

Testimony before the D.C. Council
Committee on Housing and Executive Administration
FY 2023 Funding for the Executive Office of the Mayor
Presented by Christina Jackson
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Good morning, Chairperson Bonds and members of the Committee. Washington Council of Lawyers appreciates the opportunity to testify at this hearing. We appear today to request that recurring, local funding be included in the FY23 budget to provide for a dedicated staff position within the Executive Office of the Mayor to support and manage pro bono activities by District government lawyers.

Washington Council of Lawyers is a voluntary bar association whose mission is to ensure that our legal system treats everyone fairly, regardless of money, position, or power. We bring together attorneys from small and large law firms, local and federal government offices, corporate counsel offices, legal service providers, law schools, and policy organizations. We train, advocate, mentor, and build community among lawyers and law students to promote pro bono service and public-interest law in our city.

We have worked closely with District of Columbia agencies as they have established pro bono policies for their lawyers. We applaud the leadership of the Mayor, the Mayor's Office of Legal Counsel, and the Office of the Attorney General for establishing policies that provide guidance to lawyers employed by the District of Columbia who, in their personal capacities, wish to fulfill their professional obligations to represent low-income individuals in pro bono matters.¹ We believe, however, that to fully implement these policies and create meaningful, easily-accessed opportunities for pro bono work by District of Columbia government lawyers, a dedicated pro bono coordinator (either full or part-time) is essential.

I. The Need for Increased Pro Bono Work by District of Columbia Lawyers

As we approach the two-year mark of the COVID-19 pandemic, the District of Columbia continues to face an access to justice crisis. Prior to the pandemic, in several divisions of D.C. Superior Court, on average, nearly 90% of litigants appeared without a

¹ We also are grateful for the leadership Chairperson Allen and the Council's Judiciary and Public Safety Committee in advancing B24-0298, the Pro Bono Legal Representation Expansion Amendment Act of 2021. We look forward to its adoption so that more District of Columbia government lawyers will be empowered to do pro bono work.

lawyer.² Countless District residents continue to handle domestic violence, child support, divorce, custody, and probate cases on their own, unable to afford market-rate legal help and faced with the limited availability of free legal assistance. Their ability to protect their rights, secure their housing, and ensure their safety continues to be diminished without access to a lawyer who can advise and represent them.

The District of Columbia is fortunate to have numerous legal services organizations that work to multiply their capacity to assist these individuals through partnerships with pro bono volunteers. The District has a longstanding tradition of pro bono work by law firm and federal government attorneys. Nonetheless, the glaring need for increased pro bono services remains.³ The hundreds of lawyers employed by the District of Columbia can help to fill this gap. However, to maximize their ability to do so most effectively, they would benefit from the assistance that dedicated professional staff support would provide.

II. Pro Bono Policies for Lawyers Employed by the District of Columbia

We applaud the District of Columbia Office of the Attorney General and the Mayor's Office of Legal Counsel for issuing clear, thoughtful policies to guide their lawyers who wish to take on pro bono matters. The promulgation of these policies demonstrates our government's commitment to expanding access to justice for low-income individuals in our community. The OAG policy has been in effect for several years. Lawyers in that office have participated in various pro bono projects and appear keenly interested in exploring pro bono opportunities. The new MOLC policy was issued in September 2021, and we are looking forward to all lawyers under its purview exploring opportunities to partner with local legal services organizations.⁴

We also are hopeful that opportunities for D.C. government lawyers to participate in pro bono work will be greatly enhanced by the enactment by the D.C. Council Bill 24-0298, the Pro Bono Legal Representation Expansion Amendment Act of 2021. This legislation would allow District government lawyers to provide pro bono legal representation in their personal capacities in local District courts, subject to conflict-of-interest limitations. (Currently, District regulations bar them from providing such assistance in local tribunals in almost all cases). MOLC and OAG testified in support of

²D.C. Access to Justice Commission, *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia*, p. 17 (December 2019) available at https://dcaccesstojustice.org/assets/pdf/Delivering_Justice_2019.pdf.

³We note that Rule 6.1 of the District of Columbia Rules of Professional Conduct for attorneys calls on members of the D.C. Bar to participate in pro bono work. In addition, resolutions passed by the Judicial Conferences of the District of Columbia and the D.C. Circuit urge D.C. Bar members to respond to this call by accepting one court appointment or by providing at least 50 hours of pro bono legal services each year. (If this is not feasible, a significant financial contribution to a legal services organization can be made). D.C. Rules of Professional Conduct, Rule 6.1, Comment [5].

⁴Washington Council of Lawyers worked closely with OAG in the development of its policy. Subsequently, we assisted MOLC in drafting an appendix to its policy that listed numerous legal services organizations that could potentially provide appropriate pro bono projects for D.C. government attorneys.

the bill. It was co-sponsored by a majority of D.C. Council members, and during the hearing on the legislation, no opposition was expressed. We are thus hopeful that the Council will pass this bill, greatly increasing pro bono opportunities for local government lawyers. At the same time, this important and significant change in the pro bono landscape will only heighten the need for the effective management of pro bono work by local government lawyers.

III. Dedicated Staff Support for the District's Pro Bono Program Would Significantly Facilitate Pro Bono Work by Agency Lawyers

Identifying dedicated staff support to promote and manage pro bono work by District lawyers within the Executive Office of the Mayor or another relevant agency would best ensure that government lawyers are effectively supported. Placing responsibility in District government staff to manage and promote pro bono work would better connect D.C. government lawyers with appropriate pro bono opportunities. This individual could consolidate and circulate information to lawyer volunteers about pro bono trainings and projects, develop relationships with legal services organizations, potentially support agency ethics officials in vetting potential projects for conflicts, and provide overall support and guidance to District lawyers considering pro bono service.

A surprising amount of project management work is needed to ensure successful pro bono programs. This includes:

- disseminating information about pro bono trainings and pro bono case and clinic opportunities to government lawyers,
- arranging tailored trainings in specific substantive areas (e.g. landlord-tenant law, family law) for government lawyers,
- vetting potential pro bono projects for conflicts of interest,
- maintaining a database on cases in progress and tracking pro bono statistics,
- establishing strong relationships with local legal services providers,
- drafting sample retainer agreements,
- preparing resource books listing legal services programs with projects appropriate for government attorneys,
- holding "pro bono fairs" where government attorneys can speak with representatives from legal services offices about pro bono opportunities,
- organizing awards ceremonies for pro bono volunteers and undertaking other activities to encourage and recognize pro bono work by DC government lawyers,
- transitioning pro bono matters when government lawyers leave the District's

employ.

Funding staff support to pursue these strategies will make it markedly easier for District government lawyers to take on pro bono opportunities and better ensure that they volunteer for appropriate cases where external support like training and mentoring are provided. It also will relieve the potential burden of additional duties to existing D.C. government managers and even the individual government attorneys. Taking the time to navigate and explore pro bono training and project opportunities can be daunting and may even result in duplicative inquiries to busy legal services offices. Having staff support for the pro bono program will ensure a more efficient system of support for District lawyers in the individual agencies.

The example of the award-winning federal pro bono program is illustrative. It is managed by a part-time attorney at the Department of Justice. Through the Federal Government Pro Bono Program, federal attorneys working in their personal capacities provide extensive legal assistance to low-income individuals. For example, federal government lawyers are the largest source of volunteers for the D.C. Bar Pro Bono Center's monthly Advice & Referral Clinic. They also accept more cases referred by the D.C. Bar Pro Bono Center's Advocacy & Justice Clinic than any single law firm, averaging approximately 50 cases over 5 clinic sessions each year. In addition, they take individual cases from many other legal services organizations.⁵ The central role of the DOJ pro bono program manager is a key factor in this program's success.

IV. Conclusion

We applaud the District of Columbia government for the impressive strides it has taken to enhance the ability of its attorneys to do pro bono work. The leadership of the Attorney General and his staff led to the promulgation of a policy providing formal guidance to OAG attorneys. The Mayor and the Mayor's Office of Legal Counsel have demonstrated a similar commitment through the issuance of a pro bono policy. The Council has indicated support for local government pro bono work via the introduction of the Pro Bono Legal Representation Expansion Amendment Act of 2021.

Consequently, many of the pieces for a successful pro bono program are, or soon will be, in place. The capstone will be the funding of staff, such as a pro bono coordinator, who can realize the aspirations articulated by these policies, and who can create and maintain a robust pro bono program that will assist individuals in the District of Columbia who need the assistance and counsel of pro bono attorneys to help resolve their legal issues.

Washington Council of Lawyers is grateful for the opportunity to testify. I would be happy to answer any questions.

⁵District of Columbia Circuit Judicial Conference, Standing Committee on Pro Bono Legal Services, *Biennial Report of the Standing Committee on Pro Bono Legal Services*, December 28, 2020.

