actual evictions.<sup>378</sup> For the numerous tenants involved in these cases, the resulting harm if evicted is significant, as is the broader community impact. As Matthew Desmond notes in his book, *Evicted: Poverty and Profit in the American City*, eviction is often the cause, not just a condition of poverty.<sup>379</sup> It destabilizes individuals and families in foundational ways. Eviction often leads to job loss,<sup>380</sup> and those impacted by eviction also suffer from depression or other mental health stressors.<sup>381</sup> And studies demonstrate that children who have been displaced fare far worse educationally than their peers.<sup>382</sup> Beyond the devastating human consequences of eviction, there is also a community impact. Evicted families that end up in the government's shelter system add pressure to already taxed social safety net programs.

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***Renters may face the prospect of eviction or unsafe housing conditions. Those who hold vouchers are at risk of wrongful termination of a subsidy. People who are homeless need shelter or accommodations. For any of these residents, housing discrimination may be a concern. Regardless of the legal problem, the outcome can have serious consequences.***

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### **Housing Conditions and Access to Shelter**

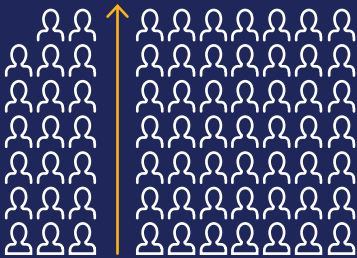
Many District residents also face challenges in addressing unsafe conditions in their home. The D.C. Housing Code and Property Maintenance Code<sup>383</sup> sets health and safety standards for rental units, and landlords are required to properly make repairs in compliance with those standards. Nevertheless, low- and moderate-income District residents frequently face housing conditions such as mice, roach, bedbug and other infestations; leaking fixtures and/or water damage; inadequate heating or cooling; broken appliances; and holes or cracks in the walls, windows, or ceilings. A December 2018 D.C. Housing Authority audit revealed that 7,000 of its over 8,000 units had "deteriorated in significant ways," with "nearly one-third of its units... approaching uninhabitability, riddled with housing code violations that [were classified] as 'extremely urgent.'"<sup>384</sup>

Mold is a significant concern in the District. An informal Legal Aid study in 2013 found that half of housing conditions complaints filed in D.C. Superior Court mentioned mold as an issue. Mold is not always visible to the eye and can be hidden behind walls or floors. Special tools and training are often required to properly detect mold, and visible mold can be easily covered by paint or wood planks without proper remediation. The health implications can be severe, particularly for those with respiratory issues such as asthma, a condition that affects 1 in 6 District residents and is most

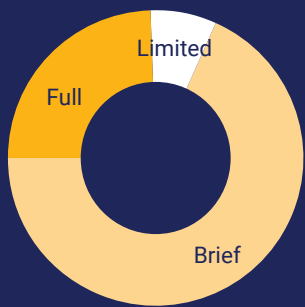
# Housing Practice Among Surveyed Organizations: A Snapshot

# 12

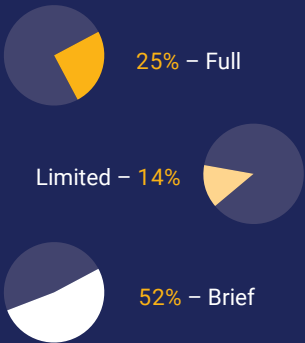
Twelve organizations that responded to the survey reported providing housing legal services in 2014.



Based on survey results, there were 49 paid FTE legal services attorneys working on housing law matters in 2014, accounting for 25% of the total paid FTE legal services attorneys.\* This is an increase from 2005 survey responses which showed 20 paid FTE legal services attorneys working on housing matters.



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 2,360 housing cases, limited representation in 699 cases, and brief services in 6,541 cases.



Providers reported that housing matters accounted for 25%<sup>385</sup> of full representation cases, 14% of limited representation cases, and 52%<sup>386</sup> of all brief services cases across all practice areas in 2014.

\*Some of these paid FTE legal services attorneys reported offering legal services in the area of foreclosure, as discussed in the *Consumer* section.

\*These data reflect housing staffing prior to the creation of the Civil Legal Counsel Projects Program, which infused significant funds into civil legal services in the eviction-defense area. At the time this Report was published, at least 28 new housing attorneys had been hired through that program since it was launched in FY 2018.

prevalent in Wards 5, 7, and 8.<sup>387</sup> Recent changes to District law, urged by legal services providers and other health professionals, set specific guidelines for prompt inspection and removal of mold and contain strict requirements for those professionals secured by landlords to perform that work.

In 2010, the D.C. Superior Court established a Housing Conditions Calendar within the Civil Division for tenants to seek redress of housing code violations. As discussed further below, this calendar is separate from the Landlord and Tenant Branch and offers an affirmative way for tenants to sue landlords for housing code violations on an expedited basis. In 2017 the Civil Division disposed of over 400 housing conditions cases.<sup>388</sup> OAH offers another forum for tenants, primarily those living in rent control units, to challenge rent levels, housing conditions, or other complaints against landlords. In 2017, OAH received 137 rental housing and 686 shelter complaints, the vast majority of which, 49% and 93% respectively, have no party represented.<sup>389</sup>

Access to legal information and advocacy is critical to those District tenants facing unsafe housing conditions. For example, while the District’s mold law has numerous tenant-friendly protections, they are relatively complex and can be challenging for a lay person to navigate. Pursuing any type of housing conditions issue with a landlord can be difficult, particularly for tenants in public or subsidized housing. At times, even identifying the responsible party can be hard when the tenant’s only point of contact is a non-owner, such as a property manager. Lawyers



also provide critical guidance to tenants navigating housing conditions issues. For example, some tenants decide to withhold rent because of problems in their unit. However, not paying rent can have negative consequences for a tenant, such as the landlord filing an eviction case. And finally, lawyers can assist tenants in developing the record in the case, including photographic or other evidence.

## Housing Discrimination

Decades after the passage of the Fair Housing Act (“FHA”),<sup>390</sup> many low-income District residents still face unlawful housing discrimination from realtors, mortgage lenders, insurance companies, property managers, and landlords.<sup>391</sup> They can be denied a lease based on prohibited discrimination, either by refusing a lease outright or by creating barriers to securing a housing unit. With limited exceptions, for example, District landlords may not discriminate against potential tenants who hold Section 8 vouchers. Nevertheless, at any given time a review of District apartment listings will reveal advertisements stating housing vouchers are not accepted.<sup>392</sup>

District residents can face many other forms of discrimination when seeking housing. Discrimination based on race, ethnicity, and national origin; disability; and other protected statuses has been described as rife in the District. D.C.’s Equal Rights Center reported that in 2017, the largest number of discrimination cases were based on disability status.<sup>393</sup> OHR’s Fair Housing program was established in 1999 to address discrimination in housing through enforcement of fair housing laws, education, and outreach. In 2017, it fielded 227 complaints of housing-related discrimination.<sup>394</sup> Of the docketed cases, there were virtually equal number of complaints based on source of income, disability, and race discrimination, followed by gender and national origin.<sup>395</sup>

These numbers likely underestimate the extent of the problem, however. While some of those experiencing housing discrimination seek recourse through a formal process, most do not.<sup>396</sup> This creates an environment whereby discriminatory conduct goes unchecked and a belief that it is unlikely to be recognized or prosecuted.<sup>397</sup> As with the other issues described above, having access to legal information or a lawyer is critical to those tenants who face housing discrimination in order to ensure proper redress of their claims. Discrimination cases can be difficult to document, particularly for those untrained in the law.

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*Decades after the passage of the Fair Housing Act, many low-income District residents still face unlawful housing discrimination from realtors, mortgage lenders, insurance companies, property managers, and landlords.*

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And legal work in this area can have broad implications. In helping an individual client, a lawyer may also combat a discriminatory practice that has the potential to impact many more District tenants if gone unaddressed.

## Homeless-Related and Other Housing Advocacy

Generally, advocates emphasized the necessity of ensuring that individuals who are homeless, at-risk of homelessness, or enrolled in any of the District’s numerous housing programs are both apprised of their rights and responsibilities and have legal services available to safeguard those rights when needed.<sup>398</sup> There can be disagreements around eligibility or program requirements. Other disputes can lead to adverse actions such as a transfer, suspension, or termination from a housing program. If deemed an emergency, these actions may occur without procedural protections, such as prior notice and the right to stay in shelter pending a hearing. Advocacy is particularly critical in these cases because the consequences can be so severe. Legal advocates can pursue informal avenues to address these issues, like negotiation with program staff, or more formal approaches, such as obtaining administrative review and a fair hearing. Yet, OAH *pro se* data shows that 93% of shelter appeals cases in 2017 had no party represented.<sup>399</sup>

Providers’ work has also focused on ensuring that District residents avail themselves of important rights, one example being TOPA. TOPA provides tenants with the first right to purchase their housing units when the owner decides to sell, in addition to other valuable rights such as the ability to assign or sell their right to purchase to a third

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*The proliferation of legal services for low-income District residents in the housing area has been shaped by the District's worsening affordability crisis.*

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party.<sup>400</sup> To successfully avail themselves of this right, tenants must act quickly and take steps like incorporating a tenants' association (if one does not already exist), submitting an application for registration, negotiating a contract of sale, finding a developer, and even obtaining financing.<sup>401</sup> From the outset, lawyers can assist with tenant education and organizing around TOPA rights, assisting clients in defending against efforts by property owners to circumvent TOPA, and legal work like contract negotiations and drafting. TOPA was cited by providers as an area that, with greater legal resources, could potentially help more District residents.<sup>402</sup>

### **Changes in Housing Practice Over the Past 10 Years**

The proliferation of legal services for low-income District residents in the housing area has been shaped by the District's worsening affordability crisis, as discussed earlier in this Report. The bulk of the work remains focused on eviction-defense in the Landlord and Tenant Branch of D.C. Superior Court, and to a lesser extent, in the new Housing Conditions Calendar. Through this work, providers aim to maintain District residents' access to affordable and safe housing at a time when it is becoming less and less available. One provider described it as "protecting pebbles on the beach."

Providers cited several important structural changes during the last 10 years in how housing issues are handled in D.C. Superior Court. The 2010 creation of the Housing Conditions Calendar was cited as an important step for tenants, who previously had limited legal recourse if living in unsafe housing conditions. Tenants could decide to withhold rent and if the landlord subsequently filed an eviction action for nonpayment of rent, they could raise the housing code violations as a defense. However, even tenants who successfully defended the case faced having an eviction

action on their record, with the accompanying negative consequences. Now, the Housing Conditions Calendar enables tenants to affirmatively seek redress against landlords to address housing code violations on an expedited basis. While having counsel in these cases is beneficial, the forum's simplified procedures are designed to allow unrepresented tenants to seek relief.

The availability of a dedicated District government housing inspector assigned to the court ensures the court has access to accurate information about the extent of the violations, of particular benefit for those litigants who do not have access to counsel trained to create an evidentiary record. The Housing Conditions Calendar is limited in nature, however, and only available for those seeking to enforce compliance with D.C. Housing Code Regulations.<sup>403</sup> Litigants seeking other relief, such as monetary relief for the condition of the property or personal injury, or the return of a security deposit or possession of the rental property, must file a separate claim in the Small Claims Branch or in the Civil Actions Branch, or as a counterclaim to a Landlord and Tenant Branch case. Several providers have seen an increase in housing conditions work due to the creation of the specialized calendar. For example, CLC's medical-legal partnership uses housing conditions representation to help children with chronic health conditions such as asthma that are exacerbated by housing conditions like mold and rodent infestations.

Providers also noted important changes to the operations of the Landlord and Tenant Branch, such as the addition of a second judge, the revision of forms, such as a form complaint, and amended court rules. A Landlord and Tenant working group brings practitioners and the court together to identify changes such as the ones mentioned above that promote the administration of justice. The court has also provided valuable space to landlord and tenant providers to operate several court-based projects that have been discussed, including the Landlord and Tenant Resource Center.

Housing attorneys have pursued important collaborations aimed at improving client outcomes in eviction matters. For over 10 years, Legal Aid and Bread have jointly operated the Court-Based Legal Service Project. Here, providers offer same day and extended representation to low-income tenants defending against eviction cases through a court-based office. As discussed further in the *Court-Based Legal Services* section, this Project benefits greatly from a limited practice rule

that was created by the court in cooperation with relevant providers. As a result, thousands of individuals and families facing eviction from their homes have been helped.

The Housing Right to Counsel Project is another collaboration created to represent low-income residents of the District facing eviction. Initiated in 2014, the Project is a partnership of Bread, PBC, Legal Aid, LCE, and a growing list of 20 District law firms and the Federal Government Pro Bono Program. Through the partnership, attorneys provide pre-court outreach, representation, and assistance to tenants in subsidized housing in D.C. who are facing eviction. For more on this Project, see the *D.C. Right to Housing Initiative* section.

These collaborations supplement important work that is being done for tenants every day, particularly special populations like the elderly. LCE has a multi-faceted project to protect tenants from eviction, assist with rent control disputes, help tenants maintain their housing subsidy, pursue needed repairs, or seek necessary accommodations.

PBC has long supported the Landlord and Tenant Resource Center, often the first place a tenant in need of representation will go when on-site at the courthouse. The resource center is staffed by members of the PBC staff and volunteer attorneys who are trained and supported by the Center's staff. The resource center provides free legal information to both unrepresented landlords and tenants who have residential housing disputes in the District. Attorneys help self-represented persons understand

court proceedings and know how to seek relief such as continuances; assist with pleadings; inform low-income litigants of financial and other social service resources that might be available; and connect litigants with opportunities for limited or extended legal representation.

Despite these advances, many challenges remain in a part of the court that is chronically high volume and under-resourced, with an estimated 88% of tenants in cases disposed of in 2017 who appeared without counsel.<sup>404</sup> In an effort to address this human and civil justice problem, the D.C. Council passed the Expanding Access to Justice Amendment Act of 2017<sup>405</sup> which created a program, the Civil Legal Counsel Projects Program ("CLCPP"), to promote representation of individuals in eviction-related proceedings. The program, a part of the District's ATJ Initiative and administered by DCBF, provides funding for housing attorneys to represent low-income D.C. tenants facing eviction proceedings. This reflects another significant change in the practice of housing law, as the program has infused an additional \$4.5 million in public funding to support legal services in eviction-related matters in both FY 2018 and FY 2019.

Legal services providers have been able to expand services to low-income District residents facing eviction in full representation, limited appearances, brief service, and legal advice in landlord-tenant matters through same day representation programs located at D.C. Superior Court and other related community-based projects. The creation of the program has also offered additional opportunities for coordination that leverage organizational expertise. One

## Removing a Tenant's Debt

Ms. Murphy was a 74-year-old client facing eviction due to the \$10,000 debt she owed her landlord. A legal services attorney in court for another case met Ms. Murphy, who was there without representation. The attorney helped Ms. Murphy request a continuance so they could meet to discuss her case. During their meeting, the attorney learned that Ms. Murphy's long-term partner unexpectedly left at a time when she needed to undergo several medical procedures. By the time she left the hospital, her rent debt had ballooned to nearly \$10,000. The attorney worked with the client to obtain \$6,000 from the Emergency Rental Assistance Payment program. After months of negotiation, the landlord agreed to remove the client's partner from the lease, transfer the tenancy fully into her name, waive the remaining \$4,000, and dismiss the eviction action.



provider has dramatically expanded services, including those offered on-site at D.C. Superior Court, and has partnered with another organization to accept referrals for extended representation for those same clients. And the program supports projects aimed at special populations, such as the elderly and those with subsidized housing. New approaches are also being pursued through the funding, such as conducting intake at properties that are subject to building-wide evictions. There is also a robust evaluation component to the program, which will allow measurement of both the reach and impact of the program and the District's investment.

The establishment of the CLCPP and the infusion of additional, new funds for eviction-related work also has created opportunities for other housing-related projects within the core ATJ Initiative (which had heavily funded eviction defense). Programs like a community lawyering project, which focuses on preserving affordable housing and addressing housing conditions, and another program which serves tenants facing housing conditions and unlawful rent increases, are supported. Another program looks at the unique housing barriers faced by those with disabilities, particularly those with mental illness, with a focus on securing reasonable accommodations and filing grievances as needed. Programs have been created to provide legal support to groups of tenants and tenant organizations in another effort to preserve affordable housing, using strategies like TOPA, building-wide litigation, and supporting tenant-owned limited equity cooperatives. A coordinated effort, spearheaded by WLCCR, promotes housing justice by addressing housing discrimination based on race, source of income, familial status, or history of criminal conviction.

The last 10 years have also seen a continuation of important assistance to the District's large homeless population. WLCH, in partnership with *pro bono* lawyers and paralegals, assists District residents experiencing homelessness on a variety of civil matters. It provides these services at community-based sites throughout the District, including at day centers, dining programs, shelter-based medical clinics, and other community locations. WLCH provides a broad array of services, including those to help families secure and retain shelter and housing and have the supports they need. WLCH also works to ensure that the District's shelter and housing programs meet relevant requirements, including accessibility for those with disabilities. For decades, WLCH has led advocacy efforts to address the District's homeless

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*Despite these advances, many challenges remain in a part of the court that is chronically high volume and under-resourced, with an estimated 88% of tenants in cases disposed of in 2017 who appeared without counsel.*

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services, the criminalization of homelessness, and other related issues. Christian Legal Aid of the District of Columbia, founded in 2017, also targets service to the homeless population, offering a monthly clinic on-site at Central Union Mission, a men's homeless shelter and social services center, providing services in housing, public benefits, expungements, estate planning, and family law.

Legal services attorneys have also partnered extensively on housing-related systemic advocacy initiatives. This has taken many forms, including policy advocacy, community organizing, and systemic litigation. Many of these efforts are discussed further in the *Systemic Advocacy* section. Housing attorneys have been particularly adept at creating partnerships and coalitions with a broad array of legal and community-based groups to bring about policy and legislative change. For example, the Rent Control Coalition, a collaboration among Legal Aid, the Coalition for Nonprofit Housing and Economic Development, the Latino Economic Development Center, and other concerned tenants led to significant rent control reform in the D.C. Council. Another coalition formed around the Fair Criminal Records Screening Housing Act which, with some limited exceptions, precludes a housing provider from making an inquiry about or requiring an applicant to disclose an arrest or criminal accusation that is not pending or did not result in a conviction prior to making a conditional offer of housing. As noted earlier in this discussion, the District's progressive law around addressing and remediating mold resulted from years of advocacy by legal services providers in collaboration with other community stakeholders.



Providers noted that the investment they have made in creating and maintaining these strong coalitions has made it possible to organize rapid responses to advocacy opportunities. For example, providers from Bread, Legal Aid, LCE, and NLSP were able to provide comprehensive comments on over 130 pages of regulations regarding the Rental Assistance Demonstration from the D.C. Housing Authority (“DCHA”). The providers’ testimony at DCHA’s Board of Commissioners Meeting was so strong that its Office of General Counsel responded with an invitation to meet – a meeting that resulted in significant changes to the regulations.

In addition to these successful policy and legislative advocacy initiatives, legal services providers have worked with CBOs, nonprofits, and law firms over the past 10 years to create change through systemic litigation focused on specific housing developments. The effort around Terrace Manor, for example – described at length in *The Impact of Systemic Litigation: Terrace Manor* section – is a powerful example of how approaches like systemic litigation can advance important issues. In another case, WLCCR and the law firm WilmerHale represented the Equal Rights Center in a suit against a building management company which had refused to rent to recipients of housing vouchers. As a result of the litigation, the company agreed to undergo extensive fair housing training and civil rights testing, affirmatively market units to voucher holders (and identify employees

to serve as voucher liaisons), and made payment to cover damages, attorneys’ fees, and costs.<sup>406</sup> Efforts to combat this type of source of income discrimination have increased and been identified by providers as an important area of work to expand in the future. Other comparable efforts are ongoing, and providers noted a desire to continue to build and expand approaches that include systemic litigation.

Despite these successes, legal services attorneys shared concerns about their ability to make progress on the District’s housing-related issues. While the District has relatively tenant-friendly housing law, it can be hard for the thousands of District residents without access to an attorney to seek its benefits. Attorneys remain fearful about the disappearing stock of affordable rental units and its inability to meet the needs of District tenants. They cited the difficulty in protecting affordable housing, let alone creating new resources for District residents. And they cited the need to ensure that the aging housing stock is kept in good repair. They discussed the need for more lawyers to work on building-wide cases in order to make a broader impact and preserve larger numbers of housing units. They also cited the need to bring in new partners with relevant expertise, such as real estate development, finance, and zoning. Other opportunities for future growth cited by providers include shared intake and distribution of cases and more coordinated community outreach.

## Fixing Housing Conditions... and Health

A legal services attorney met Ms. Higgins through a medical-legal partnership. Ms. Higgins’ son was a regular visitor to the emergency room. Ms. Higgins reported to the legal services attorney that her apartment had problems with the air conditioning unit, the air filter had never been changed, the apartment was infested with mice, and there were holes in the walls. These unsafe housing conditions exacerbated her son’s chronic asthma and led to frightening, dangerous asthma attacks. The landlord’s only solution to her son’s worsening health condition was giving her mouse traps. The legal services attorney immediately took legal action to make sure Ms. Higgins’ landlord completed the appropriate repairs. As a result, her son’s condition started to improve. Today, he feels better – and is no longer a regular in the emergency room.

*These unsafe housing conditions exacerbated her son’s chronic asthma and led to frightening, dangerous asthma attacks.*

# Immigration

## Overview of Immigration Practice

Due to the current political climate, the District’s immigrant community faces legal concerns that arguably are unprecedented. Even before these political shifts, though, the immigrant community experienced significant legal needs. At worst, unresolved immigration issues can result in removal from the United States,<sup>407</sup> but immigration concerns can implicate a broad range of other complex issues that keep individuals living in poverty, such as access to public benefits, education, or employment. The immigrant population may also face additional barriers such as language access and discrimination. As a result, practitioners in all areas need to have a working understanding of immigration issues.

Providers frequently cited a heightened level of fear and confusion within the immigrant community that further complicates these long-standing issues. With rapid changes in immigration law and policy, there is a proliferation of conflicting and, at times, inaccurate information. Many immigrants feel unsure about whether going to public or government spaces will put them at risk, a fear that has increased but was present well before the introduction of

anti-immigrant policies. Notably, providers remarked that even those in the immigrant community with legal status or permanent residency worry that something might happen to put their status at risk.

The consequences of these circumstances are far reaching. Providers note that many immigrants are unfamiliar with the U.S. system and often fail to distinguish local government authorities from those Federal authorities with responsibility for immigration policy and enforcement. While the District has Sanctuary City status, immigrants remain unsure about whether they can rely on its related protections.<sup>408</sup> Providers reported that those in need of vital services like public benefits may not seek them for fear of exposing themselves and their immigration status to any sort of public authority. They also report declines in the number of immigrant victims reporting crimes including domestic violence, where opposing parties sometimes threaten to call immigration authorities to dissuade them from pursuing legal rights of protection. This can even impact legal services providers, who can be perceived as part of “the system.” Individuals like notarios can take

## Immigration Case Types



Asylum



Family Based Immigration



Naturalization



SIJS Visas



T Visas



U Visas



VAWA



Other

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*Due to the current political climate, the District’s immigrant community faces legal concerns that arguably are unprecedented.*

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advantage of this, portraying themselves as trusted parts of the community when in fact they present yet another risk for fraud and other negative consequences for vulnerable members of the immigrant community.

This all comes in the context of the D.C. Metro area’s emergence as a growing destination for the immigrant community.<sup>409</sup> Immigrants now make up 15% of the District’s population, reflecting a significant increase in the past several decades.<sup>410</sup> The larger D.C. Metro area has experienced a comparable expansion, with a tenfold growth in that same period. In fact, gentrification, discussed elsewhere in this Report, has led some immigrants to relocate to areas outside of District lines. This can create challenges for legal services providers in reaching clients. As one provider said: “Our clients no longer come to us as much. They’re harder to find. They work here but don’t live here. So we have to focus Metro wide.” This can cause administrative challenges for organizations whose funding may be restricted to serving residents of a particular jurisdiction. Some local governments outside of the District are aware of this challenge, and providers of immigrant legal services are seeking funding in the surrounding Prince George’s County, Montgomery County, and Baltimore City, in addition to the District.

The concerns held by this growing immigrant population are well founded. Changes in immigration law and policy have increased substantially in the last several years, with new immigration enforcement priorities and the contraction of humanitarian programs and other avenues for relief. Legal opinions coming out of the Justice Department and the Board of Immigration Appeals are changing the landscape, and immigration providers have been forced not only to keep up with these developments but also to provide legal information and advice to immigrants who understandably have questions about the impact on them as individuals.

Providers also have faced many questions about the revocation of various humanitarian programs that previously provided some sense of stability to the immigrant population. Immigrants are thus coming to them looking for advice about other avenues to pursue to remain here in the U.S., where many of them consider home.

For example, in 2017 the Federal government rescinded the Deferred Action for Childhood Arrivals (“DACA”) program, which had enabled nearly 700,000 immigrants who were brought into the country as children to remain and obtain work permission. While Federal court litigation has halted that order and DACA applications and renewals are being accepted, DACA’s final status, and thus the status of many local immigrants, is yet to be determined. The Federal government also terminated Temporary Protected Status (“TPS”) for tens of thousands of citizens of El Salvador, Honduras, Nicaragua, Haiti, and Nepal who have lived and worked in the U.S. for many years having fled natural disasters or other devastating events in their home countries. Pending the outcome of litigation and lobbying efforts, recipients from those countries will lose their lawful status and work permission in the next few years. Providers reported a significant population of immigrants from these countries in the D.C. Metro area and anticipate need for consultation and advice in these cases.<sup>411</sup>

Some of the biggest changes have occurred in the asylum area, where new case law and backlogs are making receiving a grant of asylum even more difficult. The government issued new case law significantly restricting asylum for women, men, and children fleeing gender-based and other violence at the hands of non-state actors.<sup>412</sup> It also instituted a new priority system for reviewing asylum claims reportedly designed to reduce the backlog of cases. This “last in, first out” schedule was created to quickly identify claims that either have no merit or are fraudulent. Having made this determination, the government can then initiate removal proceedings against these individuals without delay.<sup>413</sup> The Federal government has also reduced the cap on the number of refugees who may be admitted to the U.S. annually by more than half, with the actual number of refugees processed for admission even smaller.<sup>414</sup>

These changes over the past 10 years have further increased the legal needs of immigrants in the District. Detentions by U.S. Immigration and Customs Enforcement (“ICE”)

## Growing Need for Immigration Services in the District

Immigration is a significant area of legal need in the District. This need was not adequately reflected in the Commission's survey, as the data were limited and did not accurately represent either the need for immigration services or the full array of organizations working to meet that need. Further, changes in immigration policy have required the immigration provider network to evolve rapidly over the past few years between the time of the Commission's survey and the present. As a result, rather than survey data, the Report uses the following examples to illustrate the current demand for services and the ways that organizations make themselves available to immigrants in need.

- There are a dozen detention centers within 3 hours of D.C., and the number of detained immigrants in the D.C. Metro area has risen dramatically. The resulting increased demand for legal services leaves a larger percentage of immigrants without representation.
- Nationally, the immigration court backlog is approaching 900,000 cases. In Maryland, there are 38,000 pending deportation cases and in Virginia there are 45,000.<sup>415</sup> As a result, clients have excruciatingly long wait times during which they risk detention or changed circumstances that might negatively affect the outcome of their cases. Providers are unable to resolve many of their cases and thus can represent only a limited number of new clients.
- WWH receives over 300 requests for immigration assistance annually from people facing violence in their home country based on their actual or perceived sexual orientation, gender identity, and/or HIV status. Due to a lack of capacity, WWH takes about one-third of these cases in-house, and places approximately 10% with *pro bono* volunteers.
- Ayuda releases their schedule on the 15th of the month for consultations during the following month. They provide 60 consultations in a single month, and typically all slots are filled within one hour. These 60 consultation appointments represent only 15% of the calls for services that they receive. Ayuda's frequent community-based, low-barrier immigration consultation clinics also routinely include approximately 30-40 people in a single day, sometimes many more. Ayuda, like many other providers, now opens hundreds of new matters for existing clients and advises them on changes in immigration law, thus reducing their capacity to take on new clients.
- Catholic Charities of the Archdiocese of Washington Immigration Legal Services regularly provides between 25-30 consultations each week during walk-in intake at its two D.C. locations, and needs to refer individuals to come in on another intake day or to another Catholic Charities office once the intake slots are filled.
- CAIR Coalition can only provide full legal representation to 10% of the D.C. residents they see in detention.

continue to surge not only nationwide, but also in the District. For example, ICE arrested 132 immigrants in the Washington area during Summer 2018 – of those immigrants, 37 were charged with criminal offenses and the remainder were placed in deportation proceedings.<sup>416</sup> In addition, more than 4,000 D.C. residents with DACA and TPS face loss of their status in January 2020, making them subject to detention and deportation. This only adds to the already high demand in immigrant communities for assistance with other immigration issues such as asylum claims, naturalization, family-based immigration, and visas.

With an ever-changing legal landscape and so much public and political attention on immigration issues, legal counseling is critical to ensuring access to accurate information and competent legal advice. Further, with so many immigrants fearful of seeking help, legal services must be offered in unique ways in order to reach clients who need those services. These dynamics also make it uniquely important for individuals to have lawyers to advocate on their behalf, when fear of public exposure would otherwise compel them not to act. As with other legal areas, having access to legal services is critical for this client population. One provider noted that for more than two-thirds of the families who attended a recent clinic, it was able to identify a legitimate claim for relief that could be pursued. It



is unlikely that clients would have been able to identify and take steps to pursue these claims on their own.

## Changes in Immigration Practice Over the Past 10 Years

Immigration providers have experienced some of the most sweeping changes to their practice over the past 10 years. More than any other practice area, immigration law is subject to politically motivated shifts in Federal policy. Providers reported that efforts to reform the immigration system not only have created uncertainty for their clients, but also for the legal services attorneys who struggle to stay ahead of new laws that often require them to change legal practice and strategies.

An overriding theme in the listening sessions that took place in Spring 2018 was the importance of coalition building and partnerships with other attorneys, community organizations, churches, and schools to provide legal services for and promote the rights of immigrants in the District. Providers noted that such collaboration, while always a laudable goal, has been necessary to deal with the unprecedented demand for immigration services. In addition, providers noted that adding or increasing staff experienced in immigration practice has been important to

meet the growing client demand and allow for consultation on the intersection between immigration issues and other, existing legal work.

Providers reported that these collaborations started in earnest when the region experienced an influx of unaccompanied minors. Lawyers, social workers, and schools came together to develop a holistic approach to serving these children’s unique needs. As immigration law and policy have experienced more drastic change, providers have banded together to create a broad coalition with two goals in mind: to develop local and national strategy and to coordinate on service provision. The DMV Alliance, a group that includes legal services providers, law school clinics, private firms, and community organizations, first came together to create a unified intake form. But what soon developed was a project to jointly provide regular immigration consultation clinics where immigrants receive full, individualized information on possible paths towards legal status. These clinics, offered approximately once per month, are highly attended. As one provider described it, providers are attempting to “stretch the net” to get basic information out to the immigrant community.

These are not the only examples of clinics that have developed in response to the growing legal needs of

## Seeking Help for Immigrant Youth

Silvio was born in El Salvador and lived there for much of his life with his mother. His father was not involved in his life. When he turned 15, Silvio’s mother moved to the U.S., but he remained behind. Soon, a gang threatened Silvio and demanded that he join and pay them. As the threats worsened, Silvio’s mother sent for him to come to the U.S. so that he could be safe. Silvio was detained after he arrived, but was eventually released to his mother, stepfather, and siblings.

While in detention, Silvio attended a “know your rights” presentation conducted by legal services attorneys and participated in an intake to determine his eligibility for legal relief from deportation. He continued to work with those attorneys after his release to pursue Special Immigrant Juvenile Status (“SIJS”). The attorneys first worked with Silvio and his mother to obtain an order from D.C. Superior Court stating that he met the elements of SIJS. With that order, the attorneys helped him to apply for a SIJS Visa. Though it may take several years to obtain the SIJS Visa, once it has been granted, legal services attorneys will help him apply for a green card. In the meantime, Silvio has graduated from high school with good grades and is applying to the University of the District of Columbia.

*While in detention, Silvio attended a “know your rights” presentation conducted by legal services attorneys and participated in an intake to determine his eligibility for legal relief from deportation.*

immigrants in the District. For the last several years, many immigration service providers have held large-scale, free immigration consultations, and routinely find that at least 40–50% of the participants are potentially eligible for some type of immigration relief.

The climate of fear among the immigrant population also has forced providers to think creatively about how to deliver legal information and services. One provider noted that even if they are located as close as next door to a community organization, it is hard to get clients to come to them. Sometimes, having community organization staff accompany the clients to the legal services organization is essential. Knowing that the client community is most comfortable seeking help from trusted community organizations, legal services providers have formed partnerships in order to embed legal information or services at community organizations. Finally, legal services providers have experimented with offering some limited legal services online, such as information on completing custodial powers of attorney, so that they can be completed remotely and in the safety of the client’s home.

A powerful example of these approaches in action is Legal Aid’s Immigrants’ Rights Legal Services Project, launched in 2018, that provides both immigration and holistic legal services in addition to know-your-rights trainings and self-help materials. Legal Aid partnered with the Carlos Rosario

International Public Charter School in the Columbia Heights neighborhood. Carlos Rosario staff shared that while it has always provided supportive services to its families, it felt it was essential to incorporate legal help into its menu of services. Legal Aid conducts initial interviews at Carlos Rosario one day of the week during the school year, and provides those who come with advice, brief services, and potentially legal representation. One staff member said that having the legal services available gives the families hope and access to the right information. This also is an example of an organization expanding its legal practice to meet an emerging need.

Despite these opportunities to access legal services, the demand far outstrips the supply and immigrants remain vulnerable to scams by individuals who falsely promise legal help but often produce only large fees, incompetent assistance, and the threat of deportation. In response, Ayuda created Project END to help members of the immigrant community recognize and avoid immigration fraud. Ayuda encourages victims to report fraudulent legal representatives or government imposters.<sup>417</sup>

Providers also discussed the importance of partnering with other professionals in the immigration context. For some providers, cases filed based on victimization in the immigrant’s home country are common. In these cases, lawyers must sometimes consult with therapists or other

## The Intersection of Health and Immigration

For many years, a legal services provider has assisted Ms. Guerra, a woman from El Salvador who was living with HIV. She was beginning her gender transition, and her identity documents did not yet reflect that change. That concern, and her immigration status, created barriers to her ability to access health care. Staff attorneys worked with Ms. Guerra to submit an FOIA request to assess her immigration status and to counsel her about the best approach to updating her identity documents. With *pro bono* assistance, Ms. Guerra was able to obtain a certification from a Virginia law enforcement agency stating that she had been a crime victim and that she was helpful to them in their investigation. She and her attorneys filed an application for a U Visa and she was eventually able to obtain a work permit, allowing her to legally work in the U.S. In addition, a staff attorney assisted Ms. Guerra with changing her name in D.C. Superior Court – overcoming complications related to her earlier use of aliases. Ms. Guerra also worked with counsel to update her name and gender markers with USCIS and with the Social Security Administration. Thanks to the work of several attorneys, Ms. Guerra can live, work, and be healthy with increased safety in the United States.

*Thanks to the work of several attorneys, Ms. Guerra can live, work, and be healthy with increased safety in the United States.*

mental health professionals to gather proof for the legal case. Providers shared the need for lawyers who are trained to work with clients who have experienced trauma. Some providers reported having a social service professional or team available to provide that training to lawyers, as well as to serve clients. They noted that some Federal and other funding streams support the provision of holistic services like this.

Another element to this area of practice is language access. Despite gains in English proficiency, almost one-fifth of immigrant households in the District live in what the U.S. Census Bureau terms “linguistically isolated households.”<sup>418</sup> These are households in which no one age 14 or older speaks English at least very well at home. People in linguistically isolated households may face significant challenges accessing essential services and resources in their communities without additional language support. Immigration providers noted that the creation of the Community Legal Interpreter Bank, an ATJ Initiative program run by Ayuda and discussed at length elsewhere in this Report, has been essential to service delivery. Nevertheless, increased demand for immigration legal services has strained interpretation services, and even translation services have been taxed as legal services providers attempt to create more written materials to provide legal information to the immigrant community in native languages.

While providers reported being stretched to provide the level of resources needed, some new funding streams have been created to meet the urgent need for legal assistance. In 2017 the District government created the Immigrant Justice Legal Service Grant Program (“IJLS”) which has funded know-your-rights and other trainings to increase immigrant awareness. It also supports creative collaborations such as the one between Briya Public Charter School and a private law firm that hosts clinics at the school and provides *pro bono* legal services. IJLS is limited in the types of services and clients it will provide funding to support, however.

*Pro bono* law firms have also played a role in meeting the growing need in immigration services. One immigration provider remarked that it went from having no *pro bono* partnerships to partnerships with four separate firms due to the growing need. In another example, one large law firm created family safety planning materials that were then used as a model for various consultation clinics in the area. Providers noted the importance of keeping *pro bono* resources focused on the needs of the District immigrant community

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***Given the changing landscape and organizations’ limited funding and capacity, providers still struggle to identify the resources to take on emerging work.***

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as more attention is drawn to areas like the U.S.-Mexico border. More generally, providers noted that the extended nature of immigration cases makes them less appealing to *pro bono* attorneys, although one-day clinics or workshops are more attractive. For example, the PBC offers an Immigration Legal Advice & Referral Clinic quarterly at the Carlos Rosario International Public Charter School in Columbia Heights, a location designed to be convenient and welcoming to those seeking help. During the clinics, individual clients meet with an attorney to discuss civil legal issues governed by U.S. immigration law. Bilingual *pro bono* attorneys and interpreters are available to help clients who speak a wide variety of languages. For eligible clients who require more than brief services, volunteers make referrals to other legal services providers. While in past years the clinic typically assisted between 155–175 clients annually,<sup>419</sup> a recent clinic served 58 clients in just one day, suggesting an increasing need.

Given the changing landscape and organizations’ limited funding and capacity, providers still struggle to identify the resources to take on emerging work. Even when they can shift priorities, organizations may not be able to create new practice areas in response to need. For example, providers noted that only one organization in the D.C. area provides deportation defense for individuals who are detained – despite the growing need. Immigration providers noted several anticipated policy changes<sup>420</sup> which, if implemented, will cause even further stressors for the immigrant population in the District.

While legal services for immigrants in the District have strengthened over the past 10 years, immigration providers still face considerable challenges due to government policies and recent changes in the law. Despite these significant barriers, immigration providers continue to work together to close the justice gap for immigrants in D.C.

# Public Benefits

## Overview of Public Benefits Practice

Public benefits practice represents a sizeable portion of legal services work, since access to safety net programs is critical for so many District residents. On the whole, the District has a progressive public benefits structure. There are a variety of Federal and local public benefits programs designed to support District residents. Navigating these programs, determining eligibility, and actually securing and maintaining benefits can be challenging, however. Providers reported devoting a significant amount of time to helping eligible clients overcome the bureaucratic hurdles that can stand in the way, including correcting City and consumer mistakes that lead to improper denials and terminations. They also engage District agencies in an effort to improve the operation of benefit programs and make them more accessible and transparent for all beneficiaries, not just their individual clients.













Due to the sheer number of public benefits programs available to District residents, detailed treatment of the specific changes that have occurred within each program over the past 10 years far exceeds this Report’s scope. What

follows instead is a brief overview of the major programs, as well as a discussion of the implementation issues that impact residents’ ability to access the programs, the need for legal services, and key strategies that have been utilized to meet this need. Please note that several related or overlapping issues are discussed in the *Disability and Health* section.

## Cash Assistance and Related Support

Temporary Assistance for Needy Families (“TANF”) is a Federal block grant program that provides cash assistance to low-income families with children.<sup>421</sup> Families must fall well below Federal poverty guidelines to qualify. Approximately 16,000 District residents receive TANF subsidies.<sup>422</sup> The average TANF payment for a family of three in the District is \$576 per month, compared to \$677 in Maryland and \$419 in Virginia.<sup>423</sup> Notably, in FY 2018 the District repealed a 60-month time limit that would have potentially cut off benefits to 6,000 District families, including 10,000 children.<sup>424</sup> The effort to secure that repeal is discussed further below and in the *Systemic Advocacy* section. Some residents also have access to the Program on Work Employment and Responsibility (“POWER”) designed

### Public Benefits Case Types

 Emergency Assistance	 Food Stamps/ SNAP	 General Assistance for Children	 Medicaid	 Medicare	 Public Health Insurance
 SSI/SSDI	 Social Security	 Temporary Assistance for Needy Families	 Veterans Benefits	 WIC (Nutrition Program for Women, Infants and Children)	 Other



to provide support to TANF-eligible families facing barriers to employment such as domestic violence or disability that might impact their ability to comply with program requirements. Both programs are designed to supplement cash assistance with other supports like access to job training and employment counseling. Advocates and others in the District are working to improve and increase such supports, including expanding the District’s definition of TANF services to involve mentoring or parenting support.

### Food Security

The Supplemental Nutrition Assistance Program (“SNAP”), a Federal food stamp program, provides benefits to individuals based on income eligibility. During FY 2017, the program served 123,000 District residents, about 18% of the population.<sup>425</sup> Slightly over half of SNAP recipients are in families with children and slightly less than half are in families with members who are elderly or have a disability.<sup>426</sup> In FY 2017, the average monthly SNAP benefit per household member was \$135. While the District has an increasing number of farmers markets that accept SNAP and other comparable subsidy benefits, it also has so-called food deserts where access to fresh, healthy food is limited.<sup>427</sup> This is especially true in Wards 7 and 8 where there are limited full-service grocery stores.<sup>428</sup> As a result, the full financial and nutritional benefit of SNAP may not be realized. Other food security programs, such as the Special Supplemental Nutrition Program for Women, Infants and Children (“WIC”) also are available to some District residents.

### Social Security

The Social Security Administration (“SSA”) runs several important programs for individuals with disabilities. The first is the Old Age, Survivors, and Disability Insurance (“OASDI”) program, which pays Social Security retirement, disability, and survivors’ benefits to qualifying individuals. Approximately 11.9% of District residents, including 71% of the District’s population aged 65 or over, are OASDI beneficiaries.<sup>429</sup> This includes approximately 14,280 residents who receive Social Security Disability Insurance (“SSDI”). SSDI provides benefits directly to people who no longer are able to work due to a disability. The second program, Supplemental Security Income (“SSI”), is an income supplement program that provides monthly payments to individuals with limited income and resources, including those who are aged 65 and older and individuals of any age, including children, who cannot work because

*Public benefits practice represents a sizeable portion of legal services work, since access to safety net programs is critical for so many District residents.*



Photo: Bread for the City

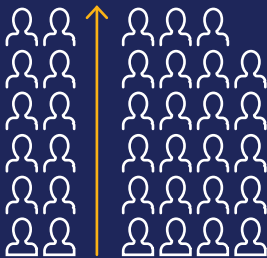
they are blind or have disabilities.<sup>430</sup> In December 2017, 26,573 District residents received Federally administered SSI payments, including 5,324 residents who were 65 and older; 24,417 individuals who were blind and/or disabled; and 3,942 residents who were under age 18.<sup>431</sup>

The District also maintains a separate program, the Interim Disability Assistance (“IDA”) Program, which provides temporary assistance to District residents while a SSI application is pending where there is a high probability of receiving that benefit.<sup>432</sup> Due to funding shortfalls, the IDA program has a wait list which means that even when individuals are found eligible and approved for IDA benefits, they must wait several months to actually receive those benefits.

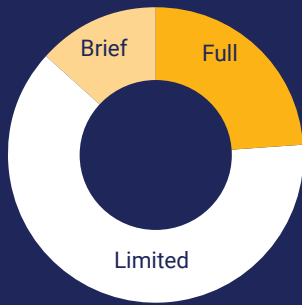
# Public Benefits Practice Among Surveyed Organizations: A Snapshot

# 14

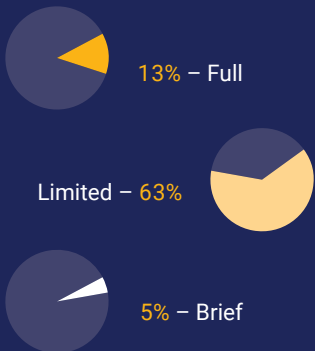
Fourteen organizations that responded to the survey reported providing public benefits legal services in 2014.



Based on survey results, there were 23 paid FTE legal services attorneys working on public benefits law matters in 2014, accounting for 12% of the total paid FTE legal services attorneys.\* This is an increase from 2005 survey responses which showed 12 paid FTE legal services attorneys working on public benefits matters.



Legal services organizations that responded to the survey about 2014 case volume reported providing full representation in 1,199 public benefits cases, limited representation in 3,129 cases, and brief services in 660 cases.



Providers reported that public benefits matters accounted for 13% full representation cases,<sup>433</sup> 63% of limited representation cases,<sup>434</sup> and 5% of brief services cases across all practice areas in 2014.

\*There are additional paid FTE legal services attorneys who reported offering legal services in the areas of health and disability, as discussed in the *Disability and Health* section.

## Health-Related Benefit Programs

District residents benefit from several different public health insurance programs that facilitate access to health care. Medicaid offers a range of health care benefits to adults and children, including inpatient and outpatient hospital care, physician visits, emergency services, prescription drugs, mental health care, rehabilitative services, home health care, and dental and vision services. Medicaid is jointly financed by the Federal government and the District. Approximately 259,000 District residents, or 4 out of 10, are served through the District’s Medicaid program.<sup>435</sup> The District’s Department of Health Care Finance (“DHCF”) administers the program subject to relevant Federal guidelines. DHCF also administers several other insurance programs that benefit another 19,400 District adults and children, including the D.C. Healthcare Alliance (“Alliance”) and the Immigrant Children’s Program, which provides health insurance coverage to low-income residents who are not eligible for Medicaid because of their immigration status.<sup>436</sup> Additionally, in 2018, there were over 95,000 elderly and/or disabled residents of the District who received Federal Medicare benefits.<sup>437</sup> Due to the District’s generous eligibility provisions for health care programs, its uninsured rate is one of the lowest in the nation at 3.9%, well below the national average of 8.7%.<sup>438</sup> Please note that access to health care more generally and other health-related programs are discussed in the *Disability and Health* section.

## Other Benefit Programs

There are a number of other public benefit programs available to low-income District residents for which legal services are sometimes needed. Programs related to housing and unemployment are discussed in the *Housing* and *Employment* sections. The District also administers programs that provide support in the areas of energy assistance, burial, childcare, or to special populations like veterans.<sup>439</sup> While legal services providers did not point to these programs as major areas of practice, they often connect clients with them when handling their other legal needs.

## Changes in Public Benefits Practice Over the Past 10 Years

The very nature of working with the District's low-income population means that providers frequently encounter clients with primary or co-occurring public benefits issues. Some practitioners focus their public benefits work on specific populations, such as children, immigrants, or people with disabilities, while others have developed specialties in certain benefit programs. Providers expressed appreciation for the District's progressive approach to benefit eligibility. For example, eliminating the TANF program's 60-month limit, as discussed below, was a crisis averted for the District's low-income population. The District has stood with the immigrant population by creating a path to health care coverage through the Alliance and has publicly resisted the public charge movement that would make the receipt of benefits itself a barrier to achieving lawful permanent status.

At the same time, providers cited frustration with the basic functions of the District's safety net programs. In a series of studies, Legal Aid and community partners like DCFPI and WWH tracked the experiences of individuals seeking assistance through the District's five DHS Economic Security Administration ("ESA") service centers. They found that individuals frequently arrived in the middle of the night to secure a place in line out of fear that the service center would reach capacity by morning and they would be turned away. The emergence of this problem coincided with a 2011 policy change in the Alliance that introduced a 6-month recertification requirement with an in-person interview. While advocates were successful in promoting legislation at the D.C. Council in 2017 that would replace the 6-month recertification with an annual process and allow such recertification to occur at community health centers (in addition to the ESAs), it has not yet been funded and implementation is on hold.<sup>440</sup>

While legal services providers are gratified when they can successfully help an individual client access necessary public benefits, they still described feeling like the majority of their work is in the form of triage to ensure clients are protected from inevitable system glitches. Clients often cannot decipher benefits notices, which can be internally inconsistent, confusing, and even legally deficient. A notice might announce that benefits are being terminated automatically, for example, which creates an immediate crisis for the individual or family involved. Legal work can

## Overcoming Obstacles to Receive Benefits

Having received a notice that she needed to recertify for her TANF benefits, Ms. Samson turned in the necessary paperwork at a local government service center. When she called to verify that her paperwork had been processed, she was told that it had not been scanned into the system; she was advised to submit the paperwork again, which she did. That paperwork also was not processed. As a result, Ms. Samson's TANF benefits were cut off. Not only did she lose her cash assistance, but she lost a related benefit that had helped her secure a spot in an educational program. Ms. Samson reached out to a legal services attorney, who was able to get her benefits restarted so she could resume her access to the program. Sadly, Ms. Samson still had to delay her enrollment in the program another 7 months.

*Not only did she lose her cash assistance, but she lost a related benefit that had helped her secure a spot in an educational program.*

entail fixing administrative errors and trying to undo the resulting consequences, including securing types of relief individuals may not even be aware of, such as retroactive benefits.

Providers described needing to scramble to assist large groups of clients when emergent issues create chaos in the system, diverting attorneys from their other clients. One example was a computer error that dropped entire populations of Medicaid recipients from the benefit rolls; another was when transportation services for those receiving Medicaid benefits were terminated without warning. Providers expressed frustration that the public agencies failed to address these issues proactively and systemically, forcing individual beneficiaries to appeal denials or move to reinstate coverage if and when they noticed they had been terminated – each requiring the assistance of a lawyer.

These types of barriers speak to the need for public benefits lawyers to understand operations and on-the-ground implementation issues. As one attorney reported during a

listening session in Spring 2018: “If you win your case but the agency cannot turn benefits on because the computer system doesn’t work, or your client can’t access benefits because their benefits aren’t coded right, then the win is meaningless.”

Providers generally reported that the difficulties they face in resolving issues at the agency level has led them to file more administrative appeals at OAH. OAH reported 1,168 DHS public benefits cases filed in FY 2017, up from 716 and 846 filed in FY 2015 and FY 2016, respectively.<sup>441</sup> In FY 2017, 86% of these cases had no party represented.<sup>442</sup> This shift in strategy has further stretched legal services providers. The need to file litigation in most cases within a 90-day time limit creates substantially more legal work for providers, and ultimately, a delay in relief for clients.

The evolution of OAH over the past 10 years and the continued work to improve the experiences of low-income residents in that forum was cited as another significant change in public benefits practice. As discussed earlier in this

## Access to Benefits

In order to secure access to vital safety net benefits such as cash assistance, food stamps, and health insurance, District residents regularly have to wait in long lines outside of District Department of Human Services (“DHS”) Economic Security Administration service centers (“ESAs”). The residents lined up often are elderly, living with disabilities, or accompanied by young children; and all wait outside despite the weather conditions. Those who do not show up in the middle of the night to wait in line are at risk of being turned away once the service centers – now numbering five – reach capacity, sometimes within a few hours of opening.<sup>443</sup>

Since 2014, Legal Aid along with community partners has conducted a series of studies at several ESAs to assess wait times. These studies serve as a counterpoint to the formal data released by DHS which calculates the wait only from the moment the customers reach the front desk inside the service center to the time they complete the process that day. On the 16 occasions Legal Aid visited the ESAs in October and November 2018 they found that the latest arrival time for the first person in line was

4:30 a.m., with the earliest being 2:45 a.m., nearly 5 hours ahead of the offices’ official hours. The length of the line at the time of opening (7:30 a.m.) ranged from 27 to 95 people.<sup>444</sup> Those in line explained that they arrived so early in order to try and avoid being turned away due to capacity constraints and having to make one (or more) return trips in order to be served.<sup>445</sup>

These barriers adversely impact the Alliance and the health of its beneficiaries. Agency data show that a significant number of those subject to recertification fail to complete the process in a timely manner and risk being terminated. Over an 18-month period, for example, only half of Alliance beneficiaries recertified on time, and only 55% of those who failed to do so certified within an additional 60-day period.<sup>446</sup> This underscores the importance of improving access to ESAs. It also illustrates the need to provide legal services to those who cannot access the centers. Without more efficient and effective processes at ESAs, District residents may not be able to secure the vital safety net benefits they need.



Report, OAH was created in 2004 to formalize and centralize the administrative appeals process. OAH struggled with a very high number of litigants proceeding without counsel. In response, several legal services providers, including WWH, Legal Aid, WLCH, PBC, and Bread, met with OAH leadership to create and implement rules and procedures that would increase accessibility to unrepresented parties. Legal services attorneys continue to evaluate how best to protect clients' rights through the appeals process and ensure that OAH exercises its scope of authority over District agencies.

Providers also reported a more systematic approach to individual and appellate litigation. As discussed in the *Systemic Advocacy* section, Legal Aid reviews case filings regularly to cull out individual cases that if litigated could result in systemic change. One provider explained that while her organization's focus remains on individual representation in social security and Medicare Part D cases, for example, she and her colleagues look not only for the clients who need help but also for cases that might help build a systemic case. The SNAP lawsuit brought by Legal Aid, the National Center for Law and Economic Justice, and the law firm Hogan Lovells in collaboration with Bread, also discussed in the *Systemic Advocacy* section, is another example of a strategic approach to addressing chronic, repeated issues like problems with the benefits certification process.

Legal services providers find themselves increasingly active at the D.C. Council, using agency performance and budget oversight hearings as opportunities to promote policy changes and to raise awareness about the experiences of District residents. One area where this strategy was particularly effective was TANF reform, which is universally cited as a high point of providers' advocacy efforts over the past 10 years. The *Systemic Advocacy* section describes the effective coalition that was built around this effort, and one cannot overstate the impact of its result for low-income District residents.

Providers also cited the use of appellate and systemic litigation as a meaningful development in public benefits practice. In a case litigated by Legal Aid, the D.C. Court of Appeals found that the District is required to screen TANF recipients for POWER eligibility and that individuals who were not screened may be eligible for back benefits.<sup>447</sup> Although at present the District is paying full TANF benefits,

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***Legal services providers find themselves increasingly active at the D.C. Council, using agency performance and budget oversight hearings as opportunities to promote policy changes and to raise awareness about the experiences of District residents.***

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thus minimizing the impact of the POWER program, the decision is important for the potentially significant number of District residents who might be eligible for back benefits.

Providers noted that systemic litigation not only leads to substantive change, but also fosters the development of coalitions that can be leveraged for other relevant efforts. For example, a coalition of health advocates came together on the *Salazar* litigation, a longstanding lawsuit against the District for failure to timely process Medicaid applications and additional failures with recertification. Led by a private law firm that works closely with legal services providers, the *Salazar* coalition advanced significant changes to the Medicaid system through the litigation.<sup>448</sup>

Providers shared several other important changes in practice over the past 10 years. Collaborations between legal services providers and other professionals has been particularly critical in connecting District residents with legal information around public benefits. This works best when attorneys receive internal referrals from other parts of their organization, such as at Bread and WWH, or when independent legal services providers are co-located with health care partners, like CLC's medical-legal partnership. Through these relationships with other professionals, lawyers can easily provide training about how to spot legal issues in order to facilitate case referrals.

Providers reported greater difficulty in identifying clients through external referrals, however. They find that even other professionals working with the District's low-income population do not always understand that public benefits

## Securing Survival Benefits

Ms. Scott is a 67-year-old surviving spouse of a retired Air Force veteran. The Air Force originally refused to acknowledge her as a surviving spouse because she had a common law marriage. After 5 years of desperately trying to make sense of the complicated Air Force retirement appeal system, she reached out for assistance. The legal services provider took her case and filed an appeal with the Air Force, arguing that since D.C. recognizes common law marriages, the client is her husband's rightful surviving spouse. The law was clear, but it took another 4 years before the appeal finally reached the step where military lawyers reviewed the claim. Within months, Ms. Scott received a decision ordering her award for benefits, nine years after her husband passed away. Ms. Scott received \$46,000 in retroactive benefits and \$700 a month for the rest of her life.



issues are legal in nature. They may think that they can resolve the issue themselves, not knowing that a better or more permanent result could be secured through legal representation. Thus, public benefits attorneys offer training to other professionals to promote greater understanding of public benefits issues, and to legal services attorneys who practice in other issue areas to better understand how the legal services they provide impact a client's public benefits.

Stand-alone clinics continue to provide many District residents with access to legal services. Providers such as PBC, Legal Aid, and WWH run clinics for District residents on issues such as enrolling in Medicare Part D, where attorneys (including *pro bono* attorneys) assist with plan analysis and ensuring any cost barriers are removed, and social security disability appeals. PBC reports a regular stream of public benefits issues at its Advice and Referral clinic, where clients receive brief services, and its Advocacy and Justice Clinic, where cases are made available to *pro bono* attorneys for full representation.

Finally, providers noted important legal work being done to advance the rights of special populations in the public benefits arena. Advancements for LGBTQ individuals have translated to greater access, but attention to the needs of the transgender and gender expansive communities is evolving, as discussed in the *Populations Facing Additional Barriers to Access* section. For these individuals, legal assistance is

often needed to ensure equitable and non-discriminatory access to services like medical care, employment, education, immigration relief, and even opening a bank account. Providers address issues such as the refusal to recognize a name change; computer systems not processing claims because of a mis-matched gender marker; program requirements that track only gender assigned at birth; denials of medically necessary transition-related or gender affirming care; or documents or forms that fail to address the needs or even existence of non-binary persons. WWH, in partnership with TransLaw, established a monthly name and gender change clinic in 2012 to offer legal assistance in these areas. Annually, the clinic helps an average of 145 transgender clients obtain accurate identity documents. Providers have also pursued systemic fixes, like legislative efforts to streamline the name change process at D.C. Superior Court and the gender marker change process on D.C. birth certificates, and an updated D.C. Department of Motor Vehicle policy to include a non-binary gender marker option on licenses and identification cards.

Unfortunately, the trajectory has been just the opposite for the immigrant community, where issues have increased substantially. The community's tenuous legal status has led them to disengage from the social safety net out of fear. Providers expressed deep frustration about this growing issue, feeling that there is little to do as they watch immigrant families decide to go without essential benefits.

To continue improving the practice of public benefits law over the next 10 years, providers identified a need to ensure there is a broader community understanding of public benefits issues. Providers noted that they often encounter individuals who come in for intake on other legal issues that don't even know they are eligible for benefits. This problem could be avoided, one provider explained, with "more people embedded in the community, so help is not delayed." Providers expressed concern about the thousands of District beneficiaries who do not access legal services which could be of help. They noted that they tend to get good outcomes that stick for the clients they are able to connect with, but so many individuals don't even realize that their benefit problem is a legal problem, or even if they do, they don't connect with legal services. "It's daunting to think about how many people are facing barriers and don't get to us," one provider said.

Providers called for greater collaboration with others serving the District's low-income population. They noted that there are case workers all over the District who may not know to come to legal services providers for help. If providers had greater capacity to train social workers, clergy, and other community stakeholders to identify public benefits issues that could be solved legally, they might be able to reach more District residents and provide them with positive resolutions to their problems. One provider reported being "struck by the power" of the collaboration she found with non-legal professionals during a training on the implementation of the ACA but lamented the fact that funding for that training was short-lived: "People wanted to help their community, but didn't know how."

Providers also suggested that it would be beneficial for legal services providers to have a stronger presence at ESAs to help individuals who are there to apply or recertify for benefits or have other inquiries. (This was described as akin to the court-based model utilized in other practice areas.) They also emphasized the need to continue to press the District government to ease the administrative process around

securing benefits. Providers noted that while the District has explored moving some processes on-line, unless there is a consistent approach across all benefit programs, individuals will still need to file multiple applications to maintain a full complement of benefits.

Increased resources are needed for those who file administrative appeals with OAH, and providers supported the development of a more robust resource center, as discussed earlier in this Report. This echoed a larger point, a need for increased capacity to provide brief or limited scope services to address emergent needs. One provider mentioned a "warm line" project described in the *Intake* section.

Finally, providers expressed some level of fear about the future in light of the growing rhetoric around dismantling the social safety net. While the District remains supportive of the safety net at a policy level, voices on the Federal level are championing changes that may make it even more difficult for the District to meet the needs of its low-income residents. Providers emphasized the need for more partners to focus on this challenging area of practice, and for greater investment in legal services. As one participant in the public benefits providers listening session stated: "The only people doing this work are the ones at this table. We need help."

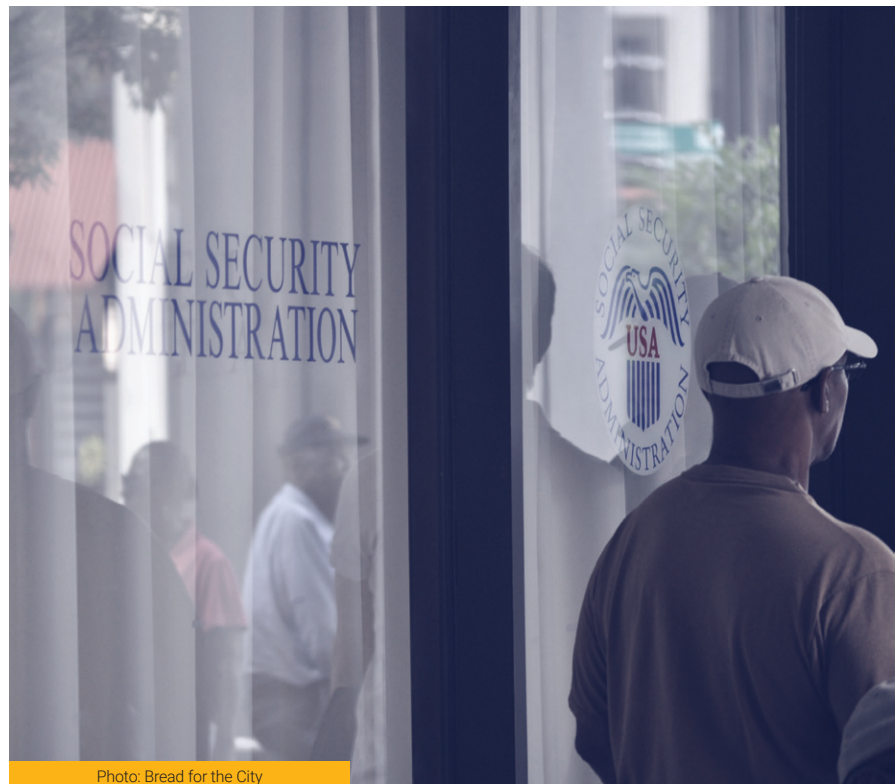


Photo: Bread for the City

# Small Business and Nonprofit

## Overview of Small Business and Nonprofit Practice

The District is home to many nonprofit organizations that provide important services focused on the education, health, well-being, and cultural enrichment of residents; some also employ District residents and otherwise contribute to the economic health of the community. Supporting these entities through no-cost legal assistance is crucial to promoting their success. The legal needs of small businesses and nonprofits are wide ranging, and include such diverse areas as employment law, real estate, corporate governance, contract review, intellectual property, and board governance.

## Changes in Small Business and Nonprofit Practice Over the Past 10 Years

Though the Nonprofit Legal Assistance Program has been in place for 20 years, the practice has changed since publication of the 2008 Report. This is in part because employment law changes regularly. There also has been

increased Internal Revenue Service focus on corporate governance. Though providers in the nonprofit field do not typically undertake systemic advocacy initiatives, they do collaborate with partners in other ways. Some legal services providers, for example, are clients of the Nonprofit Legal Assistance Program and use its trainings for organizational capacity building. Other collaborative work has grown from relationships with District government agencies.

Since there are so few providers in this area, the Nonprofit Legal Assistance Program has been expanding its reach through use of technology. It does so by providing more services online and making trainings and other services available through webinars and podcasts. Notably, the program is appealing to *pro bono* attorneys with corporate and nonprofit expertise who might otherwise be reluctant to take on a *pro bono* matter involving litigation, thus expanding the community of lawyers who volunteer.

## Small Business and Nonprofit Case Types

### Small Business



### Nonprofit





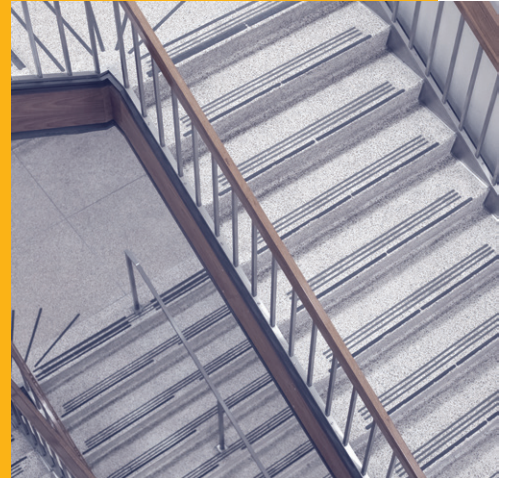
## Small Business and Nonprofit Practice: A Snapshot

The primary provider of nonprofit and small business assistance is PBC, which runs the Nonprofit and Small Business Legal Assistance Program (“Nonprofit Legal Assistance Program”). It does so through legal clinics, matching nonprofits with *pro bono* lawyers, and hosting trainings on salient legal issues. In FY 2018, PBC assisted 84 nonprofits and 427 small businesses through in-person legal clinics. It matched 72 nonprofit organizations with *pro bono* attorneys and provided detailed training to 1,980 people associated with nonprofits and small businesses.

Nonprofit organizations seek help from *pro bono* attorneys on a variety of matters. Typical issues include: securing 501(c)(3) status; corporate governance; employment matters; real estate; contracts and licensing; intellectual property; dissolution, mergers, and bankruptcy; and risk management/insurance. Much like other recipients of legal services in the District, nonprofits receiving help from the Nonprofit Legal Assistance Program must meet criteria for service. To qualify, a nonprofit must be a charitable, educational, or community organization; provide direct services to residents of D.C. with limited means; and be unable to pay legal fees without significantly depleting the organization’s ability to provide services. Organizations that do not fit these criteria or cannot be matched with a *pro bono* attorney for other reasons, can receive limited in-house assistance.

## Helping One Helps Many Others<sup>449</sup>

When Nicole Lynn Lewis reflected on the obstacles she experienced as a teen parent transitioning from high school to college, she decided to turn her professional attention to other struggling teen parents with a desire to finish college. In



2010, Lewis launched Generation Hope, a nonprofit organization that helps teen parents enter and finish college. Generation Hope provides scholarships of up to \$2,400 a year in college tuition and also offers mentoring partnerships. This gives teen parents in the D.C. area not only financial assistance but also much-needed emotional support. Since its inception, Generation Hope has celebrated as 51 teen parents have earned college degrees with its support.

One key to the nonprofit’s success has been its years-long partnership with the D.C. Bar Pro Bono Center. In 2010, the Pro Bono Center matched Generation Hope with a *pro bono* attorney specializing in tax law to help the organization apply to the IRS for tax-exempt status as a 501(c)(3) nonprofit. “That tax exemption was not only important – it was vital for us to be able to fundraise and fully launch the organization,” Lewis explains.

In years since, the Pro Bono Center has helped Generation Hope receive the critical legal help it needs to develop an employee manual, create compensation and performance evaluation policies, protect its intellectual property, and draft a risk-management plan. The nonprofit has also benefited from several of the Pro Bono Center’s Nonprofit Legal Assistance Program clinics. Generation Hope staff and board members have had the opportunity to meet one-on-one with *pro bono* counsel to review their insurance policies, intellectual property protections, and governance policies. Generation Hope is just one shining example of how the Pro Bono Center can help nonprofits grow.





# The Future of Access to Justice in the District

As this Report details, much has been accomplished since the Commission last looked at the civil legal needs of District residents in 2008. Legal services providers have implemented practice changes that have allowed greater direct access to clients where they are, forged meaningful relationships throughout the community, and leveraged their expertise in individual cases to promote systemic change. Developments in practice both inside and outside of the court and changes at the court itself have been instrumental in this regard. Operationally, providers have incorporated strategies aimed at maximizing their limited resources to make the greatest impact. Efforts like the Consortium's *Community Listening Project* have amplified and given renewed voice to the client perspective. The D.C. Courts have a strategic plan that expressly embraces access to justice as a shared community goal. And the increase in public and private funding has been instrumental in allowing the provider community to move through and beyond the recession to expand staffing and service provision.



While these developments are notable, the lack of adequate legal services for low- and moderate-income D.C. residents demonstrated in this Report continues to be a pervasive problem. Because of limited resources, legal services providers in the District have to turn away many of those seeking their assistance. And only a small fraction of those with legal problems seek or are even aware of legal help that may be available to them. In spite of the new programs and initiatives described above, most low- and moderate-income D.C. residents are forced to proceed without legal representation even when they are contending with eviction, child custody, and other life-altering legal problems. Rates of unrepresented parties in our local courts and administrative fora are staggeringly high – with a need for greater services to help.

These circumstances are evidence of the access to justice crisis in the District that requires immediate attention.

Though there is no single answer for addressing the access to justice crisis, it is crucially important to seek solutions. It is necessary to develop comprehensive strategies, including:

- Increasing public and private funding for legal services programs.
- Expanding the legal profession’s *pro bono* commitment.
- Increasing reduced fee and limited scope arrangements for those who do not qualify for free legal aid but cannot afford rates lawyers normally charge.
- Providing substantial assistance through technology and other means to those who represent themselves in litigation or in their other legal matters.
- Providing opportunities for non-lawyers to assist in addressing legal and related needs.
- Reforming court rules and processes to provide greater access to justice and procedural fairness for unrepresented litigants.
- Identifying alternatives to formal litigation, consistent with due process, for those matters that can be better handled in a non-adversarial fashion.

- Expanding outreach and public education to those who are unaware of their rights or the availability of programs to assist in protecting them.
- Providing a centralized process for intake and referral for those seeking assistance but not knowing where to turn for help.

The following more specific examples illustrate the strategies that the Commission will pursue in partnership with the larger District community.



### ***Educating the Community about the Legal System***

There is a need for broader community education on the civil justice system. Many District residents fail to realize that there are legal solutions to the problems they face. If residents do not see the legal system as a potential solution to their problems, they will not access that system, with or without a lawyer. It is important to do more to ensure that District residents and the professionals with whom they have regular contact have access to public education about the civil justice system. As one provider described it, there is a “hunger” for information on how to spot legal issues and what to do if they are identified. It is crucial to determine what type of information is needed, in what format, where it should be delivered, and by whom. Successful cross-professional and community education models already exist with strategies like mini-legal checkups that could be replicated more broadly. Critical to these public education efforts will be ensuring that non-legal professionals who interact with the District’s low- and moderate-income population receive comparable training on the legal system.



### ***Connecting District Residents with Legal Services***

A common theme in this Report is the need to identify more efficient ways to connect District residents with legal services providers. Individuals seeking legal services may find themselves making contact with several legal services providers and undergoing multiple intake processes in various locations before securing assistance, or worse, learning that no assistance is available to them. Even providers offering referrals struggle at times to know where to send individuals seeking services at any given moment. This creates a disincentive for seeking legal assistance. The District's legal services community and other relevant stakeholders should pursue approaches to improve the experience of referral and intake through coordination and integration among our large ecosystem of providers and community stakeholders. Promising advances in technology that have been pursued elsewhere and here in the District can serve as models for improving access for low- and moderate-income clients.



### ***Forging Deeper Community Relationships***

The important work legal service providers have done to strengthen community relationships and engagement must continue and grow. Providers have found that their goals are interwoven with the needs and goals of the community and that pursuing strong partnerships and coalitions facilitate the achievement of those goals. Those connections range from informal information gathering to formal, institutional partnerships. Many providers agree that, whatever form they take, collaborations with community members and organizations strengthen the work of civil legal services organizations and make them more receptive and responsive to client needs. Many providers emphasize strengthening community engagement and relationships with community members and organizations as a means to increase access to justice. It is crucially important to find allies in the community and seek their assistance in connecting District residents with the legal services that they need.



### ***Continuous Improvement of the District's Legal System***

Over the last 10 years, legal services providers have significantly improved access to justice by increasing the types of services they offer, whether by growing existing programs or expanding into new legal areas. They have found different ways to deliver those services through approaches like limited scope and brief services, and in settings like community-based offices, the courthouse, and local organizations. It is important to continue supporting the expansion of new models like these and efforts such as the Civil Right to Counsel or Civil Gideon movement, and to focus attention on the numerous areas identified in this Report (e.g. probate) that are under-resourced. The community must work to find additional ways to leverage limited resources that allow for the greatest level of client service. At the same time, it is important to recognize that attorney resources always will be limited. While it is essential that legal services are well funded, there also may be other approaches that give meaningful access to justice to the many District residents who, for whatever reason, will not find legal representation. This will require a coordinated community-wide effort promoting supported self-help at the court and in the community. The use of non-lawyers and other allied professionals should be explored further, including navigator-type programs that have seen success. The District can learn from growing research around process simplification, participatory design, and other approaches in order to identify the best ways to meet the needs of this population of District residents.





## Going Local with Pro Bono Efforts

The District has a strong *pro bono* culture and its community of lawyers has long demonstrated a commitment to civil justice. This work must be supported and expanded. With a community of over 70,000 local lawyers, there is ample room to grow the pool of potential *pro bono* volunteers. The Commission, the D.C. Bar, the PBC, and the D.C. Courts have championed rule changes that have allowed non-D.C. Bar members to perform *pro bono* service. The D.C. Courts have focused on this effort and committed to doing their part to identify and remove barriers to *pro bono* participation. Legal services providers continue to identify a wide array of opportunities that will work for lawyers with various types of practices.

Law firm leaders should consider adopting firm-wide strategic efforts to address the legal needs of District residents, whether more broadly or along the lines of the Housing Right to Counsel and Family Impact Projects.

Firm leaders can set the stage for increased *pro bono* engagement on local needs through these efforts and their own actions. Efforts like the Standing Committee's recognition of partner participation in *pro bono* may not only expand the pool of *pro bono* volunteers, but model to associates that *pro bono* work – particularly serving their District neighbors – is valuable. Finally, while there is understandably a focus on broadening *pro bono* services in our local courts, we should not lose sight of other community needs like OAH, that has a high volume of litigants who proceed without counsel in cases such as public benefits, housing, education, employment, and other efforts to address the civil legal needs and broader circumstances of low- and moderate-income District residents.



## Using Technology to Increase Efficient Delivery of Legal Services and Justice System

Technology developments in the area of access to justice are growing by the day. Approaches like automated triage; interactive, guided legal help; online information; document assembly; online dispute resolution; and remote access have the potential to make service delivery more efficient and expand access to justice. This is especially true for those who use the tools to help themselves address legal problems without a lawyer. Working with technology experts, attorneys and the courts should incorporate more technology approaches into the District's legal system and use them more nimbly to advance access to justice goals.



## Measuring Need and Evaluating Impact

Many of those who participated in the development of this Report expressed the importance of more robust data collection and analysis. Data collection allows organizations to assess the need for interventions and resource allocation and to measure the impact of their work. This is important not only for guiding providers' decision-making on priorities, strategies, and programs, but also for securing and sustaining funding. Though many providers recognize the benefit of data analysis, evidence-based testing, process design, and program evaluation, few have the staff or resources necessary for conducting such work. Providers emphasize the need to develop these capabilities and to secure financial support so that work in the future can be informed and driven by data. This need for data collection is not within legal services alone. The courts and government agencies must improve their data collection, analysis, and reporting in order to better identify gaps in services and the interventions that are necessary to close those gaps. Law firms should also consider how to best capture the impact they are making locally through *pro bono*.

*Though there is no single answer for addressing the access to justice crisis, it is crucially important to seek solutions.*



### **Maximizing Impact through Systemic Efforts**

Over the past 10 years, legal services providers have dedicated more resources to systemic advocacy, serving not only their individual clients, but also addressing conditions and circumstances that underlie their clients' legal needs. Through appellate and multi-party litigation and policy advocacy, providers address both the proximate causes of legal issues, such as housing conditions, and the structural, such as poverty. Many providers urge a continued focus on systemic work, some exploring how legal services attorneys can work within community coalitions to take on even broader systemic issues such as poverty and economic inequality, racial injustice, and access to quality services. It is important to consider how legal services providers can continue to represent individuals while also affecting the systemic forces that impact District residents.



### **Telling Stories of Clients and Their Legal Needs**

The larger District community, government and business leaders, community stakeholders, and residents, must better understand the civil justice crisis. Many providers discussed the importance of using communications platforms like traditional and social media to advance their work and investing in staff resources to address these interests. Providers in the area of health, for example, offer a model for moving beyond the traditional justice lens to frame their work as achieving broader social justice and health outcome objectives. Efforts like Voices for Civil Justice and All Rise for Civil Justice promote these practices by amplifying the voices of clients and the importance of legal services. Legal services must always be promoted as a sound public investment along with a necessary justice imperative.



### **Putting it all Together: Planning**

There is a clear collective will to do more. While there is much being done and even significant collaboration, the legal community still operates very much in silos. Organizations may come up with specific, actionable plans on their own, but these efforts are not always coordinated with other important stakeholders. The various stakeholders in the community, including legal services providers, the courts, government, law schools, *pro bono* attorneys, and funders must act not as separate entities, but as part of one coordinated system that can identify shared strategies and work toward developing the resources necessary to accomplish common goals.



## Conclusion: The Commission's Commitment

This Report has shown great advances in the community's efforts to address the legal needs of District residents, but also the work that still must be done to increase access to justice in the future. The community must ensure that individual District residents have equal access to the justice system regardless of income while also continuing to shine a light on the systemic forces and barriers that create or exacerbate civil legal needs such as poverty, racial and economic injustice, and social isolation. Lawyers cannot solve these problems alone, but must be part of broader efforts to identify solutions to make the District a better place for low- and moderate-income District residents.

In the next 12 months, the Commission will commit to taking the lessons of this Report and developing an implementation plan to move them towards action. The Commission will engage with the larger District community in this effort, identifying ways that we can all work together to strengthen access to justice in the District and make the legal system more accessible to all low- and moderate-income District residents. With that in hand, the Commission is confident that the decade to come will be as impactful as the one that came before.



# Endnotes

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- 2 United States Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, *Poverty Status in the Past 12 Months*, Table S1701.
- 3 D.C. Department of Employment Services, *Washington D.C. Economic Insights* (accessed July 16, 2019).
- 4 Bureau of Labor Statistics, *Local Area Unemployment Statistics, Unemployment Rates for States, Seasonally Adjusted* (May 2019) (accessed July 16, 2019).
- 5 See *supra* note 3.
- 6 Census Reporter, *Profiles of D.C. Ward 7 and Ward 8* (accessed July 16, 2019).
- 7 Janelle Jones, *African American and Hispanic Unemployment Rates are Higher than White Unemployment Rates in Every State at the End of 2017*, (February 20, 2018), Economic Policy Institute.
- 8 Patricia E. Roberts, *From the War on Poverty to Pro Bono: Access to Justice Remains Elusive for Too Many, Including Our Veterans*, 34 B.C.J.L. & Soc. Just. 341 (2014), at 342; see also Faith Mullen, J.D., and Enrique Pumar, Ph.D., D.C. Consortium of Legal Services Providers, *The Community Listening Project*, (April 2016); Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (June 2017), at 25-26.
- 9 Rebecca L. Sandefur, *Elements of Professional Expertise: Understanding Relational and Substantive Expertise through Lawyers' Impact* (2015), American Sociological Review (finding that a synthesis of available evidence reveals that expanding access to attorneys could radically change the outcomes of adjudicated civil cases, stating "[t]his potential impact is notable when lawyers' work is compared to that of non-lawyer advocates... and spectacular when compared to lay people's attempts at self-representation.").
- 10 D.C. Access to Justice Commission and D.C. Consortium of Legal Services Providers, *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia* (November 2009).
- 11 Legal Services Corporation, *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (June 2017), at 21.
- 12 D.C. Courts Pro Se Data appears in *Appendix I*.
- 13 *Id.* Designated respondents are respondents who are identified in the relevant data field as either represented by an attorney or pro se. For the Civil Division, the court presented pro se data for designated respondents only, and thus the percentages should be considered an estimate. There are a large number of cases where the data field is blank as to whether a defendant is represented or pro se. Some of these undesignated respondents may not have ever appeared in court, or may be involved in cases that were disposed either before a responder appears (i.e., dismissal by the plaintiff or the court) or because the respondent failed to appear (e.g., default judgment). Some may also be due to data error.
- 14 See *supra* note 12
- 15 D.C. Office of Administrative Hearing Pro Se Data appears in *Appendix J*.
- 16 Faith Mullen, J.D., and Enrique Pumar, Ph.D., D.C. Consortium of Legal Services Providers, *The Community Listening Project* (April 2016), at 30.
- 17 See *supra* note 11, at 7.
- 18 See *supra* note 10.
- 19 See *supra* note 11, at 6.
- 20 Ed Lazere, *D.C.'s Growing Prosperity is Not Reaching Black Residents, Census Data Show* (September 26, 2018), D.C. Fiscal Policy Institute.
- 21 The survey completed by legal services providers appears in *Appendix D*. Staff data are based on providers' responses about the number of full-time equivalent employees, or FTEs, working in a particular organization or field. One FTE does not necessarily correspond to one individual employee who works full time. An FTE may be an aggregate of part-time employees whose work when taken together equates with the job of one full-time employee.
- 22 *Id.* It is important to note that, in addition to the case-types grouped under practice area headings, providers also had the opportunity to categorize cases as "other." This "other" category is included in the aggregate of cases that were analyzed to determine comparisons among practice areas such as percentage of FTEs in a given practice, most common requests for assistance, and cases most frequently turned away. Though there is not a specific section in this Report dedicated to the "other" category, it is included in the charts comparing practice areas.
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- 24 Dan Gustafson, Karla Glueck and Joe Bourne, *Pro Se Litigation and the Costs of Access to Justice* (2012), William Mitchell Law Review: Vol. 39: Iss. 1, Article 4.
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- 26 Public Hearing on Mayor Gray's Fiscal Year 2015 Budget Request, Before the Council of the District of Columbia Committee on Public Safety and the Judiciary, *Testimony of Peter B. Edelman, District of Columbia Access to Justice Commission* (May 8, 2014).
- 27 Permanent Commission on Access to Justice, *Report to the Chief Judge of the State of New York* (November 2017) at 27.
- 28 Ken Smith, Barbara Finkelstein and Christopher O'Malley, *Economic Impacts of Legal Aid: Civil Justice for Low-Income People Creates Ripple Effects That Benefit Every Segment of the Communities We Serve* (October 15, 2011).
- 29 *Id.*; see also, e.g., The Resource for Great Programs and IOLTA Information Services, *Resources for Economic Impact Assessment* (accessed July 16, 2019).
- 30 The Task Force to Expand Access to Civil Legal Services in New York, *Report to the Chief Judge of the State of New York* (November 2014), at 3; see also Amy Farmer and Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, (July 2008), Contemporary Economic Policy: Vol. 21: Iss. 2.
- 31 The studies cited in this section of the Report demonstrate the difference in outcomes based on full representation compared with no representation. There is also an evolving area of study comparing outcomes arising out of full representation versus limited representation. See, e.g., Cassandra Wolos Pattanayak, D. James Greiner, & Jonathan Hennessy, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future* (2013), 126 Harv. L. Rev. 901, 919-20, 927; D. James Greiner, Cassandra Wolos Pattanayak, & Jonathan Hennessy, *How Effective Are Limited Legal Assistance Programs? A Randomized Experiment in a Massachusetts Housing Court* (September 1, 2012), at 5-6; Jessica K. Steinberg, *Demand Side Reform in the Poor People's Court* (2015), 47 Conn. L. Rev. 741, 783-784; Steven Eppler-Epstein, *The Greiner Studies: Randomized Investigation of Legal Aid Outcomes*, (2012), Clearinghouse Review; Steven Eppler-Epstein, *Passion, Caution, and Evolution: The Legal Aid Movement and Empirical Studies of Legal Assistance* (2013), 126 Harv. L. Rev. F. 102; Jeffrey Selbin, Jeanne Charn, Anthony V. Alfieri & Stephen Wizner, *Service Delivery, Resource Allocation, and Access to Justice: Greiner and Pattanayak and the Research Imperative* (2012), 122 Yale L.J. 45.
- 32 Shriver Civil Counsel Act Implementation Committee, *Shriver Projects Produce Better Results for Many Low-Income Tenants in Eviction Cases* (August 2018).
- 33 Kelly L. Jarvis, Ph.D., Charlene E. Zil, M.P.A., Timothy Ho, Ph.D., Theresa H. Allen, Ph.D., Lisa M. Lucas, B.A., *Evaluation of the Sargent Shriver Civil Counsel Act (AB590): Custody Pilot Projects* (July 2017), at 15.
- 34 Lawyers' Committee for Better Housing, *Opening the Door on Chicago Evictions: Legal Aid Attorneys Make the Difference* (May 2019), at 2.
- 35 Jane C. Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women* (2003), American University Journal of Gender Social Policy and Law: Vol. 11: Iss. 2, Article 14.
- 36 Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal About When Counsel is Most Needed* (2010), Fordham Urban Law Journal: Vol. 37: No. 1, Article 2.
- 37 *Id.* at 59.
- 38 *Id.* at 60.
- 39 Stacy Caplow, Peter L. Markowitz, Jojo Annobil, Peter Z. Cobb, and Nancy Morawetz, *Accessing Justice: The Availability and Adequacy of Counsel in Removal Proceedings, N.Y. Immigrant Representation Study Report Part 1* (2011), 33 Cardozo L.Rev. 357, 363-64.
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- 41 See *supra* note 11, at 33 (stating that the lack of awareness of the issue being a legal problem is the reason cited by low-income Americans in 1 in 5, or 20%, of civil legal problems where no help was sought).
- 42 See generally, *supra* note 11.
- 43 *Id.*
- 44 *Id.* at 30.
- 45 *Id.* at 44.
- 46 D.C. Courts Pro Se Data appears in *Appendix I*.
- 47 *Id.* Designated respondents are respondents who are identified in the relevant data field as either represented by an attorney or pro se. For the Civil Division, the court presented pro se data for designated respondents only, and thus the percentages should be considered an estimate. There are a large number of cases where the data field is blank as to whether a defendant is represented or pro se. Some of these undesignated respondents may not have ever appeared in court or may be involved in cases that were disposed either before a responder appears (i.e., dismissal by the plaintiff or the court) or because the responder failed to appear (e.g., default judgment). Some may also be due to data error.
- 48 D.C. Office of Administrative Hearings Pro Se Data appears in *Appendix J*.
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- 50 Legal Services Corporation, *History: The Founding of LSC* (explaining that the OEO legal services program was part of President Johnson's War on Poverty, and later became the Legal Services Corporation), (accessed July 16, 2019).
- 51 Alan Houseman, *A Brief Review of Civil Legal Aid History*, Georgetown Law Library (citing Bamberger's address) (accessed July 16, 2019).
- 52 United States Census Bureau, 2017 American Community Survey 5-year Estimates, *Poverty Status in the Last 12 Months*, Table S1701; see also *supra* note 1.
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- 59 See *supra* note 3.
- 60 See *supra* note 4.
- 61 See *supra* note 3.
- 62 Sasha Ann Simons, *D.C.'s Black Unemployment Rate Remains Among Highest in the Country* (May 18, 2018), WAMU.
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- 67 Perry Stein, *D.C. Inches Towards Closing the Achievement Gap* (August 16, 2018), The Washington Post.
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- 75 Claire Zippel, *A Broken Foundation: Affordable Housing Crisis Threatens D.C.'s Lowest-Income Residents* (December 8, 2016), D.C. Fiscal Policy Institute.
- 76 See *supra* note 74, at 4.
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- 81 David Rusk, *Concentrated Poverty – The Critical Mass* (September 13, 2018), D.C. Policy Center.
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- 101 United States Interagency Council on Homelessness, *Engaging Legal Services in Community Efforts to Prevent and End Homelessness* (February 2017), at 1.
- 102 *Id.*
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- 105 John Murph, *D.C. Bar's First Aging in D.C. Legal Institute: A Recap* (October 2, 2018).
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- 107 U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, *Population 65 Years and Older*, Table S0103.
- 108 U.S. Census Bureau, 2017 American Community Survey 1-Year Estimates, *Selected Social Characteristics in the United States*, Table DP02.
- 109 Limited English Proficiency ("LEP"): A Federal Interagency Website, *Description of D.C. LEP Maps* (accessed July 16, 2019).
- 110 U.S. Census Bureau, 2013-2017 American Community Survey 5-Year Estimates, *Selected Characteristics of the Total and Native Populations in the United States*, Table S0601.
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- 114 Rachel Chason, *Doing Time Far From Home, D.C. Prisoners Face Extra Barriers to Rehabilitation* (December 13, 2017), The Washington Post; District of Columbia Department of Corrections, *D.C. Department of Corrections Facts and Figures* (January 2019).
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- 116 Andrew R. Flores, Jody L. Herman, Gary J. Gates and Taylor N.T. Brown, *How Many Adults Identify as Transgender in the United States?* (June 2016), Williams Institute.
- 117 D.C. Trans Coalition, *Access Denied: Washington, D.C. Trans Needs Assessment Report* (November 2015), at 57.
- 118 *Id.*
- 119 *Id.*
- 120 Washington Literacy Center, *What We Do* (accessed July 16, 2019).
- 121 Sharon G. Smith, et al., *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report* (April 2017), National Center for Injury Prevention and Control Centers for Disease Control and Prevention, at 128.
- 122 See *supra* note 101.
- 123 D.C. Coalition Against Domestic Violence, *Domestic Violence in the District of Columbia: 2017 Statistical Snapshot, (2017)*.
- 124 *Id.*
- 125 See *supra* note 11, at 52.
- 126 *Id.*
- 127 *Id.*
- 128 The survey completed by community-based organizations appears in *Appendix F*. The respondents selected one of the following possible answers: regularly; often; rarely; never; or unknown.
- 129 *Id.* The respondents selected one of the following possible answers: easy to connect; can connect but takes effort; very difficult; or don't typically try to connect.
- 130 *Id.* The respondents selected one of the following possible answers: very; somewhat; a little; or not at all.
- 131 *Id.* The respondents selected one of the following possible answers: excellent; good; fair; or poor.
- 132 The data collection form that was completed by legal services providers appears in *Appendix H*. All of the statistics in this section exclude those respondents who did not report specific requested information. In many cases, a relatively large number of respondents did not answer the relevant question (e.g. "race/ethnicity" was left blank) and we did not include the "null" responses in the denominator when calculating the information reported in this section.
- 133 *Id.* While informative, this snapshot does not present a complete picture of all of the residents who requested legal services. While 17 providers returned over 2,200 forms, some providers who received forms did not participate in the process at all and others participated, but not fully. Among those who participated only partially, some did not fill out forms for every person who sought legal assistance and some did not answer every question. As a result, the data presented here significantly understate the magnitude of need.
- 134 *Id.* A list of the case types for which residents sought assistance in each of these areas can be found in the *Appendix H*.

135 See *supra* note 16.

136 *Id.*, at 30.

137 *Id.*

138 *Id.*, at 32.

139 *Id.*, at 36.

140 Movement Matters, D.C. Consortium of Legal Services Providers, *Community Listening Project Recommendations* (October 2017).

141 See *supra* note 10, at 1-4.

142 See *supra* note 88, at 37 (Chart 5).

143 *Id.*, at 5.

144 *Id.*

145 *Id.*, at 4.

146 *Id.*

147 *Id.*, at 6.

148 The increased volume of housing conditions cases is likely due to the fact that a docket for tenants to bring affirmative housing conditions cases was established in April 2010.

149 The Commission's 2008 Report analyzed data from 2005. See *supra* note 88.

150 The Commission's survey asked for both the number of lawyers and the number of managers at each organization. Since almost all of the managers also are attorneys, the number of FTE managers were included in the total number of FTE attorneys.

151 FTE numbers in the 2008 Report do not include staff and attorneys at the Children's Law Center hired with funds dedicated to providing legal assistance where there is a statutory right to counsel. Children's Law Center attorneys supported by these funds work as guardians *ad litem* for children in the neglect and abuse system. See *supra* note 88 at 25, 28.

152 If attorneys hired with right to counsel funds were included, this number would be 92.55 FTEs instead of 55.5.

153 Legal services providers reported accepting nearly 6,500 full representation cases in 2014. In 2005, legal services providers reported accepting 3,600 full representation cases.

154 It is worth noting that local D.C. funding has grown exponentially since 2014, due in part to the creation of the Civil Legal Counsel Projects Program in FY 2018 to support legal representation for low-income tenants facing eviction proceedings. For FY 2020, local public funding will exceed \$11 million.

155 Kathy Zeisel, *Testimony before the District of Columbia Council Committee on Judiciary and Public Safety, Budget Oversight Hearing: Office of Victim Services and Justice Grants* (April 4, 2019).

156 Data about the Landlord Tenant Resource Center, the Consumer Law Resource Center, and the Probate Resource Center was provided by the D.C. Bar Pro Bono Center. Data about the Small Claims Resource Center was provided by Neighborhood Legal Services Program.

157 Superior Court of the District of Columbia, *2018 Family Court Annual Report* (March 31, 2019), at 101.

158 Attorneys who accept a representation in a matter that continues to a jury trial must withdraw before *voir dire* or else continue through return of the verdict. See *Superior Court of the District of Columbia Administrative Order 14-10*

159 District of Columbia Court of Appeals *Administrative Order 2-18* (April 3, 2018).

160 D.C. Bar, *Rules of Professional Conduct: Rule 1.2 Scope of Representation*, (accessed July 16, 2019).

161 Legal Services Corporation, *Outcomes Toolkit* (accessed July 16, 2019).

162 Harvard Law School Center on the Legal Profession, *Access to Justice Lab at Harvard Law School* (accessed July 16, 2019).

163 *Legal Services National Technology Assistance Project* (accessed July 16, 2019).

164 *Institute for Technology Law & Policy Georgetown Law* (accessed July 16, 2019).

165 See *supra* note 108; Migration Information Source, *Language Diversity and English Proficiency in the United States* (November 11, 2016), (stating that "LEP individuals were more likely to live in poverty than English-proficient individuals.").

166 Peter A. Tatian, Sara McTarnaghan, Olivia Arena and Yipeng Su, *State of Immigrants in D.C.: Data Profiles of Immigrants from Latin America, Asia, Africa, and the Caribbean* (December 2018), Urban Institute, at 2.

167 *Id.*, at 3.

168 *Id.*, at 4-5.

169 Washington Council of Lawyers, *East of the River Profiles: Meeting the Community's Legal Needs* (May 28, 2019).

170 Unlike some jurisdictions, tenants in D.C. are not required to file a written answer to avoid default.

171 All eviction cases in D.C. are considered summary process.

172 Harmony Jones, Legal Aid Society of the District of Columbia, Making Justice Real, *Federal Court Permits Class Action Lawsuit Alleging Unlawful Food Stamps Processing Delays to Proceed* (August 28, 2018).

173 D.C. Courts Pro Se Data appears in *Appendix I*.

174 *Wylie v. Glenncrest*, 143 A.3d 73 (D.C. 2016).

175 D.C. Fiscal Policy Institute, *District of Columbia's Temporary Assistance for Needy Families (TANF) Program* (accessed July 16, 2019).

176 The final report of the 2016 TANF extension working group stated that "more than 10,000 children are estimated to be affected by the 60-month time limit and 61% of those children are under age 10. Barbara Poppe and Associates, *Recommendations for Development of a TANF Hardship Extension Policy for Washington, D.C.*, D.C. Department of Human Services Economic Security Administration (October 18, 2016) at 18; Laura Zellinger, *Responses to Fiscal Year 2016-2017 Performance Oversight Questions* (March 8, 2017), Department of Human Services.

177 D.C. Act 18-721, *Fiscal Year 2011 Supplemental Budget Support Act of 2010* (January 27, 2011), at 15.

178 Kate Coventry, *What's In the Proposed FY 2019 Budget for Temporary Assistance for Needy Families (TANF)?* (April 3, 2018), D.C. Fiscal Policy Institute.

179 Barbara Poppe and Associates, *Recommendations for Development of a TANF Hardship Extension Policy for Washington, D.C.* (October 18, 2016), D.C. Department of Human Services Economic Security Administration, at 9; Paul Duggan, *District Does an About-Face on Welfare Reform with Decision to Keep Helping Long-Term Recipients* (July 24, 2017), The Washington Post.

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181 *Bill 21-0515, the District of Columbia Public Assistance Amendment Act of 2015*.

182 Barbara Poppe and Associates, *Recommendations for Development of a TANF Hardship Extension Policy for Washington, D.C.* (October 18, 2016), D.C. Department of Human Services Economic Security Administration, at 31-32.

183 Bill 22-0244, Act 22-0130, *Fiscal Year 2018 Budget Support Act of 2017, TANF Child Benefit Protection Amendment Act of 2017* (December 13, 2017), at 69-70.

184 See *supra* note 10, at 4.

185 *Id.*, at 6.

186 Four of the Pro Bono Initiative signatory firms report having a rotation/fellowship/externship program. *2018 D.C. Bar Pro Bono Initiative Report: An Overview of Pro Bono in D.C.* (August 2019).

187 See *supra* note 88, at 38.

188 NALP *2018 Public Service Attorney Salary Report*, Table 1. Median Salaries Nationwide for Layers by Type of Organization and Years of Experience – 2004-2008, at 3.

189 *Id.*, at 2.

190 Legal services who are residents of the District of Columbia receive LRAP assistance through public funds.

Those living in the surrounding jurisdictions (e.g., Maryland and Virginia) are eligible to receive loan repayment assistance through a privately funded D.C. Bar Foundation program.

191 See *supra* note 88, at 36 (as stated in the 2008 Report, approximately 220 FTE positions served District residents in 2005, approximately 140 of those were lawyer positions).

192 U.S. Citizenship and Immigration Services, *Accredited Representative* (accessed July 16, 2019).

193 D.C. Bar, *D.C. Pro Bono Center*, (accessed July 16, 2019).

194 American Bar Association Standing Committee on Pro Bono & Public Service, *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers* (April 2018).

195 Ben Seal, *The 2018 Pro Bono Scorecard* (June 27, 2018), The American Lawyer.

196 D.C. Bar, *Rules of Professional Conduct: 6.1 Pro Bono Public Service, Comment 2* (accessed July 16, 2019).

197 *Id.*

198 Scott L. Cummings and Rebecca L. Sandefur, *Beyond the Numbers: What We Know—and Should Know—About American Pro Bono* (2013), at 110-111.

199 D.C. Circuit Judicial Conference Standing Committee on Pro Bono Legal Services, *Biennial Report of the Standing Committee on Pro Bono Legal Services* (December 21, 2018).

200 *Id.*, at 5-6, 8.

201 See *supra* note 186, at 2.

202 Firms were not asked to track how many of their hours devoted to serving people of limited means were tied to District cases. The percentage of attorneys engaged in *pro bono* increased slightly in 2018. The participation rate was 81% in 2018, up from 80% in 2017. The total number of attorneys participating in *pro bono* increased in 2018 from 8,128 to 8,850 attorneys. *Id.* at 3.

203 The Honor Roll was founded in 2011 by the Commission and D.C. Bar Pro Bono Center in partnership with the D.C. Courts.

204 District of Columbia Courts, *Pro Bono Honor Roll*, (accessed July 16, 2019).

205 Children's Law Center, *2017 Impact Report*, at 3.

206 Legal Aid Society of the District of Columbia, *2018 Making Justice Real Annual Report*, at 13.

207 See *supra* note 186, at 3.

208 A 1996 Executive Order first promoted this participation. *Civil Justice Reform, Exec. Order 12988, 61 Fed. Reg. at 4,730 Sec. 2 ((Feb. 7, 1996) ("Government and Pro Bono Service")*

209 *D.C. Court of Appeals Rule 49 (c)(9)(C) ("Unauthorized Practice of Law")*.

210 See *supra* note 199, at 13.

211 *Id.*, at 14-15.

212 *Id.*, at 14.

213 *Id.*, at 13.

214 Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates, *Skadden Impact Projects* (accessed July 11, 2019).

215 See generally, *Washington Council of Lawyers* (accessed July 11, 2019).

216 *The Association of Pro Bono Counsel* (accessed July 12, 2019)

217 See *supra* note 199.

218 See *supra* note 199.

219 See *supra* note 186.

220 The D.C. Courts identified increasing the availability of free, *pro bono*, and low-cost civil legal assistance as a priority in its 2018-2022 Strategic Plan. D.C. Courts, *Strategic Plan of the District of Columbia Courts 2018-2022*.

221 The ABA adopted a new standard for accredited law schools requiring law students, beginning with the entering class of 2016, to complete at least 6 credits of experiential learning prior to graduation. Students may satisfy this requirement through clinics, externships, simulation courses, and other vehicles that engage students in acquiring practice-oriented skills and developing a professional commitment to

- pro bono service. *American Bar Association Section of Legal Education and Admissions to the Bar, ABA Standards and Rules of Procedure for Approval of Law Schools, Standard 303(a)(3) ("Curriculum"); Standard 304 ("Experiential Courses: Simulation Courses, Law Clinics, and Field Placements").*
- 222 Cynthia F. Adcock, *Beyond Externships and Clinics: Integrating Access to Justice in the Curriculum* (May 2013), 62 *Journal of Legal Education* 566.
- 223 See *supra* note 16, at 2.
- 224 With the launch of the Civil Legal Counsel Projects Program in July 2018, the providers stopped tracking Housing Right to Counsel Project cases separately.
- 225 D.C. Consortium, *About the Consortium* (accessed July 17, 2019).
- 226 OAH also hears cases arising from decisions of agencies such as the Department of Public Works (property violations), Department of Consumer and Regularly Affairs (business licensing, construction violations), Department of Health (nursing home evictions, health violations, health professional license disputes), Department of Behavioral Health (group home evictions, group home business violations). *DC Office of Administrative Hearings* (accessed July 16, 2019).
- 227 *Id.*
- 228 Final orders from cases involving the Department of Public Works, Department of Housing and Community Development, Office of Planning, Fire & Emergency Medical Services, Department of Health, Department of Energy and the Environment, District Department of Transportation, Department of Consumer & Regulatory Affairs, Metropolitan Police Department, and Department of Small and Local Business Development were available as of November 2018. *Id.*
- 229 Legal Aid Society of D.C., *Testimony Before the Committee on Government Operations, Public Oversight Hearing Regarding the Office of Administrative Hearings* (February 22, 2018).
- 230 *Id.*
- 231 *Id.*
- 232 D.C. Office of Administrative Hearing Pro Se Data appears in *Appendix J*.
- 233 Council for Court Excellence, *Administrative Justice in the District of Columbia: Recommendations to Improve D.C.'s Office of Administrative Hearings* (September 7, 2016).
- 234 See *supra* note 111.
- 235 Code of District of Columbia, § 1-204.31 et seq. (accessed July 16, 2019).
- 236 Previously, tenants did not have a mechanism to easily seek redress for housing code violations and typically had to tolerate terrible conditions while waiting for the landlord to bring a case for possession in the Landlord and Tenant Branch. Now tenants have a mechanism for affirmatively raising housing conditions issues. A DCRA housing inspector is present when the calendar is called so that the court and the parties have direct access to conditions-related information and violations can be resolved more quickly.
- 237 See *supra* note 220.
- 238 The D.C. Court of Appeals is also responsible for promulgating its own rules, reviewing proposed D.C. Superior Court rules, and oversees attorney admission, professional conduct, and discipline.
- 239 The Superior Court has many other functions, such as the Social Services Division and the Crime Victims Compensation Program.
- 240 D.C. Judicial Nomination Commission, *DC Government* (accessed July 16, 2019)
- 241 D.C. Courts Pro Se Data appears in *Appendix I*.
- 242 Designated respondents are respondents who are identified in the relevant data field as either represented by an attorney or pro se. For the Civil Division, the court presented pro se data for designated respondents only, and thus the percentages should be considered an estimate. There are a large number of cases where the data field is blank as to whether a defendant is represented or pro se. Some of these undesignated respondents may not have ever appeared in court, or may be involved in cases that were disposed either before a respondent appears (i.e., dismissal by the plaintiff or the court) or because the respondent failed to appear (e.g., default judgment). Some may also be due to data error.
- 243 See generally, *supra* note 220.
- 244 It is important to note that, in addition to the case-types grouped under practice area headings, providers also had the opportunity to categorize cases as "other." This "other" category is included in the aggregate of cases that were analyzed to determine comparisons among practice areas such as percentage of FTEs in a given practice, most common requests for assistance, and cases most frequently turned away. Though there is not a specific section in this Report dedicated to the "other" category, it is included in the charts comparing practice areas.
- 245 Nathalie Martin, *Giving Credit Where Credit Is Due: What We Can Learn from the Banking and Credit Habits of Undocumented Immigrants*, (April 1, 2015).
- 246 Paul Kiel and Annie Waldman, *The Color of Debt: How Collection Suits Squeeze Black Neighborhoods* (October 8, 2015).
- 247 D.C. Bar Pro Bono Center, *Bankruptcy Clinic* (accessed July 16, 2019).
- 248 U.S. Department of Justice's National Institute of Justice and Office for Access to Justice with the National Science Foundation: *White House Legal Aid Interagency Roundtable: Civil Legal Aid Research Workshop Report* (February 2016), at 23 (citing testimony of Ira Rheingold, Executive Director of the National Association of Consumer Advocates).
- 249 *Id.*
- 250 Charlene Crowell, *Abusive Debt Collectors Target Black Consumers* (December 30, 2015).
- 251 Michael Sallah, Debra Cenziper, Steven Rich, *Left With Nothing* (September 8, 2013), *The Washington Post*.
- 252 D.C. Office of Tax & Revenue: *Homestead Deduction and Senior Citizen or Disabled Property Owner Tax Relief* (accessed July 12, 2019).
- 253 These complaints fell in the areas of Debt Collection – 3,941; Telephone and Mobile Services – 1,531; Identity Theft – 1,333; Imposter Scams – 1,147; Banks and Lenders – 764; Employment and Tax-related Identity Theft – 524; and Credit Card Fraud – 372; as well as significant numbers of shop-at-home, auto, credit bureau, and phone scams.
- 254 *Supra* note 248, at 24.
- 255 *Id.*
- 256 The increase was, at least for LCE and Legal Aid, in large part due to exponential uptick in foreclosure defense cases (from close to zero 2009-2012 to hundreds in 2013-2014).
- 257 Note that foreclosure cases were categorized as Housing for purposes of this data report.
- 258 See *supra* note 88, at 48.
- 259 D.C. Courts Pro Se Data appears in *Appendix I*.
- 260 Dina ElBoghdady, *DC May Soon See an Uptick in Foreclosures: Housing Advocates Say That's a Good Thing* (January 8, 2015), *The Washington Post*.
- 261 Another reason for the increase was the court's decision to raise the dollar amount limit for cases that may be filed in the Small Claims Branch from \$5,000 to \$10,000. Previously the limit for cases to be filed as a Small Claim matter was \$5,000 and all suits seeking higher dollar amounts had to be filed in the Civil Division, with higher filing fees and more complex rules and procedures. D.C. Bar, *Court Raises Limit for Cases Filed as Small Claim*, (January 27, 2017).
- 262 D.C. Courts Pro Se Data appears in *Appendix I*.
- 263 Gerald F. Kominski, Narissa J. Nonzee, and Andrea Sorensen, *The Affordable Care Act's Impacts on Access to Insurance and Health Care for Low-Income Populations*, *Annual Review of Public Health* (2017), at 492.
- 264 Leighton Ku, PhD, MPH, *What is the Evidence of the Effects of the ACA's Individual Mandate and of Its Repeal?* (February 12, 2018). Still, about 7,500 District residents under the age of 18 had no medical insurance coverage in 2016. Henry J. Kaiser Family Foundation, *Health Insurance Coverage of Children 0-18* (2016).
- 265 For a look at the current state of health care funding in the District, see D.C. Fiscal Policy Institute, *What's in the Approved Fiscal Year 2019 Budget for Health Care*, (accessed July 16, 2019).
- 266 Children's Law Center, Children's National Health System, District of Columbia Behavioral Health Association, *Behavioral Health in the District of Columbia for Children, Youth & Families: Understanding the Current System* (2019), at 3.
- 267 See also Ed Lazere, *No Way to Run a Healthcare Program* (March 17, 2019), D.C. Fiscal Policy Institute.
- 268 Kate Rabinowitz, *In D.C., Access to Medical Care Really Depends On Where You Live*, (October 4, 2016), *Greater, Greater Washington*.
- 269 Samantha Schmidt, *How to Solve D.C.'s Maternal Health Crisis*, (September 12, 2018), *The Washington Post*; *Women in D.C. Face Obstacles at Every Stage of Pregnancy and Childbirth* (August 30, 2018), *Washington City Paper*.
- 270 Only 38% of dentists nationwide accept Medicaid. See American Dental Association, *Dental Benefits and Medicaid* (accessed July 16, 2019).
- 271 Kaiser Family Foundation, *Access to Dental Care in Medicaid: Spotlight on Nonelderly Adults* (March 17, 2016).
- 272 97,000 D.C. resident adults struggle with a mental health problems annually. *Mental Health America, Mental Health in America – Prevalence Data* (accessed July 16, 2019).
- 273 See *supra* note 266, at 4 ("[C]hildren are disproportionately at risk for developing social and emotional problems when exposed to adverse childhood experiences, and/or living in an adverse environment with stressors, and without buffers such as adequate adult support. Stressors include poverty, abuse or neglect, homelessness/foster care, and children born with developmental disabilities or delays, and racism.") see also American Academy of Pediatrics, *Adverse Childhood Experiences and the Lifelong Consequences of Trauma* (May 2014).
- 274 There are two agencies that serve youth in the juvenile justice system and foster care system that assist in linking youth with behavioral health treatment, the Department of Youth Rehabilitation Services ("DYRS") and Child and Family Services Agency ("CFSA"). For an overview of the behavioral health system for District youth, see *supra* note 266.
- 275 See *supra* note 266, at 2.
- 276 *Id.*, at 5.
- 277 Mental Health America, *Mental Health America – Youth Data* (accessed July 16, 2019).
- 278 Pursuant to Federal statute, each state must have such an organization to address the needs of people with disabilities. See generally, *University Legal Services Disability Rights D.C.* (accessed July 16, 2019).
- 279 See generally, *supra* note 266.
- 280 See, e.g., Children's Law Center, *2015 Report Card – Children's Mental Health in the District of Columbia* (2015).
- 281 Laura Kelly, *D.C. has Worst Record for Number of HIV Infections*, (June 26, 2017), *The Washington Times*; *GW Public Health, New Analysis Characterizes HIV Epidemic in Washington, DC* (October 17, 2017).
- 282 DC Health, *Annual Epidemiology & Surveillance Report: Surveillance Data Through December 2015* (November. 19, 2016), at 10.
- 283 It is important to note, though, that these waivers require cost neutrality of the community-based option, as compared to the cost of services provided in institutions such as nursing facilities.
- 284 Tara Bahrapour, *District Residents Say Cuts in Medicaid Home Care Hours Leave them Vulnerable*, (March 8, 2019), *The Washington Post*. The long-term case assessment overhaul has affected large numbers of people with disabilities who are facing reduction or termination of their home health services. This impact can be seen in part in the number of DHS cases docketed by OAH (including all public benefits, such as SNAP, Medicaid, and TANF and by the number of DHCF cases docketed by OAH (primarily Medicaid and Alliance Benefits). Though this overhaul did not take effect until Fall 2018, the impact could be seen almost immediately. As of September 30, 2018, DHS cases docketed by OAH had gone from 1,168 in 2017 to 1,973 in 2018. DHCF cases docketed by OAH had gone from 382 in 2017 to 1,179 in 2018. (These data were presented by OAH at a meeting between OAH judges and legal advocates on March 28, 2019.)



285 D.C. Office of Administrative Hearing Pro Se Data appears in *Appendix J*.

286 See *Jenny Hatch Justice Project* (accessed July 16, 2019).

287 Peter Jamison, *Lawsuit Alleges D.C. has Failed Hundreds of Emotionally Disturbed Children* (August 14, 2018), *The Washington Post*.

288 In 2017, 92,245 students were enrolled in public schools in the District. Of those students, 48,622 attended DCPS schools while 43,623 attended public charter schools. Office of the State Superintendent for Education, *Enrollment in Public Schools in D.C.* (accessed July 16, 2019).

289 District of Columbia Public Schools, *DCPS at a Glance: Enrollment* (accessed July 16, 2019).

290 District of Columbia Office of the Superintendent of Education, *State of Discipline: 2015-2016 School Year*, at 34. Overall, 15% of students with disabilities were suspended, compared to 7.8% of all students.

291 *Id.*, at 23.

292 See generally, *Attendance Works* (accessed July 16, 2019).

293 See *supra* note 67.

294 *Blackman v. D.C.*, 97-CV-1620/97-CV-2404, (January 2015). For more information on the lawsuit, see <http://www.bazelon.org/blackman-v-district-of-columbia/>.

295 *Petties v. District of Columbia*, 538 F.Supp.2d 88 (2008).

296 *DL, et al., v. District of Columbia* (D.D.C., Civ. No. 05-1437), (November 16, 2011).

297 Michael Alison Chandler, *D.C. Council Approves Special Education Bills, Aims to Speed Delivery of Services* (October 7, 2014), *The Washington Post*.

298 *Council for Court Excellence* is a nonprofit organization that conducts research and advances policy initiatives aimed at advancing access to justice and in support of the courts' mission.

299 Council for Court Excellence, *Executive Summary - Equity in School Discipline: An Examination of School Disciplinary Policies and Practices in the District of Columbia Public Education System and Recommendations for Reform* (March 2015).

300 *DC Government, Office of the State Superintendent of Education, Education in the Juvenile Justice System*, (accessed July 12, 2015).

301 See *supra* note 62; see also Janelle Jones, *Unemployment of Black and Hispanic Workers Remains High Relative to White Workers in 16 States and the District of Columbia* (January 3, 2018), *Economic Policy Institute*.

302 Anthony P. Carnevale and Nicole Smith, *A Decade Behind: Breaking Out of the Low-Skill Trap in The Southern Economy* (July 2012), *Georgetown Public Policy Institute Center on Education and the Workplace*, at 23 ("The District of Columbia leads the nation in the percentage of jobs requiring postsecondary education").

303 Peter Tufts, *A City Breaking Apart: The Incomes of DC's Poorest Residents Are Falling, While Economic Growth is Benefiting Better-Off Residents* (February 25, 2016), *D.C. Fiscal Policy Institute*, at 2 ("Housing in 41 of the 50 largest U.S. cities is more affordable for the bottom fifth of residents than in DC").

304 The First Shift Justice Project was founded after the surveys were distributed and thus did not participate.

305 Under D.C. law, the minimum wage will progressively increase to \$15.00 per hour on July 1, 2020, then increasing each successive year starting in 2021 in proportion to the increase in the Consumer Price Index. The base minimum pay for tipped workers will also increase from \$3.33 per hour to \$3.89. However, if an employee's hourly tip earnings (averaged weekly) added to the base minimum wage do not equal the District's full minimum wage, the employer must pay the difference. For employees who receive gratuities, the minimum wage will progressively increase to \$5.00 by 2020, beginning in 2021 to increase the minimum wage during each successive year pursuant to the Consumer Price Index. DC Government Department of Employment Services, *Office of Wage Hour Compliance* (accessed July 16, 2019).

306 Legal Aid Society of the District of Columbia, *D.C.*

*Increases Weekly Unemployment Benefits* (January 10, 2018).

307 In 2014, the D.C. Council enacted the Fair Criminal Record Screening Amendment Act of 2014, also known as "Ban the Box," that prohibits District employers from inquiring about job applicants' arrest record, charges, or convictions prior to a conditional offer of employment. *D.C. Council, DC Act No. B20-0642 (August 21, 2014)*.

308 Jonathan Levy, *Protections Secured For DC Government Employees* (September 21, 2018), *Legal Aid Society of the District of Columbia*.

309 *Washington Business Journal, D.C. Council Repeals Initiative 77, Postpones Vote on Home-Sharing Restrictions* (October 16, 2018).

310 See, e.g., *Epic Systems Corp. v. Lewis*, 584 U.S. \_\_\_ (2018), limiting the ability of workers to seek collective and class relief.

311 Each of these documents has a different and important function in ensuring that one's preferences will be followed with respect to end-of-life financial and health decisions. Generally, wills allow people to dictate how their assets will be distributed after death, powers of attorney designate agents to act for a person in the event of incapacitation, and advance medical directives memorialize the type of medical care a person wants in different situations.

312 According to the study, 81% of those 72 or older and 58% of those ages 53-71 do have a will. 78% of those aged 18-36 and 64% of those 37-52 do not. Barbara Lumpkins Walls, *Haven't Done a Will Yet?* (February 24, 2017), *AARP*.

313 See, e.g., Jeffrey M. Jones, *Majority in U.S. Do Not Have a Will* (May 18, 2016) (reviewing Gallup poll showing disparities among income-level, race, and educational attainment); *Caregiving Resource Center (Caring.com), 2019 Survey Finds That Most People Believe Having a Will Is Important, but Less Than Half Have One* (2019) (showing disparities in estate planning based on race and educational attainment).

314 *Grandfacts: State Fact Sheets for Grandfamilies, District of Columbia* (accessed July 16, 2019).

315 Joseph K. Williams, Sr., *The President's Two Cents: 2018 Year in Review* (December 17, 2018), *AARP* (citing that there are 186,000 D.C. residents who are over the age of 50).

316 District of Columbia Courts: *Intervention Proceedings (INT/IDD)* (accessed July 16, 2019).

317 See generally, *Shared Horizons* (accessed July 16, 2019).

318 D.C. Courts Pro Se Data appears in *Appendix I*.

319 As introduced, this bill establishes provisions to clarify and establish what constitutes a valid execution of a power of attorney and clarifies the meaning and effect of a power of attorney. Provisions also address termination of a power of attorney and termination of an agent's authority. Council of District of Columbia, *B22-049 – Uniform Power of Attorney Amendment of 2017*, (January 10, 2017).

320 As introduced, it establishes how a court-ordered sale of an heir's property or a division of heirs' property into physically distinct and separate titled parcels may occur. It establishes notice requirements, how the fair market value shall be determined, and a right of first refusal for the other co-tenants among other things. Council of the District of Columbia, *B22-0198 – Uniform Partition of Heirs' Property Act of 2017*, (March 21, 2017).

321 *District of Columbia Family Court Act of 2001*, Pub. L. 107-114 (January 8, 2002). Among other things, it set the number of judges who would sit on the Family Court, established minimum qualifications for the judges, instituted a "one family, one judge" requirement for cases and proceedings, created positions for Family Court magistrate judges and required the D.C. Superior Court to establish standards of practice for appointed attorneys. For an analysis of the court's implementation of the Family Court Act, see D.C. Superior Court, *2017 Family Court Annual Report*, at 28.

322 It was estimated that there were 124,000 children under the age of 18 years old who lived in the District in 2017. Kids Count Data Center, *Child population by gender: D.C.*, (accessed July 16, 2019). Children living in families with incomes below the Federal poverty threshold ("FPL") are referred to as poor. In 2016, 26% (29,248) of children in D.C. lived in poor families, and the majority of these children were African American and Hispanic. National Center for Children in Poverty, *District of Columbia Demographics of Poor Children*, (accessed July 17, 2019), (finding that in 2016, 37% of African American and 21% of Hispanic children in the District in 2016 lived in poor

families), (accessed July 16, 2019). According to the National Center for Children in Poverty, families need an income of about twice the FPL to meet their most basic needs. Children in families with incomes below twice the FPL are considered low-income. In 2016, 46% (51,501) of children in D.C. lived in low-income families. These children were disproportionately children of color. In 2016, 62% of black children and 52% of Hispanic children lived in low-income families. Only 5% of white children lived in low-income families. National Center for Children in Poverty, *District of Columbia Demographics of Low-Income Children* (accessed July 16, 2019).

323 D.C. Courts Pro Se Data appears in *Appendix I*.

324 *Id.*

325 See *supra* note 220, at 4-5.

326 D.C. Courts Pro Se Data appears in *Appendix I*.

327 D.C. Code §16-918(b) ("[i]n any proceeding wherein the custody of a child is in question, the court may appoint a disinterested attorney to appear on behalf of the child and represent his best interests"); see also D.C. Code §16-914(g) ("[t]he court, for good cause and upon its own motion, may appoint a guardian ad litem or an attorney, or both, to represent the minor child's interests"); D.C. Code §16-831.06(c) (allows for the appointment of a "guardian ad litem for the child" in third-party custody cases); D.C. Super. Ct. Dom. Rel. R. 101(e)(2)(B).

328 Guardians ad litem can also be appointed in cases where the parties have financial means, but in those cases fees are typically paid by the parties as opposed to relying on legal services or *pro bono* attorneys.

329 *Standards of Practice for Guardians ad litem in Custody and Related Consolidated Cases*, Superior Court of the District of Columbia, D.C. Superior Court Administrative Order 14-01 (January 24, 2014).

330 Michael Alison Chandler, *D.C. Offers Amnesty to Parents who are Behind in Child Support* (September 7, 2017), *The Washington Post*.

331 U.S. Dept. of Health and Human Services, Office of Child Support Enforcement, *Preliminary Report: FY2017*, at 58, Table P-53.

332 See *supra* note 330.

333 See *supra* note 220, at 4-5.

334 D.C. Courts Pro Se Data appears in *Appendix I*.

335 When a family receives cash assistance from Temporary Assistance to Needy Families ("TANF"), the first \$150 of child support collected each month goes to the family and the balance to the District to pay back the cost of the benefit. If the family should subsequently no longer qualify for TANF, the District must still collect the support payment but must pass it promptly through to the custodial parent.

336 D.C. Courts Pro Se Data appears in *Appendix I*.

337 See *supra* note 220, at 4.

338 Financially-eligible children and adults involved in abuse and neglect proceedings are appointed counsel by the D.C. Superior Court, as are children in delinquency matters. *D.C. Code § 16-2304 (Right to Counsel, Party Status)* Special education attorneys may also be appointed in abuse and neglect or delinquency cases to represent the educational decision makers of the children who are the subjects of these cases. *D.C. Superior Court Admin. Order 03-11 (Family Court Attorney Panels)* (March 26, 2003). Counsel are appointed through the *Counsel for Child Abuse and Neglect (CCAN) Office*, a branch of the Family Court of the District of Columbia Superior Court, which maintains lists of qualified attorneys who are available for appointment. *Children's Law Center* has an agreement with the court to provide representation to a significant portion of children in child abuse and neglect cases, as does the *Public Defender Service of the District of Columbia* for a significant portion of children involved in delinquency matters.

339 See e.g., *LaShawn A. v. Fenty*, 1:89-CV-01754 (D.D.C., filed June 20, 1989); see also e.g., *DC's Children's Law Center Practice Kit, Practice Kit 4: CFSA Policies and LaShawn A.* (revised June, 2018).

340 See *supra* note 321; Center for the Study of Social Policy, *LaShawn A. v. Bowser Progress Report (January to June 2017)*; Children's Law Center, *Testimony Before the District of Columbia Council Committee on Human Services, Public Hearing: Performance Oversight Hearing Child and Family*



Services Agency (February 26, 2019).

341 Nationally, over 12 million people face domestic violence. The National Domestic Violence Hotline, Get the Facts & Figures: General (accessed July 16, 2019).

342 D.C. Coalition Against Domestic Violence, Surviving DC (May 2018), at 2. Of those 35,909 calls – 10,112 were from Ward 8 and 8,835 were from Ward 7. *Id.*; see also Breiding, M.J., Chen J., & Black, M.C., Centers for Disease Control, National Intimate Partner and Sexual Violence Survey – 2010 (2014), at 66, Table 3.6.

343 *Id.*, at 2.

344 See e.g., Amy E. Bononi et al, Intimate Partner Violence and Neighborhood Income: A Longitudinal Analysis (January 2014), 20 *Violence Against Women* 1, at 42-58.

345 See *supra* note 342, at 1.

346 *Id.*

347 Judy Postmus et al, Economic Abuse as an Invisible Form of Domestic Violence: A Multicountry Review, (March 2018), *Trauma, Violence and Abuse*, at 5, 19 (“Economic abuse most often results in a lack of financial resources making it difficult to leave a violent relationship and providing the impetus for some women to feel they have no choice but to return to that relationship.”); see also Urban Resource Institute NYC, Economic Empowerment, (accessed July 16, 2019).

348 Caroline Kitchener, Paid Leave From Work Can Help Domestic-Violence Victims Leave Abusers (August 4, 2018), *The Atlantic*.

349 Cynthia Hess, PhD., and Alona Del Rosario, M.A., Dreams Deferred: A Survey on the Impact of Intimate Partner Violence on Survivors’ Education, Careers, and Economic Security (October 24, 2018), Institute for Women’s Policy Research.

350 DC Coalition, Fact Sheets and Statistics (accessed July 16, 2019).

351 Obama White House, Interagency Federal Working Group Report, Addressing the Intersection of HIV/AIDS, Violence against Women and Girls, & Gender-Related Health Disparities (September 2013), at 3.

352 See *supra* note 342, at 1.

353 See *supra* note 123, at 1

354 American Academy of Child and Adolescent Psychiatry, Ten Million Startling Statistics about Children of Domestic Violence (May, 2019).

355 Zlatka Rakovec-Felser, Domestic Violence and Abuse in Intimate Relationship from a Public Health Perspective (Volume 2, 2014), *Health Psychology Research*, at 65.

356 Keith Klostermann and Michelle L. Kelley, Alcoholism and Intimate Partner Violence: Effects on Children’s Psychosocial Adjustment, (Volume 6, December 10, 2009), *International Journal of Environmental Research and Public Health*, at 3156-3168; see also Childhood Domestic Violence Association, What is the Impact of Childhood Domestic Violence? (February 21, 2014) (stating that children are 50% more likely to engage in drug and alcohol abuse).

357 Andrea L. Roberts et al, Witness of Intimate Partner Violence in Childhood and Perpetration of Intimate Partner Violence in Adulthood (Volume 21, November 2010), at 818-848, Table 1.

358 Childhood Domestic Violence Association, What is the Impact of Childhood Domestic Violence? (February 21, 2014) (stating that children are 74% more likely to commit a violent crime).

359 See *supra* note 123, at 1.

360 See *supra* note 94, at 5.

361 D.C. Courts Pro Se Data is available in Appendix I.

362 Information provided by D.C. Courts and D.C. SAFE.

363 See *supra* note 321, at 28. The number of children under court jurisdiction in the abuse and neglect branch has been steadily declining since 2008. *Id.* at 26, Figure 5.

364 Relatedly, CFSA also manages a Grandparent Caregiver subsidy program, which supports low-income grandparents, great-aunts, and/or great-uncles who have assumed parental responsibilities for a child who is not involved in the child welfare system.

365 D.C. Bar, Report of the Family Law Task Force (2013). That group’s work was also aimed at looking at the next stage after the passage of the Family Court Act referenced above.

366 *Id.*

367 See *supra* note 157, at 101.

368 D.C. Superior Court of the District of Columbia Administrative Order 16-03, Establishing the Program for Agreement and Cooperation (March 14, 2016).

369 See *supra* note 365, at 5.

370 See *supra* note 157, at 21

371 *Id.*, at 22. Mediation services are also provided in abuse and neglect proceedings. *Id.*, at 18-19.

372 See *supra* note 329.

373 The DVIC provides a single access point for victims of domestic violence by conducting intake evaluations, providing counseling, safety planning, assisting victims in drafting pleadings and other documents necessary for acquisition of protective orders and free legal representation. The Domestic Violence Intake Centers are open Monday through Friday (except holidays) between 8 am–4 pm, and are located at D.C. Superior Court (in Northwest D.C.) and United Medical Center (in Southeast D.C.). It is a collaborative project of governmental and non-governmental agencies, including the United States Attorney’s Office (“USAO”), the D.C. Office of the Attorney General (“OAG”), the Metropolitan Police Department (“MPD”), Crime Victims Compensation Program (“CVCP”), Legal Aid, Ramona’s Way, Center for Child Protection/Victim Service Center, Survivors and Advocates for Empowerment (“SAFE”) (Victim Advocacy), and D.C. Superior Court, <https://mpdc.dc.gov/page/domestic-violence-intake-center>, as well as additional agencies like Ayuda, Bread for the City, DC Volunteer Lawyers Project, and the Wendt Center that also provide services on-site, <https://www.dccourts.gov/services/domestic-violence-matters/intake-centers>.

374 Break the Cycle, Safe Schools Model Policy: A Comprehensive Approach to Addressing Dating Violence and Sexual Violence in District of Columbia Schools (accessed July 16, 2019).

375 In 2017, of the District’s 273,400 occupied housing units, 112,800 (41%) were owner-occupied, and 160,600 (59%) renter-occupied. Joy Phillips, et al, D.C. Office of Planning, State Data Center, District of Columbia Population and Housing Profile: 2011-2015 (May 2017), at 4.

376 D.C. Courts Pro Se Data can be found in Appendix I.

377 See *supra* note 111, at 5.

378 Data provided by the U.S. Marshals Service.

379 Matthew Desmond, Evicted: Poverty and Profit in the American City, (2016).

380 Matthew Desmond and Carl Gershenson, Housing and Employment Insecurity Among the Working Poor (2016), *Social Problems*.

381 Matthew Desmond and Rachel Tolbert Kimbro, Eviction’s Fallout: Housing, Hardship, and Health, *Social Forces* (Vol. 94, Issue 1), (2015).

382 See, e.g., U.S. Dept. of Health and Human Services, Well-being of Young Children after Experiencing Homelessness (January, 2017).

383 See generally, D.C. Department of Consumer and Regulatory Affairs, District of Columbia Construction Codes; see also 12G DCMR 101, et seq.

384 Morgan Baskin, DCHA Says Thousands of Units Are Nearly Uninhabitable. Tenants Want to Know: What’s Next? (February 14, 2019), Washington City Paper.

385 While approximately 9 providers reported providing full representation in housing matters, approximately 55% of the 2,360 cases reported were handled by one provider..

386 One provider also reported providing an unspecified level of service in 164 housing cases. Those cases are not included in the above-referenced numbers. Also note that foreclosure cases were categorized as Housing for purposes of this data report and not in the Consumer category.

387 D.C. Asthma Coalition (Citing Behavioral Risk Factor Surveillance System (BRFSS) CD.C. 2012; D.C. Community Health Needs Assessment, Vol. 2, D.C. Department of Health 2013).

388 D.C. Courts Pro Se Data is available in Appendix I.

389 D.C. Office of Administrative Hearing Pro Se Data appears in Appendix J.

390 The FHA, taken together with local laws, prohibit discrimination based on race, color, religion, national origin, sex, disability, familial status (presence of kids under 18 in a household), marital status, age, personal appearance, sexual orientation, gender identity or expression, family responsibilities, political affiliation, matriculation, source of income, place of residence or business, status as a victim of intra-family violence. Equal Rights Center, Fair Housing (accessed July 16, 2019).

391 Ally Schweitzer, Housing Discrimination Rife in D.C. Region 50 Years After Fair Housing Became Law (April 11, 2018), WAMU; Patricia Sullivan, D.C. Needs to Enforce Housing Discrimination Law, Report Says (July 14, 2011), *The Washington Post*.

392 Urban Institute, A Pilot Study of Landlord Acceptance of Housing Vouchers, (August 2018); Alyse Oneto, Emily Peiffer, Claudia Aranda, Martha M. Galvez, Despite the Law, Landlords still reject voucher holders in DC (September 20, 2018), Urban Institute.

393 See *supra* note 391.

394 D.C. Office of Human Rights, Still Standing Strong: Celebrating 40 Years of the D.C. Human Rights Act (2017).

395 *Id.*, at 9.

396 Rachel Kaufman, What Thousands of Housing Discrimination Complaints Mean in 2018 (April 30, 2018), *Next City*; see also *supra* note 389 (“The overwhelming majority of fair housing cases do not get reported... People don’t recognize signs of discrimination. They don’t know when it’s happening.”)

397 D.C. Department of Housing and Community Development, Analysis of Impediments to Fair Housing Choice in the District of Columbia (2005), at 14.

398 See e.g., Fact Sheet: Homeless Services Reform Act Modernization (September 25, 2017).

399 D.C. Office of Administrative Hearing Data can be found in Appendix J.

400 D.C. Code §§ 42-3401.01 to 42-3405.13, (2007).

401 *Id.*

402 See generally, Jenny Reed, DC’s First Right Purchase Program Helps to Preserve Affordable Housing and Is One of DC’s Key Anti-Displacement Tools (September 24, 2013), D.C. Fiscal Policy Institute. A 2016 study showed that only 19 out of 398 TOPA offers were successful between 2009 and 2015; less than 5 percent of renters ended up buying their home. In 2018 the D.C. Council adopted a bill that abolished TOPA as it applies to single-family dwellings, including condominiums and co-ops – often the low-rise, low-occupancy buildings that dominate the city’s landscape, as noted above. TOPA still applies to properties with two to four and five or more units. See generally, Benny L. Kass, What Renters and Landlords Need to Know about the New D.C. TOPA Law (May 2, 2018), *The Washington Post*.

403 For relevant D.C. Housing Code Regulations, see generally, 14 D.C.M.R. 500-900, 1200.

404 D.C. Courts Pro Se Data is available in Appendix I.

405 D.C. Council, Expanding Access to Justice Act of 2017, B22-024 (Introduced January 10, 2017); as incorporated into D.C. Council, Fiscal Year 2018 Budget Support Act of 2017, D.C. Act 22-130 (July 31, 2017), at 47-49.

406 Washington Lawyers’ Committee: Housing Barriers (accessed July 16, 2019).

407 Removal is the statutory term, while “deportation” is the more common parlance.

408 See *supra* note 166, at 16-17 (“D.C. has adopted policies in line with other sanctuary cities that aim to include all D.C. residents, regardless of legal status. A Metropolitan Police Department policy forbids asking citizenship or residency status, and the Department has established a Special Liaison Branch with Latino and Asian Liaison Units and African Affairs Affiliates. Additionally, services, including access to the city’s health care, enrollment in public schools, and ability to secure a Limited Purpose driver’s license, are not restricted to residents based on legal status.”)

- 409 *Id.*, at 2 (“Though Washington, D.C., has not historically been a center for immigration to the US, since the 1980s our region has emerged as one of the country’s largest new gateway destinations for immigrant communities.”)
- 410 *Id.* (“The total immigrant population in the D.C. metropolitan area has increased tenfold from 130,000 in 1970 to 1.3 million today, according to the 2012–16 American Community Survey. Most of that growth has been in the D.C. suburbs. Nevertheless, the city’s immigrant population has grown steadily, from 33,600 to 95,400, between 1970 and 2016. Though immigrants represented only 4% of the city in 1970, immigrants make up 15% of D.C.’s population today.”)
- 411 *Id.* (Central Americans remain the largest single immigrant group by region, and the share of immigrants from Africa, Europe, and South America has increased since 2000.)
- 412 There are currently challenges to the Attorney General’s decision to change asylum law. Until further action in the Federal courts, this decision is binding on immigration courts, but in some areas of the country existing circuit court case law makes the Attorney General’s decision less impactful. See e.g., *American Bar Association, Commission on Immigration, Update to Changes on Asylum Eligibility*, (February 11, 2019).
- 413 See U.S. Citizenship and Immigration Services, *UCIS To Take Action to Address Asylum Backlog*, (January 31, 2018)
- 414 The government reduced the ceiling from the level of 110,000 set in 2017 to 45,000 in 2018 and still lower to 30,000 in 2019; the actual number of refugees processed for admission in FY 2018 was lower than the ceiling at 22,491. Congressional Research Service, *Refugee Admissions and Resettlement Policy* (December 18, 2018), at 5.
- 415 TRAC Immigration, *Backlog of Pending Cases in Immigration Courts as of May 2019* (accessed July 16, 2019).
- 416 Arelis Hernandez, *D.C. attorney general sues ICE seeking information on immigrant arrests* (October 22, 2018), The Washington Post.
- 417 Jennifer Ristau and Anne Schaufele, *Know the Signs of Immigration Services Scams* (July 19, 2017).
- 418 See *supra* note 166, at 6.
- 419 According to the D.C. Bar Pro Bono Center, in FY 2017, the clinic assisted 175 clients, and in FY 2018 helped 155 clients.
- 420 One issue mentioned by several providers was the proposed public charge rule which, when finalized, would change the standard that is used when determining whether an alien is likely at any time in the future to become a public charge, and thus most likely unable to gain legal status or change or extend their current status. While there are exceptions, providers still see this as an area of great risk for the low- and moderate-income immigrant population.
- 421 This includes the General Assistance for Children program, which provides the same benefits for a child as the child would receive under TANF if the child’s caretaker can demonstrate the family relationship with the child that is required under the TANF program, without considering the needs of the caretaker.
- 422 Kate Coventry, *What’s in the Fiscal Year 2019 Budget for Temporary Assistance for Needy Families (TANF)?* (April 3, 2018), D.C. Fiscal Policy Institute, at 2.
- 423 Ashley Burnside and Ife Floyd, *TANF Benefits Remain Low Despite Recent Increases in Some States*, (October 25, 2018), Center on Budget and Policy Priorities.
- 424 See *supra* note 422, at 2.
- 425 Heather Long, *Hidden crisis: D.C.-area Students Owe Nearly Half a Million in K-12 School Lunch Debt* (December 28, 2018), The Washington Post.
- 426 *Id.*
- 427 Hannah Kohanzadeh, *This Thanksgiving, Let’s Work to Address Food Insecurity in DC* (November 20, 2017), D.C. Fiscal Policy Institute.
- 428 Paul Schwartzman, *As D.C. Prospers, Supermarkets Proliferate – Except in Poor Areas* (June 27, 2017), The Washington Post.
- 429 Social Security Office of Retirement and Disability Policy, *OASDI Beneficiaries by State and County, 2017*, (2017); U.S. Census Bureau, “*Quick Facts: District of Columbia*” (July 1, 2017). SSA reported that 82,253 persons in the District received OASDI benefits in December 2017. *Id.*
- 430 Social Security Administration, *SSI in the District of Columbia*, (accessed July 16, 2019).
- 431 Social Security Office of Retirement and Disability Policy, *SSI Recipients by State and County, 2017* (2017).
- 432 *DC Government: Department of Human Services: Interim Disability Assistance* (accessed July 16, 2019).
- 433 While approximately 10 providers reported providing full representation in public benefits matters, approximately 50% of the 1,199 cases reported were handled by one provider.
- 434 Approximately 96% of these cases were handled by a single provider.
- 435 Jodi Kwarciany, *What’s in the Approved Fiscal Year 2019 Budget for Health Care* (August 7, 2018), D.C. Fiscal Policy Institute.
- 436 *Id.*; see also *DC Government, Department of Health Care Finance* – DHCF, (accessed July 16, 2019).
- 437 Kaiser Family Foundation, *State Health Facts: Total Number of Medicare Beneficiaries* (accessed July 16, 2019).
- 438 *America’s Health Rankings: Uninsured* (accessed July 16, 2019).
- 439 The District’s Low-Income Home Energy Assistance Program (“LIHEAP”) provides limited energy bill assistance, see *DC Government Department of Energy & Environment: Receive Assistance With Your Utility Bills; DC Government Department of Energy & Environment: Receive Discounts on Your Utility Bills; DC Government Department of Human Services: Burial Assistance; DC Government Department of Human Services: Child Care Services; DC Government Department of Human Services: Veteran Affairs Supportive Housing (VASH)*, (all accessed July 16, 2019).
- 440 See *supra* note 267.
- 441 D.C. Office of Administrative Hearing *Pro Se* Data appears in *Appendix J*.
- 442 *Id.*
- 443 *Testimony of the Legal Aid Society of the District of Columbia before the D.C. Council Committee for Human Services, Performance Oversight Hearing Regarding the Department of Human Services*, (March 1, 2019), at 4-5.
- 444 *Id.*, at 3-4.
- 445 Even when customers are able to access legal services or other supports in navigating these benefit systems, they still encounter difficulties. One attorney described giving up after being placed on hold for over 90 minutes when calling to request a straightforward termination of an elderly client’s benefits after she was placed in a care facility.
- 446 See *supra* note 267.
- 447 *Donna Black v. District of Columbia Department of Human Services, No. 17-AA-005* (2018).
- 448 *Salazar v. District of Columbia, 954 F. Supp. 278 (D.D.C. 1996)*. For a summary of the litigation and a list of subsequent orders, see Terris, Pravlik, and Millian LLP, *Salazar v. District of Columbia* (accessed July 16, 2019).
- 449 Authored by John Murph and Reprinted with permission from *Washington Lawyer* magazine.

# | Appendix A

## Commissioners of the D.C. Access to Justice Commission

- **Prof. Peter B. Edelman (Chair)**, Georgetown University Law Center
- **Hon. Sharon E. Goodie**, D.C. Office of Administrative Hearings
- **Hon. Vanessa Ruiz**, District of Columbia Court of Appeals
- **Eric S. Angel**, Legal Aid Society of the District of Columbia
- **Mark Herzog**, Sidley Austin LLP
- **James J. Sandman**, Legal Services Corporation
- **Prof. Stacy L. Brustin**, Columbus Community Legal Services, The Catholic University of America Columbus School of Law
- **George A. Jones**, Bread for the City
- **Jonathan M. Smith**, Washington Lawyers' Committee for Civil Rights and Urban Affairs
- **Jon S. Bouker**, Arent Fox LLP
- **Mary E. McClymont**, Georgetown University Law Center
- **Hon. Phyllis D. Thompson**, District of Columbia Court of Appeals
- **Dean Emeritus Katherine S. (Shelley) Broderick**, University of the District of Columbia David A. Clarke School of Law
- **Andrew H. Marks**, Law Offices of Andrew Marks PLLC
- **Rebecca (Becky) Troth**, D.C. Bar Pro Bono Center
- **Hon. Laura A. Cordero**, Superior Court of the District of Columbia
- **Stephen J. Pollak**, Goodwin Procter LLP
- **Melvin White**, Berliner Corcoran & Rowe LLP
- **Patricia Mullahy Fugere**, Washington Legal Clinic for the Homeless
- **Hon. Maribeth Raffinan**, Superior Court of the District of Columbia
- **Katherine (Kathy) Zeisel**, Children's Law Center
- **William C.E. (Bill) Robinson**, Geico

## D.C. Access to Justice Foundation Board of Directors

- **Prof. Peter B. Edelman (Chair and President)**, Georgetown University Law Center
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- **Sarah Wilson**, Covington & Burling LLP
- **Patrick McGlone**, Ullico Inc.

# Appendix B

## Organizations that Participated in Listening Sessions and/or Were Interviewed for the Report

- Advocates for Justice and Education
- Amara Legal Center
- Asian Pacific American Legal Resource Center
- Association of Pro Bono Counsel, D.C. Chapter
- Ayuda
- Bread for the City
- Break the Cycle
- Briya Public Charter School
- Capital Area Immigrants' Rights Coalition
- Central American Resource Center (CARECEN)
- Carlos Rosario International Public Charter School
- Catholic Charities of the Archdiocese of Washington Immigration Legal Services
- Children's Law Center
- Christian Legal Aid of the District of Columbia
- D.C. Affordable Law Firm
- D.C. Bar Pro Bono Center
- D.C. Coalition Against Domestic Violence
- D.C. Law Students in Court
- D.C. Office of the Attorney General, Domestic Violence Section
- D.C. Survivors and Advocates for Empowerment (D.C. SAFE)
- D.C. Superior Court
- D.C. Volunteer Lawyers Project
- Domestic Violence Legal Empowerment and Appeals Project (DV LEAP)
- Delaney McKinney LLP
- Empower D.C.
- Georgetown University Law Center, Domestic Violence Clinic
- Latin American Economic Development Center
- Latin American Youth Center
- Legal Aid Society of the District of Columbia
- Legal Counsel for the Elderly
- Neighborhood Legal Services Program
- Network for Victim Recovery of D.C.
- Open City Advocates
- People for Fairness Coalition
- School Justice Project
- Tzedek D.C.
- University of the District of Columbia David A. Clarke School of Law
- University Legal Services
- Washington Lawyers' Committee for Civil Rights and Urban Affairs
- Washington Legal Clinic for the Homeless
- Whitman-Walker Health



# Appendix C

## Legal Services Providers, Law Schools, and Community-Based Organizations that Returned Completed Surveys

### Legal Services Providers

- Advocates for Justice and Education
- Amara Legal Center
- Asian Pacific American Legal Resource Center
- Ayuda
- Bread for the City
- Break the Cycle
- Capital Area Immigrants' Rights Coalition
- Catholic Charities Legal Network
- Catholic Charities of the Archdiocese of Washington Immigration Legal Services
- Children's Law Center
- D.C. Bar Pro Bono Center
- D.C. Crime Victims Resource Center
- D.C. Employment Justice Center
- D.C. Law Students in Court
- D.C. Volunteer Lawyers Project
- Legal Aid Society of the District of Columbia
- Legal Counsel for the Elderly
- Neighborhood Legal Services Program
- Network for Victim Recovery of D.C.
- Tahirih Justice Center
- University Legal Services
- Washington Legal Clinic for the Homeless
- Whitman-Walker Health

### Law Schools

- American University Washington College of Law
- The Catholic University of America Columbus School of Law
- The George Washington University Law School
- Georgetown University Law Center
- Howard University School of Law
- University of the District of Columbia David A. Clarke School of Law

### Community-Based Organizations

- Anonymous
- Asian/Pacific Islander Domestic Violence Resource Project
- Ayuda Language Access Program
- Bread for the City
- Brethren Nutrition Program
- CARECEN (Central American Resource Center)
- CentroNia Family Center
- La Clinica del Pueblo
- Community for Creative Non-Violence
- D.C. Employment Justice Center
- District Alliance for Safe Housing (DASH)
- Domestic Violence Legal Empowerment and Appeals Project (DV LEAP)
- Friendship Place Veterans First Program
- Friendship Place Welcome Center and Street Outreach
- Housing Counseling Services
- Latin American Youth Center
- LIFT-DC, Program Staff
- Marshall Heights Community Development Organization
- MedStar Washington Hospital Center
- Teen Alliance for Prepared Parenting (TAPP) Program
- Multicultural Community Service
- Pathways to Housing D.C.
- Polaris Client Services
- Salvation Army
- Ramona's Way
- Seabury Resources for Aging
- Thrive D.C.
- Washington Area Lawyers for the Arts
- Wendt Center for Loss and Healing
- Whitman-Walker Health
- The Women's Center: Sexual Assault and Domestic Violence Program

# I Appendix D

## Survey Completed by Legal Services Providers

### ***Instructions for Filling Out the Legal Services Provider Questionnaire***

The focus of this questionnaire is solely on the **civil** legal needs of people who are seeking assistance from one of the DC civil legal services providers. Construe any phrase in this survey such as “legal needs” or “legal assistance” to refer only to the civil legal needs of, and assistance provided to, DC residents or non-DC residents who have DC cases. In individual cases in which more than one person is affected (for example, a housing case that will impact the entire family), please only count that as one case without giving it more weight when ranking those matters.

### DISTRICT OF COLUMBIA ACCESS TO JUSTICE COMMISSION MAPPING OF NEEDS UPDATE **LEGAL SERVICES PROVIDERS QUESTIONNAIRE**

#### ***I. General Information***

1. Name and position of person completing questionnaire: \_\_\_\_\_

E mail address: \_\_\_\_\_

2. Information about organization:

Name of organization: \_\_\_\_\_

Subject areas in which services are provided:

\_\_\_\_\_

Income guidelines used, if any: \_\_\_\_\_

Other eligibility criteria: \_\_\_\_\_

Approximate percentage of clients with DC cases who live in: DC\_\_\_\_ MD\_\_\_\_ VA\_\_\_\_ Other\_\_\_\_

3. Throughout the survey, the Commission asks for data concerning your organization for 2014. When the survey refers to “2014” it means calendar year 2014 or your organization’s fiscal year ending in 2014. If your organization has a fiscal year that does not correspond to the calendar year, answer the questions in this survey using the fiscal year that ended in 2014. For example, if the fiscal year runs from July 1 to June 30, use the fiscal year that began on July 1, 2013.

Does your organization’s fiscal year start on January 1<sup>st</sup>?

Yes.     No. Specify the time period of the fiscal year you will use in completing this survey (e.g., October 1, 2013 – September 30, 2014).

Time Period: \_\_\_\_\_

Continued 

**II. Legal Assistance Requests**

4. Does your organization track requests it receives for legal assistance from DC residents and from non-DC residents who have DC cases?

Yes.  Answer subparts (a) through (c).

No.  Answer subpart (d).

(a) Based on data **that your organization tracks**, rank the subject area(s) in which your organization **received the most requests for legal assistance** from DC residents and from non-DC residents who had DC cases in 2014, **regardless of whether any services were provided** in response to those requests (e.g., Place a “1” in the subject area with the most requests.); and

(b) For each subject area listed, rank the **two** types of cases where your organization received the **most requests for legal assistance** from DC residents and from non-DC residents who have DC cases in 2014, **regardless of whether any services were provided** in response to those requests. Use Appendix A for the case types, which are bulleted under each subject area.

E.g.,   1   **Family Law**

- 1. Abuse and Neglect
- 2. Custody/Visitation

       **Consumer**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Disability/Health Law**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Education**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Employment**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Estate Planning/Probate**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Family Law**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Housing**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Immigration/Asylum**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Public Benefits**

1. \_\_\_\_\_

2. \_\_\_\_\_

       **Other**

1. \_\_\_\_\_

2. \_\_\_\_\_

Continued →

(c) If you have additional **anecdotal information about subject areas that your organization does not track**, rank the top four subject areas in which your organization received the **most requests for legal assistance** from DC residents and from non-DC residents who had DC cases in 2014, **regardless of whether any services were provided** in response to those requests. If possible, use Appendix A for the case types, which are bulleted under each subject area.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

(d) If your organization **does not track this information**, or does so inconsistently, use **anecdotal information** to rank the subject area(s) in which your organization **received the most requests for legal assistance** from DC residents and from non-DC residents with DC cases in 2014, **regardless of whether any services were provided** in response to those requests. If possible, use Appendix A for the case types, which are bulleted under each subject area.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

5. In 2014, did your organization **turn away requests for legal assistance at the intake stage**? By “turn away” we mean your organization provided no service except possibly a referral list. A facilitated referral where your organization proactively assisted an individual with attempting to secure services is considered brief services for purposes of this survey.

Yes.  Answer subparts (a) through (c) regardless of why your organization turned away the requests for legal assistance.

No.  Answer subpart (d).

(a) Based on data **that your organization tracks**, rank the subject area(s) in which your organization **turned away the most requests for legal assistance** from DC residents and from non-DC residents who had DC cases in 2014. Use "1" for the subject area with the most requests; and

(b) For each subject area listed, rank the **two** types of cases where your organization turned away the most requests for legal assistance from DC residents and from non-DC residents who had DC cases in 2014. Use Appendix A for the case types, which are bulleted under each subject area.

E.g.,   1   **Family Law**

- 1. Abuse and Neglect
- 2. Custody/Visitation

\_\_\_\_\_ **Consumer**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

\_\_\_\_\_ **Disability/Health Law**

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

Continued →



**Education**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Employment**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Estate Planning/Probate**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Family Law**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Housing**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Immigration/Asylum**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Public Benefits**

1. \_\_\_\_\_

2. \_\_\_\_\_

**Other**

1. \_\_\_\_\_

2. \_\_\_\_\_

(c) If you have additional **anecdotal information about subject areas that your organization does not track**, rank the top four subject areas in which your organization **turned away the most requests for legal assistance** from DC residents and from non-DC residents who had DC cases in 2014. If possible, use Appendix A for the case types, which are bulleted under each subject area.

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

(d) If your organization **does not track this information**, or does so inconsistently, use **anecdotal information** to rank the subject area(s) in which your organization **turned away the most requests for legal assistance** from DC residents and from non-DC residents with DC cases in 2014. If possible, use Appendix A for the case types, which are bulleted under each subject area.

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

6. Has your organization tracked data **that indicates an increase in requests for legal services** from DC residents and from non-DC residents who have DC cases over the last three years, regardless of whether your organization provided those legal services?

Yes.  Answer subparts (a) through (c).

No.  Answer subpart (d).

(a) Based on data **that your organization tracked**, provide the total raw number of requests for the last **three years** for civil legal services from DC residents and from non-DC residents who have DC cases. **Do this only for those subject areas in which an increase was observed during any year within that time period.**

Continued →

(b) For each subject area listed, **rank the two types of cases** where your organization received the most requests and **provide the total raw number of requests for the last three years**. Use Appendix A for the case types, which are bulleted under each subject area.

E.g., **Family Law**

2012 #100

2013 #125

2014 #150

1. Custody

2012 #65

2013 #80

2014 #100

2. Child Support

2012 #20

2013 #30

2014 #40

**Consumer**

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

**Education**

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

**Disability/Health Law**

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

**Employment**

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_

2012. \_\_\_\_\_

2013. \_\_\_\_\_

2014. \_\_\_\_\_

Continued →

**Estate Planning/Probate**

2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

**Housing**

2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

**Family Law**

2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

**Immigration/Asylum**

2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

**Public Benefits**

2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

**Other**

2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Type of Case: \_\_\_\_\_  
2012. \_\_\_\_\_  
2013. \_\_\_\_\_  
2014. \_\_\_\_\_

Continued →

(c) If you have additional **anecdotal information about subject areas that your organization does not track**, rank the top four subject areas in which your organization **observed an increase in requests for legal assistance** from DC residents and from non-DC residents who had DC cases in 2014. If possible, use Appendix A for the case types, which are bulleted under each subject area.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

(d) If your organization **does not track this information**, or does so inconsistently, please use **anecdotal information** to rank what increase in requests for civil legal services from DC residents and from non-DC residents who have DC cases your organization has observed over the last three years. If possible, use Appendix A for the case types, which are bulleted under each subject area.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

7. Identify the types of cases, if any, in which you anticipate a rise in requests for civil legal services from DC residents and from non-DC residents who have DC cases over **the next three years** and state briefly why (e.g., pending legislation, DC budget cuts) you selected these case types. Use Appendix A for the case types, which are bulleted under each subject area.

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

8. Provide any additional comments or information concerning the **civil legal needs of DC residents and of non-DC residents with DC cases**.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Continued —▶



### III. The Organization’s Capacity to Meet the Community’s Legal Needs

#### A. Spending on Civil Legal Services

9. How much did your organization spend on civil legal services in 2014?

*Please note: Only include in this amount spending that supports the provision of legal services to DC residents and to non-DC residents with DC cases. The amount reported should reflect all expenditures used to support the provision of civil legal services, including, but not limited to training, overhead, and fundraising. Do not include in-kind donations or donated services.*

Total expenditures on civil legal services for DC residents and for non-DC residents with DC cases in 2014:

\$ \_\_\_\_\_

10. Provide the amount of your organization’s revenue in 2014 devoted to providing civil legal services to DC residents and to non-DC residents with DC cases that came from each of the following sources. Do not include in-kind donations or donated services.

Source	Amount of Revenue
LSC Federal Funding	\$
Non-LSC Federal Funding	\$
DC Access to Justice Public Funding	\$
DC Funding (local government funding) that is not Access to Justice Public Funding	\$
DC Bar Foundation funding that is not Access to Justice Public Funding Program	\$
Other Foundations	\$
Law Firms	\$
Corporations	\$
Individual Giving	\$
Attorneys’ Fees	\$
Income from Planned Giving	\$
Investment or Endowment Income	\$
Other: _____	\$
_____	\$
<b>Total:</b>	\$

Continued →

**B. Staff**

11. For each category of paid employees, identify the full time equivalents (FTEs) devoted to each type of work done for DC residents and for non-DC residents with DC cases (e.g., If an executive director spends 20% of her time on legal services work, 20% on fundraising, and 60% on administrative matters, that person would list .2 for Fundraising, .2 for Legal Services, and .6 under General Admin.). **For organizations that provide services other than civil legal services (e.g., criminal legal services, medical services, social services, etc.) only count FTEs that relate to the provision of civil legal services. “Paid” means that an employee receives income from work performed, regardless of whether it is your organization that pays the employee.**

	Legal Services	Fundraising	Pro Bono Coordination	Community Outreach/ Education	General Admin.	Other	Total FTE
Attorneys							
Non Attorney Professionals <sup>1</sup>							
Management <sup>2</sup>							
Other Support Staff							

12. Provide the **number** of full time equivalent **paid lawyers** in your organization who worked in each subject area in 2014 (e.g., If Jane Smith is a generalist who spends 1/3 of her time working on housing cases, 1/3 of her time on disability matters, and 1/3 of her time on family law cases, you would put .33 FTE in each of these three areas below). In determining time worked in a particular area, include time spent doing all related activities, such as case advocacy, court reform, project development, etc. **“Paid” means that an employee receives income from work performed, regardless of whether it is your organization that pays the employee (e.g., a loaned associate would be included in this category).**

\_\_\_\_\_ Consumer

\_\_\_\_\_ Disability/Health Law

\_\_\_\_\_ Education

\_\_\_\_\_ Employment

\_\_\_\_\_ Estate Planning/Probate

\_\_\_\_\_ Family Law

\_\_\_\_\_ Housing

\_\_\_\_\_ Immigration/Asylum

\_\_\_\_\_ Public Benefits

\_\_\_\_\_ Other

<sup>1</sup> E.g., Investigators, legal assistants, social workers, and paid students.

<sup>2</sup> If an executive director or other manager has case handling/supervision responsibilities and/or project/program development responsibilities in addition to general administrative responsibilities, please include the portion of time spent on case related work in the legal services column.

Continued →

**C. Caseload/Allocation of Resources**

13. Provide the total **number** of DC residents and of non-DC residents with DC cases your organization assisted in 2014 under 13(a). Then list the number served by each type of service described in 13(b)—13(h) below. If more than one service was provided to a particular individual during a meeting (e.g., individual was given brief advice and a referral), only count the highest level of service provided. In other words, we do not want an individual to be double counted when providing answers to the sub parts of this question, unless the person sought help from your organization for different problems during the year. **The numbers you list in 13(b) – 13(h) should add up to the figure you provide in 13(a).**

- (a) \_\_\_\_\_ Total number of DC residents and of non-DC residents with DC cases served in 2014.
- (b) \_\_\_\_\_ Served by full representation in litigation, pre-litigation, or other adversarial matter<sup>3</sup> (retainer signed),
- (c) \_\_\_\_\_ Served by limited representation in litigation, pre-litigation, or other adversarial matter (retainer signed).
- (d) \_\_\_\_\_ Served by brief services or pro se assistance in litigation, pre-litigation, or other adversarial matter (no retainer signed).
- (e) \_\_\_\_\_ Served by full representation in transactional work (retainer signed).<sup>4</sup>
- (f) \_\_\_\_\_ Served by brief services or pro se assistance in transactional work (no retainer signed).
- (g) \_\_\_\_\_ Served by conducting intake and/or providing referral, including a referral to *pro bono* counsel (no retainer signed).
- (h) \_\_\_\_\_ Other (please specify): \_\_\_\_\_

14. (a) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **full representation** in litigation, pre-litigation, or other adversarial matter was provided (retainer signed).

Subject Area	(a) Number of Cases in Which Full Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Full Representation Was Provided	(c) Number of Cases Identified in Column (b)
Consumer		1. _____	1. _____
		2. _____	2. _____

<sup>3</sup> Such as application or appeal for benefits or potential for agency action.

<sup>4</sup> Such as drafting contracts, tax matters, or for purposes of community and economic development.

Continued →

Subject Area	(a) Number of Cases in Which Full Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Full Representation Was Provided	(c) Number of Cases Identified in Column (b)
Disability/Health	_____	1. _____	1. _____
		2. _____	2. _____
Education	_____	1. _____	1. _____
		2. _____	2. _____
Employment	_____	1. _____	1. _____
		2. _____	2. _____
Estate Planning/Probate	_____	1. _____	1. _____
		2. _____	2. _____
Family	_____	1. _____	1. _____
		2. _____	2. _____
Housing	_____	1. _____	1. _____
		2. _____	2. _____
Immigration/Asylum	_____	1. _____	1. _____
		2. _____	2. _____
Public Benefits	_____	1. _____	1. _____
		2. _____	2. _____
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

Continued →



(b) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **limited representation** in litigation, pre-litigation, or other adversarial matter was provided (retainer signed).

Subject Area	(a) Number of Cases in Which Limited Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Limited Representation Was Provided	(c) Number of Cases Identified in Column (b)
Consumer	_____	1. _____	1. _____
		2. _____	2. _____
Disability/Health	_____	1. _____	1. _____
		2. _____	2. _____
Education	_____	1. _____	1. _____
		2. _____	2. _____
Employment	_____	1. _____	1. _____
		2. _____	2. _____
Estate Planning/Probate	_____	1. _____	1. _____
		2. _____	2. _____
Family	_____	1. _____	1. _____
		2. _____	2. _____
Housing	_____	1. _____	1. _____
		2. _____	2. _____
Immigration/Asylum	_____	1. _____	1. _____
		2. _____	2. _____
Public Benefits	_____	1. _____	1. _____
		2. _____	2. _____

Continued →

Subject Area	(a) Number of Cases in Which Limited Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Limited Representation Was Provided	(c) Number of Cases Identified in Column (b)
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

(c) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **brief services or pro se assistance** in litigation, pre-litigation, or other adversarial matter were provided (no retainer signed).

Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services or Pro Se Assistance Was Provided	(c) Number of Cases Identified in Column (b)
Consumer	_____	1. _____	1. _____
		2. _____	2. _____
Disability/Health	_____	1. _____	1. _____
		2. _____	2. _____
Education	_____	1. _____	1. _____
		2. _____	2. _____
Employment	_____	1. _____	1. _____
		2. _____	2. _____
Estate Planning/Probate	_____	1. _____	1. _____
		2. _____	2. _____
Family	_____	1. _____	1. _____
		2. _____	2. _____

Continued →

Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services or Pro Se Assistance Was Provided	(c) Number of Cases Identified in Column (b)
Housing	_____	1. _____	1. _____
		2. _____	2. _____
Immigration/Asylum	_____	1. _____	1. _____
		2. _____	2. _____
Public Benefits	_____	1. _____	1. _____
		2. _____	2. _____
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

(d) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **full representation** was provided in transactional work (retainer signed).

Subject Area	(a) Number of Cases in Which Full Representation Was Provided in Transactional Work	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Full Representation Was Provided in Transactional Work	(c) Number of Cases Identified in Column (b)
Nonprofits	_____	1. _____	1. _____
		2. _____	2. _____
Small Businesses	_____	1. _____	1. _____
		2. _____	2. _____
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

Continued →

(e) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **brief services or pro se assistance** were provided in transactional work (no retainer signed).

Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided in Transactional Work	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services or Pro Se Assistance Was Provided in Transactional Work	(c) Number of Cases Identified in Column (b)
Nonprofits	_____	1. _____ 2. _____	1. _____ 2. _____
Small Businesses	_____	1. _____ 2. _____	1. _____ 2. _____
Other: _____	_____	1. _____ 2. _____	1. _____ 2. _____
<b>(d) Total for column (a)</b>	_____		

15. In 2014, did your organization engage in activities to address systemic legal issues other than representation of individuals and/or organizations (i.e. issues that affect large numbers of DC residents or non-DC residents with DC cases)?

Yes.  Answer subparts (a) through (c).

No.  Proceed to question 16.

(a) Identify the types of systemic activities your organization undertook and estimate the percentage of overall staff time devoted to each. Please only include activities that are designed to have an impact beyond individual representation whether they are for individual clients, nonprofit organizations or small businesses. (Please note that unless your organization devotes all of its resources to systemic efforts, the percentages identified below should not add up to 100%.)

Administrative reform \_\_\_\_\_%

Appellate advocacy \_\_\_\_\_%

Community organizing \_\_\_\_\_%

Community outreach and education \_\_\_\_\_%

Continued →



- Court reform \_\_\_\_\_%
- Impact litigation % (i.e., cases chosen from the likely impact beyond the client)
- Legislative advocacy \_\_\_\_\_%
- Mentoring and supporting pro bono attorneys \_\_\_\_\_%
- Project design \_\_\_\_\_%
- Other: \_\_\_\_\_%

(b) On what case type(s) are your organization’s systemic efforts focused? Please use the case type(s) listed in Appendix A.

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(c) Does your organization confront any obstacles with respect to its ability to undertake systemic initiatives? (E.g. organizational constraints, resource limitations, lack of expertise, outside of mission, concern about retaliation, etc.)

Yes.  Answer subparts (i) – (ii).

No.  Proceed to question 16.

i. What are the top three obstacles?

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

ii. What systematic initiatives, if any, would your organization like to undertake, but is unable to because of one of the obstacles listed in (i) above? List the systemic initiative(s) and the obstacle(s).

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Continued →

**D. Language Capacity**

16. Does your organization have the capacity to serve limited-English proficient clients with in-house resources?

Yes.  Answer subparts (a) – (f).

No.  Proceed to question 17.

(a) Provide the **number** of lawyers in your organization who speak more than one language, including ASL, and the language(s) spoken. Only count staff who work on cases for DC residents and for non-DC residents who have DC cases.

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(b) Provide the **number** of support staff in your organization who speak more than one language, including ASL, and the language(s) spoken. For those organizations that provide more than just civil legal services, only count staff that support the legal services program and who work on cases for DC residents and for non-DC residents who have DC cases.

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(c) Which commonly-requested languages is your organization unable to accommodate fully with in-house staff?

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(d) How frequently does your organization turn away clients because of lack of language capacity?

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(e) Identify all resources that your organization used in 2014 to communicate with persons with limited English proficiency (e.g., bilingual attorneys, bilingual support staff, Interpreter Bank, other paid interpreters, volunteer interpreters, telephone language line, other).

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(f) How does your organization publicize or otherwise make its services accessible to the LEP community?

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Continued 

### E. Use of Volunteers

17. Does your organization use **unpaid** law students or **unpaid** non-law students (graduate, undergraduate, or high school)?

Yes.  Answer subpart (a) below.

No.  Proceed to question 18.

(a) What does your organization use them for?

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18. Does your organization use *pro bono* attorneys to provide or assist with providing civil legal services to DC residents and to non-DC residents who have DC cases?

Yes.  Provide the total **number** of DC residents and of non-DC residents with DC cases your organization assisted in 2014 through the use of *pro bono* attorneys under 18(a). Then list the number served by each type of service described in 18(b)—18(h) below. If more than one service was provided to a particular individual during a meeting (e.g., individual was given brief advice and a referral), only count the highest level of service provided. In other words, we do not want an individual to be double counted when providing answers to the sub parts of this question, unless the individual sought help from your organization for different problems during the year. **The numbers you list in 18(b) – 18(h) should add up to the figure you provide in 18(a).**

(a) \_\_\_\_\_ Total number of DC residents and non-DC residents with DC cases served in 2014.

(b) \_\_\_\_\_ Served by full representation in litigation, pre-litigation, or other adversarial matter<sup>5</sup> (retainer signed),

(c) \_\_\_\_\_ Served by limited representation in litigation, pre-litigation, or other adversarial matter (retainer signed).

(d) \_\_\_\_\_ Served by brief services or pro se assistance in litigation, pre-litigation, or other adversarial matter (no retainer signed).

(e) \_\_\_\_\_ Served by full representation in transactional work (retainer signed).<sup>6</sup>

(f) \_\_\_\_\_ Served by brief services or pro se assistance in transactional work (no retainer signed).

(g) \_\_\_\_\_ Served by conducting an intake and/or providing referral, including a referral to a different *pro bono* counsel (no retainer signed).

(h) \_\_\_\_\_ Other (please specify): \_\_\_\_\_

No.  Proceed to question 19.

<sup>5</sup> Such as application or appeal for benefits or potential for agency action.

<sup>6</sup> Such as drafting contracts, tax matters, or for purposes of community and economic development.

Continued →

19. (a) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **full representation** in litigation, pre-litigation, or other adversarial matter was provided by *pro bono* attorneys (retainer signed).

Subject Area	(a) Number of Cases in Which Full Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Full Representation Was Provided	(c) Number of Cases Identified in Column (b)
Consumer	_____	1. _____	1. _____
		2. _____	2. _____
Disability/Health	_____	1. _____	1. _____
		2. _____	2. _____
Education	_____	1. _____	1. _____
		2. _____	2. _____
Employment	_____	1. _____	1. _____
		2. _____	2. _____
Estate Planning/Probate	_____	1. _____	1. _____
		2. _____	2. _____
Family	_____	1. _____	1. _____
		2. _____	2. _____
Housing	_____	1. _____	1. _____
		2. _____	2. _____
Immigration/Asylum	_____	1. _____	1. _____
		2. _____	2. _____
Public Benefits	_____	1. _____	1. _____
		2. _____	2. _____

Continued →



Subject Area	(a) Number of Cases in Which Full Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Full Representation Was Provided	(c) Number of Cases Identified in Column (b)
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

(b) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **limited representation** in litigation, pre-litigation, or other adversarial matter was provided by *pro bono* attorneys (retainer signed).

Subject Area	(a) Number of Cases in Which Limited Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Limited Representation Was Provided	(c) Number of Cases Identified in Column (b)
Consumer	_____	1. _____	1. _____
		2. _____	2. _____
Disability/Health	_____	1. _____	1. _____
		2. _____	2. _____
Education	_____	1. _____	1. _____
		2. _____	2. _____
Employment	_____	1. _____	1. _____
		2. _____	2. _____
Estate Planning/ Probate	_____	1. _____	1. _____
		2. _____	2. _____
Family	_____	1. _____	1. _____
		2. _____	2. _____

Continued →

Subject Area	(a) Number of Cases in Which Limited Representation Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Limited Representation Was Provided	(c) Number of Cases Identified in Column (b)
Housing	_____	1. _____	1. _____
		2. _____	2. _____
Immigration/Asylum	_____	1. _____	1. _____
		2. _____	2. _____
Public Benefits	_____	1. _____	1. _____
		2. _____	2. _____
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

(c) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **brief services or pro se assistance** in litigation, pre-litigation, or other adversarial matter were provided by *pro bono* attorneys (no retainer signed).

Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services or Pro Se Assistance Was Provided	(c) Number of Cases Identified in Column (b)
Consumer	_____	1. _____	1. _____
		2. _____	2. _____
Disability/Health	_____	1. _____	1. _____
		2. _____	2. _____
Education	_____	1. _____	1. _____
		2. _____	2. _____

Continued →

Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services or Pro Se Assistance Was Provided	(c) Number of Cases Identified in Column (b)
Employment	_____	1. _____	1. _____
		2. _____	2. _____
Estate Planning/Probate	_____	1. _____	1. _____
		2. _____	2. _____
Family	_____	1. _____	1. _____
		2. _____	2. _____
Housing	_____	1. _____	1. _____
		2. _____	2. _____
Immigration/Asylum	_____	1. _____	1. _____
		2. _____	2. _____
Public Benefits	_____	1. _____	1. _____
		2. _____	2. _____
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

Continued →

d) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **full representation** was provided in transactional work by *pro bono* attorneys (retainer signed).

Subject Area	(a) Number of Cases in Which Full Representation Was Provided in Transactional Work	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Full Representation Was Provided in Transactional Work	(c) Number of Cases Identified in Column (b)
Nonprofits	_____	1. _____	1. _____
		2. _____	2. _____
Small Businesses	_____	1. _____	1. _____
		2. _____	2. _____
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

(e) Using the subject areas and types of cases listed in Appendix A, complete the chart below for cases in which **brief services or pro se assistance** were provided in transactional work by *pro bono* attorneys (no retainer signed).

Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided in Transactional Work	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services and Pro Se Assistance Was Provided in Transactional Work	(c) Number of Cases Identified in Column (b)
Nonprofits	_____	1. _____	1. _____
		2. _____	2. _____
Small Businesses	_____	1. _____	1. _____
		2. _____	2. _____

Continued →



Subject Area	(a) Number of Cases in Which Brief Services or Pro Se Assistance Was Provided in Transactional Work	(b) Identify for Each Subject Area the Top Two Types of Cases in Which Brief Services and Pro Se Assistance Was Provided in Transactional Work	(c) Number of Cases Identified in Column (b)
Other: _____	_____	1. _____	1. _____
		2. _____	2. _____
<b>(d) Total for column (a)</b>	_____		

20. Does your organization have a *pro bono* coordinator?

Yes.  What is the scope of that person’s responsibilities and how much of that job is dedicated to coordinating pro bono work?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

No

**F. Collaborations**

21. Describe any formal collaborative efforts (e.g., in handling cases, systemic efforts, training) your organization undertakes with other legal services providers to serve DC residents and non-DC residents who have DC cases (e.g., Court Based Legal Services Projects and projects in which your organization hosts or uses/shares another organization’s space).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

22. Describe any formal collaborative efforts (e.g., co-location, workshops, staffing legal clinics) your organization undertakes with community-based organizations, (e.g., churches, schools, medical facilities, etc.) to serve DC residents and non-DC residents who have DC cases.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Continued →

**G. Use of Additional Resources**

23. Other than funding, what are your organization’s greatest limitation(s) in terms of its capacity to serve the legal needs of DC’s low income community?

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24. (a) In addition to hiring new lawyers to provide direct services, if the network of legal services providers could obtain additional resources to enhance its ability to provide services, what are the top three purposes for which these funds should be used and why?

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

(b) Other than additional funds, what change, improvement, legislation, etc. would be most helpful to your organization and the clients it serves in the next three years?

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25. Provide any additional comments concerning **the capacity of your organization, or the capacity of the legal services network generally** that would be helpful to the Commission in its efforts to assess the capacity of legal services providers and the private bar to meet the legal needs of DC residents and of non-DC residents who have DC cases.

# | Appendix E

## Survey Completed by Law Schools

### ***Instructions for Filling Out the Law School Deans/Clinic Directors Questionnaire***

The focus of this questionnaire is solely on the activities undertaken by law schools that relate to the **civil** legal needs of indigent and/or underserved individuals. Construe any phrase in this survey such as “legal needs” or “legal assistance” to refer only to the civil legal needs of, and assistance provided to, DC residents or non-DC residents who have D.C. matters.

### ***I. Clinic Overview***

#### ***1. Clinics***

- a. Please provide the names of clinics providing services to indigent and/or underserved D.C. residents on civil legal issues.
- b. Please provide the names of clinics providing community economic development services to D.C. nonprofits, small business and tenant associations.
- c. Please provide the names of clinics doing public policy work around civil access to justice issues.
- d. Please provide the names of any other clinics whose work impacts indigent and/or underserved D.C. residents.

#### ***2. Other Experiential Learning***

- a. Please describe experiential learning opportunities for which students do receive academic credit (e.g. externships, field placements, practica, etc) that students are doing with nonprofits that address civil access to justice issues in D.C. (e.g., with a D.C. legal service provider, D.C. Appleseed, a national nonprofit organizations whose work impacts D.C. residents, etc.).
- b. Please provide the approximate number of students and FTE faculty involved in the activities described in question 2(a).

Students: \_\_\_\_\_

FTE faculty: \_\_\_\_\_

#### ***3. Pro Bono Activities***

- a. Please describe the pro bono efforts that are underway law-school wide that benefit D.C. residents. Include in that description the types of pro bono activities that are undertaken and any policy in place regarding pro bono participation by students.

Continued →

- b. Provide the approximate number of students and FTE faculty involved in the activities described in answer to question 3a.

Students: \_\_\_\_\_

FTE faculty: \_\_\_\_\_

- c. Please provide the approximate number of individuals helped by these pro bono activities.
- d. Please describe any pro bono or access to justice-type requirements for students in terms of curriculum or pro bono work.
- e. Please describe any efforts by the law school to incentivize pro bono work by students, short of requiring pro bono service.
- f. Please describe any efforts by the law school to inculcate social justice values in students.
- g. Please describe any other efforts by the law school to meet the civil legal needs of low-income D.C. residents.

#### **4. Programmatic Issues and Developments**

- a. Please describe whether and how clinics and the other efforts described in the responses above have developed and/or changed in response to the needs of D.C. residents versus other reasons (e.g. expertise of faculty or perceived interests of students). Include in that description areas where the law school is purposefully trying to fill a gap in service provision and anything else the law school has done to be responsive to shifts in need.
- b. Please describe how services provided by clinics and other pro bono opportunities are advertised to potential clients.
- c. Please describe how the law school provides access and services to Limited English Proficiency (LEP) clients.
- d. With additional resources, what new programs would your law school develop to provide students with opportunities to address civil access to justice issues in D.C.?
- e. Have clinical opportunities increased or decreased over the past 3 years?
- f. Have pro bono opportunities increased or decreased over the past 3 years?
- g. Has student interest in clinical opportunities increased or decreased over the past 3 years?
- h. Has student interest in pro bono opportunities increased or decreased over the past 3 years?

Continued →



# Appendix F

## Survey Completed by Community-Based Organizations

### *Legal Needs Report Survey of Community Based Organizations*

#### **General Information:**

Please provide the following information about your organization.

1. Name of organization and, if applicable, program within the organization:
2. Mission of organization:
3. Name, position and email of person completing survey:
4. Phone number of person completing survey:
5. Address of organization:
6. Types of services offered by the organization: (check all that apply):
  - Emergency aid (e.g. food, monetary assistance, utility payments, etc.)
  - Housing/shelter
  - Education (e.g. GED, ESL, Adult Ed, etc.)
  - Child care
  - Job/Career Training/Readiness
  - Financial literacy
  - Medical/health (including HIV/AIDS, Reproductive Health, etc.)
  - Mental health counseling
  - Substance abuse treatment
  - Services for youth
  - Violence prevention
  - Services for domestic violence victims
  - Services for immigrants
  - Services for formerly incarcerated individuals
  - Services for seniors
  - Meals for general population and/or homeless individuals
  - Home visiting
  - Other (please specify):  
\_\_\_\_\_
7. Length of time the organization has been in existence:
  - a. 1-5 years
  - b. 6-10 years
  - c. 11-25 years
  - d. 26 years or more
8. Annual budget of organization:
  - a. Under \$500,000
  - b. \$500,001-\$999,999
  - c. \$1,000,000-\$1,999,999
  - d. \$2,000,000-\$4,999,999
  - e. \$5 million and over
9. Approximate number of staff and volunteers employed by the organization:
 

a. 1-5	d. 21-50
b. 6-10	e. 51-100
c. 11-20	f. over 100
10. Ward(s) the organization is located in:
 

a. 1	e. 5
b. 2	f. 6
c. 3	g. 7
d. 4	h. 8
11. Ward(s) where clients served by the organization reside:
 

a. 1	e. 5
b. 2	f. 6
c. 3	g. 7
d. 4	h. 8
12. Are services provided outside of DC?
  - a. Yes
  - b. No

Continued →

13. If yes, Where?
- Prince George's County
  - Montgomery County
  - Other counties in MD
  - Arlington County
  - Alexandria County
  - Fairfax County
  - Other counties in VA
14. Does the organization have income guidelines for eligibility guidelines?
- Yes
  - No
15. What are the income criteria?
16. Does the organization have geographic guidelines for eligibility?
- Yes
  - No
17. What are the geographic criteria?
18. Does the organization serve particular populations?
19. Which particular populations?
20. Are there other eligibility criteria?
21. What other eligibility criteria?
22. Approximate number of individuals served by the organization in 2016:
- Less than 50
  - 50-100
  - 101-250
  - 251-500
  - Over 500
23. Is there a particular population the organization serves?
24. What are the characteristics of that population?
25. What are the non-legal issues that individuals or families that come to your organization typically seek help with?
26. How often do the individuals that you serve have a legal problem?
- Regularly
  - Often
  - Rarely
  - Never
  - Unknown
27. How often do the individuals that you serve recognize that they have a legal problem, without staff help?
- Regularly
  - Often
  - Rarely
  - Never
  - Unknown
28. How often does your staff recognize that an individual the organization is serving has a legal problem?
- Regularly
  - Often
  - Rarely
  - Never
  - Unknown
29. How often do the individuals that you serve seek legal assistance?
- Regularly
  - Often
  - Rarely
  - Never
  - Unknown
30. Does your staff receive any training on identifying legal issues?
- Yes
  - No
31. Would you like for your staff to receive such training?
- Yes
  - No
32. Please describe the training on identifying legal issues your staff receives:
33. What types of issues are commonly present among the individuals that you serve? Please choose up to five topics.
- Housing (i.e. eviction, past rent owed, housing conditions, mortgage foreclosure)
  - Family (i.e. divorce, custody, child support, adoption)
  - Domestic Violence (i.e. protection orders)
  - Child and Family Services (i.e. abuse & neglect)
  - Probate (i.e. estates and wills)
  - Education (i.e. special education, school discipline)
  - Criminal defense

### **Legal Assistance/Referrals**

Continued →

- h. Juvenile detention
  - i. Employment (i.e. unemployment compensation, back wages, discrimination, workers comp)
  - j. Personal injury
  - k. Disability (i.e. access to health care, discrimination)
  - l. Public benefits (i.e. TANF, Food Stamps, Medicaid, SSI)
  - m. Consumer (i.e. bankruptcy, debt collection, credit cards, medical bills)
  - n. Immigration
  - o. Don't know
  - p. Not applicable
  - q. Other types of issues commonly present
34. Which issues seem to be most pressing, i.e. urgent, among the individuals that you serve? Please choose up to five topics.
- a. Housing (i.e. eviction, past rent owed, housing conditions, mortgage foreclosure)
  - b. Family (i.e. divorce, custody, child support, adoption)
  - c. Domestic Violence (i.e. protection orders)
  - d. Child and Family Services (i.e. abuse & neglect)
  - e. Probate (i.e. estates and wills)
  - f. Education (i.e. special education, school discipline)
  - g. Criminal defense
  - h. Juvenile detention
  - i. Employment (i.e. unemployment compensation, back wages, discrimination, workers comp)
  - j. Personal injury
  - k. Disability (i.e. access to health care, discrimination)
  - l. Public benefits (i.e. TANF, food stamps, Medicaid, SSI)
  - m. Consumer (i.e. bankruptcy, debt collection, credit cards, medical bills)
  - n. Immigration
  - o. Don't know
  - p. Not applicable
  - q. Other types of issues most pressing
35. Are there communities or populations among those you serve that tend to have particular legal problems?
- a. Yes
  - b. No
36. What are those specific communities or populations and their legal problems?
37. What is your organization's experience with connecting individuals with legal services organizations?
- a. Easy to connect
  - b. Can connect but takes effort
  - c. Very difficult
  - d. Don't typically try to connect
38. If it is difficult to connect individuals with legal services organizations, why is that? Check all that apply.
- a. You don't get return calls from the provider.
  - b. The legal service provider is full and cannot take on more clients.
  - c. You cannot find a legal service provider to take on the legal issue your clients have.
  - d. You don't know who to call.
  - e. Other (please specify)
39. What are the hardest types of cases to refer for legal assistance? Please choose up to five responses.
- a. Housing (i.e. eviction, past rent owed, housing conditions, mortgage foreclosure)
  - b. Family (i.e. divorce, custody, child support, adoption)
  - c. Domestic Violence (i.e. protection orders)
  - d. Child and Family Services (i.e. abuse & neglect)
  - e. Probate (i.e. estates and wills)
  - f. Education (i.e. special education, school discipline)
  - g. Criminal defense
  - h. Juvenile detention
  - i. Employment (i.e. unemployment compensation, back wages, discrimination, workers comp)
  - j. Personal injury
  - k. Disability (i.e. access to health care, discrimination)

Continued →

- l. Public benefits (i.e. TANF, food stamps, Medicaid, SSI)
  - m. Consumer (i.e. bankruptcy, debt collection, credit cards, medical bills)
  - n. Immigration
  - o. Don't know
  - p. Not applicable
  - q. Other types of cases
40. Do you have any partnerships/relationships with specific legal services providers (e.g., Bread for the City, the Legal Aid Society, Legal Counsel for the Elderly, etc.)?
- a. Yes
  - b. No
41. Which specific legal services providers do you have partnerships/relationships with?
42. Please identify any resources or projects that would assist your organization in helping your clients with legal issues.

### **Availability of Legal Services**

43. How aware are you of the available legal services in D.C.?
- a. Very
  - b. Somewhat
  - c. A little
  - d. Not at all
44. How aware are you of the existence of income or other eligibility criteria for those legal services?
- a. Very
  - b. Somewhat
  - c. A little
  - d. Not at all
45. How aware are you of where providers are geographically located?
- a. Very
  - b. Somewhat
  - c. A little
  - d. Not at all

46. How familiar are you with the existence of Court Resource Centers as places to help individuals who do not have attorneys (e.g., Family Law Self-Help Center, Landlord-Tenant Resource Center, Tax Sale Resource Center, etc.)?
- a. Very
  - b. Somewhat
  - c. A little
  - d. Not at all
47. How would you rank your clients' awareness of the availability of free legal services (e.g., Legal Counsel for the Elderly, Legal Aid Society, Bread for the City, etc.)?
- a. Excellent
  - b. Good
  - c. Fair
  - d. Poor
48. If fair or poor, what do you think is the best way to increase awareness among your clients of the availability of legal services?

### **Other**

49. Is there any other information you would like to share?
50. Are you willing to attend a listening session at which participants will be asked follow up questions to provide additional information?
- a. Yes
  - b. No



# | Appendix G

## Legal Services Providers that Completed Data Collection Forms

- Asian Pacific American Legal Resource Center
- Ayuda
- Bread for the City
- Catholic Charities Legal Network
- Children’s Law Center
- D.C. Bar Pro Bono Center
- D.C. Law Students in Court
- D.C. Volunteer Lawyers’ Project
- Employment Justice Center
- Family Court Self-Help Center, D.C. Courts
- Legal Aid Society of the District of Columbia
- Legal Counsel for the Elderly
- Neighborhood Legal Services Program
- Quality Trust for Individuals with Disabilities
- University Legal Services
- Washington Legal Clinic for the Homeless
- Whitman Walker Health

# Appendix H

## Data Collection Form Completed by Legal Services Providers

### DISTRICT OF COLUMBIA ACCESS TO JUSTICE COMMISSION MAPPING OF NEEDS PROJECT DATA COLLECTION FORM OCTOBER 1 –OCTOBER 31, 2014

Intake Site: \_\_\_\_\_ Date: October \_\_\_\_\_, 2014

NOTE TO INTAKE WORKER VOLUNTEER: This information is being gathered at the request of the District of Columbia Access to Justice Commission, which was created by the D.C. Court of Appeals to improve civil legal services in the District of Columbia. The Commission will use the data collected to get a better understanding of the legal needs of low-income District residents. Please fill out one form for each applicant requesting legal assistance, regardless of whether the request comes in person or over the telephone, and regardless of whether your organization can provide services to the applicant. The information collected from these forms will be published only in an aggregated form. An applicant's willingness to respond to the questions on this form should not affect whether your organization decides to provide legal services. Thank you for your assistance.

Please complete this survey for each applicant requesting services through the month of October, regardless of whether your organization can actually provide services to the applicant.

#### 1. How did the applicant find out about this legal services program?

- |  |   |                                      |
|--|---|--------------------------------------|
| <input type="checkbox"/> Friend/Relative | <input type="checkbox"/> Social Service Agency/<br>Organization | <input type="checkbox"/> Internet    |
| <input type="checkbox"/> Prior Use       | <input type="checkbox"/> Other Legal Services Provider          | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Court           |   |                                      |

#### 2. What is the nature of the legal issue(s) for which assistance is sought? [Check all that apply.]

- | Consumer   | Estate Planning/Probate  | Disability/Health  |
|--|--|--|
| <input type="checkbox"/> Bankruptcy                    | <input type="checkbox"/> Adult Guardianship/<br>Conservatorship                                    | <input type="checkbox"/> Access to Health Care                 |
| <input type="checkbox"/> Car Purchase and Repair       | <input type="checkbox"/> Estate Administration   | <input type="checkbox"/> Discrimination Based on<br>Disability |
| <input type="checkbox"/> Debt Collection               | <input type="checkbox"/> Planning Documents (eg, Will,<br>Power of Attorney, Medical<br>Directive) | <input type="checkbox"/> Involuntary Commitment<br>Hearings    |
| <input type="checkbox"/> Defective Liability           | <input type="checkbox"/> Other _____   | <input type="checkbox"/> Private Health Insurance<br>Dispute   |
| <input type="checkbox"/> Home Repair Dispute           |  | <input type="checkbox"/> Other _____                           |
| <input type="checkbox"/> Identity Theft/Identity Fraud |  |  |
| <input type="checkbox"/> Predatory Lending             |  |  |
| <input type="checkbox"/> Student Loan                  |  |  |
| <input type="checkbox"/> Utility Termination           | <b>Education</b>   |  |
| <input type="checkbox"/> Other _____                   | <input type="checkbox"/> Disciplinary Proceeding   |  |
|  | <input type="checkbox"/> School Transfers/ Access to<br>Education                                  |  |
|  | <input type="checkbox"/> Special Education   |  |
|  | <input type="checkbox"/> Title IX Complaint  |  |
|  | <input type="checkbox"/> Truancy   |  |
|  | <input type="checkbox"/> Other _____   |  |

Continued →

**Family Law**

- Adoption/Guardianship
- Child Abuse and Neglect
- Child Support
- Custody/Visitation
- Divorce/Separation/ Annulment
- Domestic Violence
- Elder Abuse and Neglect
- Juvenile Delinquency
- Spousal Support
- Other \_\_\_\_\_

**Housing**

- Eviction
- Foreclosure
- Homeless Shelter
- Housing Conditions
- Housing Discrimination
- Condo and Coop Conversion and Sales/Tenant Opportunity to Purchase
- Property Tax Sales
- Public and Subsidized Housing
- Rent Control
- Unlawful Eviction
- Other \_\_\_\_\_

**Public Benefits**

- Emergency Assistance
- Food Stamps
- General Assistance for Children
- Medicaid
- Medicare
- Public Health Insurance
- SSI/SSDI
- Social Security
- Temporary Assistance for Needy Families
- Veterans Benefits
- WIC (Nutrition Program for Women, Infants and Children)
- Other \_\_\_\_\_

**Employment**

- Employment Discrimination Based on Disability
- Domestic Violence Affecting Workplace
- Employment Discrimination (Non-Disability)
- Employee Benefits
- Expungement

- Sexual Harassment
- Termination
- Unemployment Compensation
- Wage and Hour Claims
- Whistleblowing/Retaliation
- Workers' Compensation
- Other \_\_\_\_\_

**Immigration/Asylum**

- Asylum
- Family Based Immigration
- Naturalization
- SIJS Visas
- T Visas
- U Visas
- VAWA
- Other \_\_\_\_\_

**Other**

- Personal Injury
- Property Damage
- Tax
- Other \_\_\_\_\_

**3. Is a case/proceeding currently pending?**

- Yes
- No

**4. During the last six months, approximately how many legal services organizations and/or private attorneys has the applicant contacted to resolve this legal issue? \_\_\_\_\_**

**5. Year Born/Date of Birth: \_\_\_\_\_**

**6. What gender does the applicant identify as?:**

- Male
- Female
- Non-Gender Identified

**7. Total Number of People in Household: \_\_\_\_\_**

**8. Race/Ethnicity [Check all that apply.]:**

- American Indian or Alaskan Native
- Asian
- Black or African American
- Hispanic, Spanish or Latino
- Native Hawaiian or Other Pacific Islander
- White
- Other \_\_\_\_\_

Continued →

**9. Annual Household Income:**

- Under \$10,000                       \$25,001-\$40,000                       Over \$55,001  
 \$10,001-\$25,000                       \$40,001-\$55,000

**10. Zip Code** \_\_\_\_\_ **Ward** \_\_\_\_\_

**11. Is the applicant limited-English proficient, deaf or hard of hearing?**

- Yes                                       No

**If yes, what language does the applicant speak?** \_\_\_\_\_

**How were language services provided during intake?**

- In-house language capacity ( e.g. staff member translated)  
 Interpreter bank  
 Other paid interpreter  
 Language line  
 Family member or friend accompanying applicant provided interpretation  
 Other \_\_\_\_\_

**12. Is applicant a veteran?**

- Yes                                       No

**13. Result / Outcome of current intake/interview [Check all that apply.]**

- Brief advice / pro se assistance because nothing more is needed  
 Brief advice / pro se assistance because that is all provider offers at this stage of process  
 Application for services pending further review  
 Unable to serve because organization does not provide services in relevant area of law  
 Unable to serve because organization lacks staff resources  
 Unable to serve because applicant ineligible for assistance based on income  
 Unable to serve because applicant ineligible for assistance based on eligibility criteria other than income, including merit  
 Refer to \_\_\_\_\_ ( other legal services provider)  
 Refer to private lawyer (for fee service)  
 Refer to pro bono lawyer  
 Refer to social services agency  
 Unable to refer because \_\_\_\_\_  
 Other \_\_\_\_\_



# Appendix I

## Data from D.C. Courts

### *Pro Se Participations in DC Court of Appeals 2017*

Case Type	# of Total Cases Filed	# of Cases Filed with <i>Pro Se</i> Party <sup>1</sup>	% of Cases Filed with <i>Pro Se</i> Party
AA	260	131	50
CV	371	212	57
FM <sup>2</sup>	84	60	71
PR	47	41	87
DA	10	9	90
OA	31	28	90

AA = Agency Matters from final orders in contested cases

CV = Civil Division (Civil Actions, Landlord Tenant, occasional Merit Personnel Act)

FM = Family Court Matters

PR = Probate Division

DA = Discretionary Applications (Small Claims and minor Criminal matters)

OA = Original Applications (Petitions for Writs of Mandamus or Writ of Prohibition)

Note: Representation status was measured at the time of filing for cases filed in 2017.

Observations: *Pro se* participations in AA matters are overwhelmingly unemployment matters. *Pro se* participations in CV matters have fluctuated over time; percentages (and even total filings) have been affected at times by multiple appeals filed by the same individuals which is found in the other case types reported here. With respect to the other case types, the FM total includes CPO appeals where the complainant is *pro se*. The PR total includes cases where there are *pro se* appellees carried on the docket because they were parties to the case below but who never participate in the appeal. Further, the court's discretionary (DA) and original (OA) jurisdiction matters are overwhelmingly filed *pro se*; most OA cases are mandamus petitions filed by inmates seeking to compel action by the trial court on pending post-conviction motions.

<sup>1</sup> This includes cases with any *pro se* party - appellant or appellee.

<sup>2</sup> The denominator may contain both sealed and unsealed cases.

Continued →

### ***Pro Se Participations in DC Superior Court (excluding the Civil Division) – Plaintiffs – 2017***

This report includes only *Pro Se* Plaintiffs, not *Pro Se* Responders. “*Pro Se* Plaintiffs” include: Plaintiff; Petitioner; Petitioner on Behalf of Third-Party Plaintiff; Applicant; Personal Representative; Adoptor One; Adoptor Two (Adoptive Parents, one case per family unit is counted). This report contains only data for Primary Parties on a case. A separate statistical report follows for *Pro Se* Responders.

Note: Representation status was measured at the time of disposition for cases disposed of in 2017.

<b>DC Superior Court Divisions &amp; Branches</b>	<b># of Total Plaintiffs</b>	<b># of <i>Pro Se</i> Plaintiffs</b>	<b>% of <i>Pro Se</i> Plaintiffs</b>	<b>% of Represented Plaintiffs</b>
Domestic Violence Division: Intrafamily	5,979	5,287	88%	12%
Family Court Operations: <sup>3</sup>				
Adoption	224	130	58%	42%
Divorce/Custody/Misc. <sup>4</sup>	4,660	3,881	83%	17%
Mental Health <sup>5</sup>	1,925	21	1%	99%
Parentage & Child Support <sup>6</sup>	2,041	136	7%	93%
<i>Total</i>	8,850	4,168	47%	53%
Probate Division:				
Formal Probate	1,647	581	35%	65%
Guardianships	21	15	71%	29%
Interventions	318	260	82%	18%
Small Estates	583	567	97%	3%
Trusts	13	7	54%	46%
<i>Total</i>	2,582	1,430	55%	45%

<sup>3</sup> There are no *Pro Se* Plaintiffs in Juvenile and Neglect cases. The law requires that these cases must have Attorney Representation.

<sup>4</sup> Divorce/Custody/Miscellaneous cases include the following complaints, petitions, and orders for new filings: Divorce; Custody; Annulments; Legal Separation; Stand-by Guardianship; Alimony; Equitable Distribution of Property; Enforce Property Settlement Agreement; Registration of Foreign Judgment; Visitation; Petition for Writ of Ne Exeat; and Writ Habeus Corpus.

<sup>5</sup> Mental Health cases typically have representation.

<sup>6</sup> Numbers for Domestic Violence-Parentage & Support are included with Family Court Operations-Parentage & Child Support.

Continued →

### Case Dispositions in DC Superior Court (excluding the Civil Division) by Representation Status – Plaintiffs – 2017

Note: Representation status was measured at the time of disposition for cases disposed of in 2017.

DC Superior Court Divisions, Branches, and Dispositions <sup>7</sup>	# of Pro Se Plaintiffs	% of Pro se Plaintiffs by Disposition	# of Represented Plaintiffs	% of Represented Plaintiffs by Disposition
Domestic Violence Division:				
Intrafamily				
Dismissed <sup>8</sup>	3,398	64%	197	29%
Closed	125	2%	45	6%
Denied	327	6%	19	3%
Granted	1,437	27%	421	62%
Family Court Operations:				
Adoption				
Dismissed	20	15%	9	10%
Denied	1	1%	-	-
Granted	90	69%	80	85%
Withdrawn	19	15%	5	5%
Divorce/Custody/Misc.				
Dismissed	1,425	37%	67	9%
Closed	5	0%	5	1%
Denied	8	0%	7	1%
Granted	2,443	63%	699	89%
Withdrawn	-	-	1	0%
Mental health				
Dismissed	19	90%	390	20%
Closed-7 day expired no filings	-	-	1,409	74%
Closed-Commitment Terminated	1	5%	2	0%
Closed-Other	-	-	5	0%
Inpatient/Outpatient Commitment	1	5%	66	3%
Withdrawn	-	-	5	0%
Denied	-	-	27	1%
Parentage & Child Support				
Dismissed	90	66%	383	20%
Temporary Support Entered	3	2%	78	4%
Permanent Support entered	13	10%	827	43%
Adjudication of Paternity	12	9%	9	0%
Foreign Order Registered	-	-	509	27%
Withdrawn	18	13%	46	2%
Other	-	-	53	3%

<sup>7</sup> Percentages may not add up to 100% due to rounding.

<sup>8</sup> The high percentage of dismissals is due to several factors including petitioners who obtained a TPO but chose not to follow through with the CPO hearing.

Continued →

DC Superior Court Divisions, Branches, and Dispositions <sup>7</sup>	# of Pro Se Plaintiffs	% of Pro se Plaintiffs by Disposition	# of Represented Plaintiffs	% of Represented Plaintiffs by Disposition
Probate Division:				
Formal Probate				
Dismissed	-	-	3	0%
Closed	581	100%	1,059	99%
Completed	-	-	4	1%
Terminated	-	-	-	-
Withdrawn	-	-	-	-
Guardianships				
Dismissed	-	-	-	-
Closed	10	67%	2	33%
Completed	5	33%	4	67%
Terminated	-	-	-	-
Withdrawn	-	-	-	-
Interventions				
Dismissed	4	2%	1	2%
Closed	104	40%	29	50%
Completed	37	14%	12	21%
Terminated	115	44%	16	27%
Withdrawn	-	-	-	-
Small Estates				
Dismissed	6	1%	-	-
Closed	559	99%	16	100%
Completed	-	-	-	-
Terminated	-	-	-	-
Withdrawn	2	0%	-	-
Trusts				
Dismissed	-	-	-	-
Closed	7	100%	5	83%
Completed	-	-	1	17%
Terminated	-	-	-	-
Withdrawn	-	-	-	-

Continued →



### ***Pro Se Participations in DC Superior Court (excluding the Civil Division) – Responders – 2017***

This report includes only *Pro Se* Responders, not *Pro Se* Plaintiffs. “*Pro Se* Responders” include: Defendant; Respondent; Minor Child; Guardian; Subjects; Conservator; Decedent; Third-Party Defendant; Co-Defendant; Co-Respondent; Co-Respondent Charged; Co-Respondent Not Charged; Co-Respondent-Other. This number includes every Defendant/Responder listed in the lawsuit regardless of whether that Defendant/Responder entered an appearance.

Note: Representation status was measured at the time of disposition for cases disposed in 2017.

<b>DC Superior Court Divisions &amp; Branches<sup>9</sup></b>	<b># of Total Responders</b>	<b># of Pro Se Responders</b>	<b>% of Pro Se Responders</b>	<b>% of Represented Responders</b>
Domestic Violence Division: Intrafamily	5,955	5,667	95%	5%
Family Court Operations: <sup>10</sup>				
Divorce/Custody/Misc. <sup>11</sup>	5,020	4,688	93%	7%
Mental Health <sup>12</sup>	1,966	44	2%	98%
Parentage & Child Support <sup>13</sup>	2,053	1,982	97%	3%
<i>Total</i>	9,039	6,714	74%	26%

<sup>9</sup> Probate is not presented because there were no cases with probate respondents.

<sup>10</sup> There are no Pro Se Responders in Juvenile and Neglect Cases. The law requires that these cases must have Attorney Representation.

<sup>11</sup> Divorce/Custody/Miscellaneous cases include the following complaints, petitions, and orders for new filings: Divorce; Custody; Annulments; Legal Separation; Stand-by Guardianship; Alimony; Equitable Distribution of Property; Enforce Property Settlement Agreement; Registration of Foreign Judgment; Visitation; Petition for Writ of Ne Exeat; Writ Habeus Corpus.

<sup>12</sup> Mental Health cases typically have representation.

<sup>13</sup> Numbers for Domestic Violence-Parentage & Support are included with Family-Parentage & Child Support.

Continued →

### **Case Dispositions in DC Superior Court (excluding the Civil Division) by Representation Status – Responders – 2017**

Note: Representation status was measured at the time of disposition for cases disposed in 2017. The numbers presented in the below tables represent parties within a case. For this reason, the numbers may be higher than case filings or case disposition statistics. The total excludes 518 defaults in divorce/custody/misc. cases.

<b>DC Superior Court Divisions, Branches, and Dispositions<sup>14</sup></b>	<b># of Pro Se Responders</b>	<b>% of Pro Se Responders by Disposition</b>	<b># of Represented Responders</b>	<b>% of Represented Responders by Disposition</b>
Domestic Violence Division:				
Intrafamily				
Dismissed <sup>15</sup>	3,477	61%	120	42%
Closed	153	3%	13	5%
Denied	311	5%	33	11%
Granted	1,726	31%	122	42%
Family Court Operations				
Divorce/Custody/Misc.				
Dismissed	1,581	34%	31	9%
Closed	8	0%	5	2%
Denied	15	0%	1	0%
Granted	3,083	66%	295	89%
Withdrawn	1	0%	0	0%
Mental Health				
Dismissed	11	25%	409	21%
Closed-7 day expired no filings	27	61%	1,403	73%
Closed-Commitment Terminated	0	0%	3	0%
Closed-Other	0	0%	5	0%
Inpatient/Outpatient Commitment	4	9%	70	4%
Withdrawn	1	2%	5	0%
Denied	1	2%	27	1%
Parentage & Child Support				
Dismissed	504	25%	15	21%
Temporary Support Entered	135	7%	6	8%
Permanent Support Entered	969	49%	45	63%
Adjudication of Paternity	25	1%	1	1%
Foreign Order Registered	254	13%	1	1%
Withdrawn	76	4%	2	3%
Other	19	1%	1	1%

<sup>14</sup> Percentages may not add up to 100% due to rounding.

<sup>15</sup> The high percentage of dismissals is due to several factors including petitioners who obtained a TPO but chose not to follow through with the CPO hearing.

Continued →

### ***Pro Se Participations in DC Superior Court, Civil Division Plaintiffs 2017***

This report includes only *Pro Se* Plaintiffs, not *Pro Se* Responders. “*Pro Se*” Plaintiffs include: Plaintiff; Petitioner. This report contains only data for Primary Parties on a case. A separate statistical report follows for *Pro Se* Responders.

Note: Representation status was measured at the time of disposition for cases disposed of in 2017.

<b>Civil Division Branches</b>	<b># of Total Plaintiffs</b>	<b># of <i>Pro Se</i> Plaintiffs</b>	<b>% of <i>Pro Se</i> Plaintiffs</b>	<b>% of Represented Plaintiffs</b>
Civil Division:				
Civil Actions	8,588	2,200	26%	74%
Landlord & Tenant	31,057	1,544	5%	95%
Housing Conditions	426	320	75%	25%
Small Claims	6,413	1,644	26%	74%
Tax Liens	288	5	2%	98%

### ***Pro Se Participations in DC Superior Court, Civil Division Responders 2017***

This report includes only *Pro Se* Responders, not *Pro Se* Plaintiffs. “*Pro Se*” Responders include: Defendant; Respondent; Third-Party Defendant. This number includes every Defendant/Responder listed in the lawsuit regardless of whether that Defendant/Responder entered an appearance.

The following represent data from “Designated” Responders. “Designated” Responders are Responders who are identified in the relevant data field as either represented by an attorney or *pro se*. The court presented *pro se* data for Designated Responders only, and thus the following percentages should be considered an estimate. There are a large number of cases where the data field is blank as to whether a defendant is represented or *pro se*. Some of these “Undesignated” Responders may not have ever appeared in court, or may be involved in cases that were disposed either before a responder appears (i.e., dismissal by the plaintiff or the court) or because the responder failed to appear (e.g., default judgment). Some may also be due to data error.

Note: Representation status was measured at the time of disposition for cases disposed of in 2017.

<b>Civil Division Branches</b>	<b># of Designated Responders</b>	<b># of <i>Pro Se</i> Designated Responders</b>	<b>% of <i>Pro Se</i> Designated Responders</b>	<b>% of Represented Designated Responders</b>	<b># of Undesignated Responders</b>
Civil Division:					
Civil Actions	5,727	1,103	19%	81%	6,657
Landlord & Tenant	7,966	7,018	88%	12%	29,406
Housing Conditions	334	127	38%	62%	128
Small Claims	1,865	1,327	71%	29%	4,835
Tax Liens	243	64	26%	74%	1,236

## Appendix J

### Data from D.C. Office of Administrative Hearings

#### *Pro Se Participation in D.C. Office of Administrative Hearings – FY 2017*

The District of Columbia Office of Administrative Hearings (OAH) is an administrative court that provides centralized adjudication services to hold hearings and decide appeals from District government decisions. While OAH considers a broad range of case types, the following data represents estimated *pro se* participation in case types frequently involving low- and moderate-income District residents.

Case Type	# of Total Cases Filed	Approximate # of Cases with One or Both Parties Represented <sup>1</sup>	Approximate # of Cases with No Party Represented	Approximate % of Cases with No Party Represented
DBH	15	10	5	33%
DCPS (Discipline)	216	25	191	88%
DCPS (Residency)	4	2	2	50%
DDS	5	5	0	0%
DHCD	137	70	67	49%
DHS (Public Benefits)	1,168	163	1,005	86%
DHS (Shelter)	686	51	635	93%
DOES	2,211	191	2,020	91%
DOH <sup>2</sup>	382	316	66	17%
HBX	53	53	0	0%
OAG-CSSD	9	4	5	56%

<sup>1</sup> This includes cases with any party represented.

<sup>2</sup> This excludes cases concerning whether a dog is “potentially dangerous” or “dangerous”

Continued →



CFSA = D.C. Child and Family Services Agency (certain licensing decisions)

DBH = D.C. Department of Behavioral Health (group home evictions; group home business violations)

DCPS (Discipline) = D.C. Public Schools (student discipline appeals)

DCPS (Residency) = D.C. Public Schools (residency violation appeals)

DDS = D.C. Department of Disability Services (decisions concerning rehabilitation assistance)

DHCD = D.C. Department of Housing and Community Development (tenant petitions concerning rent increases, housing code violations; and other complaints)

DHS (Public Benefits) = D.C. Department of Human Services (benefits decisions concerning SNAP, TANF, Medicaid/Healthcare Alliance eligibility, childcare subsidies, IDA, burial assistance, and other benefits programs) (per OAH, the agency is always a party and is rarely represented by counsel)

DHS (Shelter) = D.C. Department of Human Services (decisions to terminate, transfer, or suspend a homeless person from services; HSRA violation claims; denials of emergency rental assistance) (per OAH, the agency is rarely a party; rather, the shelter and subsidy providers are usually private parties, and are rarely represented by counsel)

DOES = D.C. Department of Employment Services (unemployment compensation benefits decisions)

DOH = D.C. Department of Health (nursing home evictions; health violations; health professional license disputes)

HBX = Health Benefit Exchange (eligibility appeals, usually denials of special enrollment periods outside open season and denials of the Advance Premium Tax Credit) (per OAH, the agency is always a party, and is always represented by counsel)

OAG-CSSD = D.C. Office of the Attorney General, Child Support Services Division (final condemnation orders in child support enforcement proceedings brought by the Office of the Attorney General)

# Appendix K

## Commonly Used Abbreviations

- 2008 Report = *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia’s Low-Income Community (2008)*
- AJE = Advocates for Justice in Education
- APALRC = The Asian Pacific American Legal Resource Center
- ATJ Initiative = Access to Justice Initiative
- Bank = Community Legal Interpreter Bank
- Bread = Bread for the City
- BTC = Break the Cycle
- Catholic = The Catholic University of America, Columbus School of Law
- CBOs = Community-Based Organizations
- CFSA = District of Columbia’s Child and Family Services Agency
- CLC = Children’s Law Center
- CLCPP = Civil Legal Counsel Projects Program
- CLP = Community Listening Project
- Consortium = D.C. Consortium of Legal Services Providers
- DCBF = D.C. Bar Foundation
- DCFPI = D.C. Fiscal Policy Institute
- DCPCSB = D.C. Public Charter School Board
- DCPS = D.C. Public Schools
- DCVLP = D.C. Volunteer Lawyers Project
- DVIC = Domestic Violence Intake Center
- First Shift = The First Shift Justice Project
- FTEs = Full time equivalents
- GAL = Guardian ad litem
- Georgetown = Georgetown Law Center
- GW = The George Washington University Law School
- Howard = Howard University School of Law
- IOLTA = Interest on Lawyers Trust Accounts
- LCE = Legal Counsel for the Elderly
- Legal Aid = Legal Aid Society of the District of Columbia
- LEP = Limited English Proficient
- LRAP = D.C. Poverty Lawyers Loan Repayment Assistance Program
- LSC = Legal Services Corporation
- LSIC = D.C. Law Students in Court
- NLSP = Neighborhood Legal Services Program
- NVRDC = Network of Victim Recovery of D.C.
- OAG = D.C. Office of the Attorney General
- OAH = D.C. Office of Administrative Hearings
- OCA = Open City Advocates
- OSSE = Office of the State Superintendent for Education
- PBC = D.C. Bar Pro Bono Center
- PDS = The Public Defender Service of the District of Columbia
- Quality Trust = Quality Trust for Individuals with Disabilities
- Rationing Justice = *Rationing Justice: The Effect of the Recession on Access to Justice in the District of Columbia (2009)*
- SJP = School Justice Project
- Tzedek = Tzedek D.C.
- UDC = University of the District of Columbia David A. Clarke School of Law
- ULS = University Legal Services
- WCL = American University Washington College of Law
- WLCCR = Washington Lawyers Committee for Civil Rights and Urban Affairs
- WLCH = Washington Legal Clinic for the Homeless
- WWH = Whitman Walker Health



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