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## Feature

### In Focus: The D.C. Bar Foundation

An Interview with Robert Weiner and Katherine Garrett

The D.C. Bar Foundation was created in 1977 by the District of Columbia Bar as a 501(c)(3) organization. The foundation provides lawyers and law firms with a means for funding legal services for the underprivileged in the District of Columbia, allowing them to fulfill their ethical obligation to ensure that all residents of the District have access to competent legal representation. The foundation's directors are all distinguished members of the legal community. In 1985 the District of Columbia Court of Appeals established the Interest on Lawyers' Trust Accounts (IOLTA) program, which provides an additional source of funding for the foundation.

*Washington Lawyer* recently sat down with D.C. Bar Foundation President Robert N. Weiner of Arnold & Porter LLP and Executive Director Katherine L. "Katia" Garrett to discuss the foundation's work and plans for the future.



#### How many organizations have received foundation funding?

*Katia Garrett:* This year we disbursed grants to 30 organizations, and for the first time also funded a technical assistance grant. The grant program started off very modestly, and then for a long time we had between 15 and 20 grantees annually. In recent years, as the number of legal service providers

has grown, the foundation has funded roughly 30 organizations annually.

#### What is the foundation's primary source of funding?

*Robert Weiner:* A substantial percentage of it comes from the IOLTA fund—Interest on Lawyers' Trust Accounts. The rest is from donations; some from individuals, but primarily from law firms.



*KG:* The bulk of our private contributions comes from law firms. I'd say out of around 86 contributions that we received last year, all but 10 were from law firms.

#### Does the foundation partner with other funders?

*KG:* We have not to date, although that is something we would like to explore, since we are currently the largest single funder of civil legal services in the District.

*RW:* We do talk with some of the other foundations because they have a great deal of institutional knowledge. So we share information with them, or they share with us.

*KG:* On a related note, we also work closely with the D.C. Bar and with its Pro Bono Program to coordinate efforts. I meet regularly with D.C. Bar Executive Director Katherine Mazzaferri and Pro Bono Director Maureen Syracuse to discuss what we're doing and how we can cooperate in more productive and effective ways.

**Does the foundation have a higher profile than a few years ago? Do you still have to explain what you do?**

*RW:* It takes a constant effort to make sure that people are aware of and understand what we do. A high profile is important for us in order to secure the contributions we need to make our grants. I think we are gaining ground, but there's still much to be done.

*KG:* It does take a constant effort, for several understandable reasons. Law firm leadership changes, law firms merge, and responsibility for charitable contributions may rest with different committees or individuals. We keep knocking on doors to make sure that the foundation's profile remains high within the firm.

**What are the criteria for joining the foundation's board of directors?**

*KG:* The former presidents of the D.C. Bar have historically been the pool from which we've drawn our members. That has changed over the last two years. We now look at a broader pool, but still seek people with similar levels of seniority and accomplishment, and a demonstrated commitment to the Bar, to public interest, and to legal services.

**Do the board members take an active role in the foundation's work?**

*KG:* Oh, yes. They're a very active, talented board. We couldn't do what we're doing without them.

**Do you have different selection criteria for established and new organizations?**

*RW:* The criteria are the same. An organization has to demonstrate that it will be able to spend the money appropriately and efficiently. Usually that will be harder for a new organization to demonstrate. On the other hand, a new organization can present exciting opportunities to assist people who haven't been reached before or to provide a new kind of service. Those factors can weigh in their favor.

*KG:* All of our applicants for funding need to complete a fairly straightforward grant application and then submit to a site visit by a member of the board and a member of the advisory committee. We may look harder at an organization with which we have no relationship. So, while the criteria are the same, any organization could be asked a large number of questions.

**What are you looking for on the site visits? Everything?**

*RW:* Yes. The specific inquiries will depend on the organization. We will observe how the organization functions and ask questions about what it's doing and how it's accomplishing its goals, whether it has secured other sources of funding, and how it will put our money to use. The site visits take a long time. We work very closely with these organizations.

We're always interested in what organizations are doing to encourage pro bono and how they use attorneys from the private bar. We also want to know how they are working with other legal service providers. Those are important factors as well.

*KG:* It comes down to the people and place we're funding when we do the site visit. The questions can be detailed, such as, where do the clients come in? or how do the lawyers secure confidentiality during an interview? to more broad, such as, what will be the organization's mission and strategic plan?

We're one of the few foundations that provide operating funds to grantees. There are some organizations in the city that we have funded for many, many years. Thus, a site visit to an organization that we've been funding since 1977 will usually be and sound different from a site visit to an organization that's brand-new.

**Do you have a preference for providing operating support versus project-based support?**

*KG:* No. We only want to make certain that our funding goes toward the delivery of direct legal services to the poor and underserved in the District of Columbia.

*RW:* We'll look very closely at what a particular organization plans to do with the money. We want to ensure that the money will be leveraged appropriately—that it will be used effectively to support direct legal services to those people who need them. Often that means providing operating funds. Sometimes, though, organizations develop funding proposals for a specific, targeted project. We look at those as well.

*KG:* For example, we helped start the Appellate Project at the Legal Aid Society. That's a specific project that we've continued to fund. Other organizations have made similar requests to bring in an attorney or an expert to add a dimension or focus to their work. We have supported those types of projects. Sometimes that funding is in addition to money that we've given the organization in the past; sometimes the project-based funding is the principal source of that organization's support from us.

**How do you decide the amount an organization will receive once it is approved for funding?**

*RW:* Applicants submit a very detailed application that includes financial data such as tax returns and annual reports. As we said, there's a site visit, and a report is prepared on the basis of the site visit. Once we get all the information from all the applicants, we have a very long, very intense meeting where we determine how much money we will give each one. All the factors we've talked about enter into that decision.

*KG:* Some of the specific factors we look at include the proposed operating budget for a particular organization. Will it be greater than or the same as last year's operating budget? What is the likelihood that this organization will be able to secure sustained funding?

Then we look at issues such as, does this organization need assistance in certain areas? Could the organization leverage more contributions from the private sector? Would it benefit from a challenge grant rather than a direct grant? Are there substantive or programmatic areas in which the organization could be strengthened? If so, how can we use our funds to help the organization make those improvements?

The driving factor is how much money we have on hand to give out. Our goal is to distribute as much money as we possibly can every year and still have enough to pay our own bills.

*RW:* For some organizations, that we give them *some* grant is almost as important as the amount of the grant we give. Because of our rigorous screening process and our mission of funding direct legal services to the poor, our grants carry an imprimatur that often assists grantees in obtaining other funding as well.

**How many applications do you receive in a typical funding cycle?**

*KG:* This year we were fortunate. We were able to give an award to every applicant. Historically, most but not all grant applications have been successful each year. It depends on funding, the size of the request, and, significantly, the merit of the application. Last year, for example, there were two or three applicants that did not receive funding.

**Do you provide multiyear grants?**

*KG:* We have never given a multiyear grant. However, we're currently examining our grants program and exploring how we can strengthen it in the coming years. Multiyear grants may be one of the issues on the table. Additionally, I've heard from many grantees that technical assistance accompanying the monetary award would be particularly useful. So, to that end, this year we're launching a very modest technical assistance program. Our plan is that a grant check from the foundation will not be simply a check, but will bring with it a much broader spectrum of support.

**Do you ever make your awards contingent on the organization's securing funding from other sources?**

*RW:* Yes. Sometimes this takes the form of a challenge grant. For example, we might offer a matching grant of \$10,000—we will provide \$10,000 if the organization finds other contributions of \$10,000 to match it. That provides incentives for others to contribute, so that the total amount the organization collects is \$20,000. In some instances we've imposed conditions on the grant. For example, we will send the organization a particular amount at the beginning of the grant period, then another payment when certain conditions are met, and perhaps a final payment when further requirements are satisfied.

This year we required most of the grantees, as a condition of receiving their awards, to attend meetings of affinity groups, that is, organizations working in the same field. That way the legal service providers can discuss strategies for providing assistance, develop cooperative relationships, and learn about best practices.

**Are there areas of legal need that are not getting enough attention?**

*RW:* Are there any that are? Many, many people who need legal assistance aren't getting it. Our studies have shown that we're meeting less than 10 percent of the legal needs of the poor in this community.

*KG:* There's more than one way of looking at that question. Are there populations that aren't currently being reached due to particular barriers—whether those barriers are cultural, linguistic, or geographic? On the other hand, are there substantive issues that a typical provider network lacks the capacity to address? The answer to both questions is yes.

The need far outstrips the available services. Even though the District has a community of providers that are tremendously dedicated, talented, and hardworking, there simply aren't enough lawyers to go around. The existing network is not meeting all the needs.

**Do you have any updates on the IOLTA Preferred Bank Initiative?**

*KG:* We're very excited about the Preferred Bank Initiative, which we launched at the beginning of this year. This initiative has more than doubled the IOLTA income that the foundation receives monthly. The premise is simple: Banks that pay competitive interest rates on IOLTA accounts can qualify as IOLTA preferred banks. We, in turn, promote those banks at every opportunity.

We began seeing the benefit of the Preferred Bank Initiative in March, when PNC Bank became the first D.C. IOLTA preferred bank. By June, monthly IOLTA receipts were more than double what they had been a year ago. To put that in perspective, in the most recent fiscal year we collected just

under \$1 million, about \$985,000, in IOLTA income. In the fiscal year before that the foundation earned just under \$600,000.

More than ever, it really makes a difference where law firms choose to keep their IOLTA accounts. Right now PNC Bank, First Horizon Bank, and Adams National Bank are the only institutions that have met our criteria as preferred banks. That means they're not charging fees on their IOLTA accounts and are offering an interest rate that is sufficiently competitive to provide a strong source of funding for legal services. Law firms that place their IOLTA accounts with an IOLTA preferred bank take a simple step that creates significant resources for legal services.

*RW:* There is still an enormous potential upside for IOLTA. We're continuing to persuade banks to join the Preferred Bank Initiative and educating lawyers about their obligations under the existing rules regarding IOLTA. We are also examining how to amend the rules to make lawyers' obligations clearer and maximize the benefit to legal service providers.

**Now that banks have joined the initiative, are you noticing a change in firms' behavior?**

*KG:* I think that we're going to begin to see the impact of these changes in the coming months. When we receive calls from lawyers seeking guidance about opening up IOLTA accounts, we let them know where they can get the best rates. Also, there are other banks that provide above-market rates on their IOLTA accounts but haven't quite met the high standards that we've set for the Preferred Bank Initiative.

We provide all of this information on our Web site at [www.dcbfoundation.org](http://www.dcbfoundation.org). We know that the site is being visited and that people are looking at the information. Ask us in six months how the situation has changed.

**Could you tell us about other ways you are assisting poverty lawyers, such as helping with law school debt?**

*RW:* Law school debt is a real problem in the legal services community. Two years ago I served on an American Bar Association commission studying the problems that legal service providers have attracting and keeping lawyers because of the enormous debt obligations that new lawyers have coming out of school. At that time, on average, new law school graduates had around \$100,000 in debt. Many of these lawyers want to work for an organization such as a legal service provider, but the pay is significantly less than in the private sector. Making the monthly loan payments and having enough left to live at a reasonable standard is often difficult.

This problem affects both recruitment and retention. The turnover at legal service providers is often very high because of the financial strains caused by educational debt. When lawyers leave an organization after a few years, the

organization loses that training and experience in poverty law.

So the foundation has started a loan repayment assistance program to address this problem. We received a seed grant of \$20,000 from the D.C. Bar's Litigation Section, and we set aside \$94,000 from our own funds.

*KG:* As we began to gather resources to develop a very modest loan repayment assistance program, the D.C. Council also recognized the need for providing this funding. Council member Phil Mendelson authored Bill 16-660, the District of Columbia Poverty Lawyer Loan Assistance Repayment Program Act of 2006, which provides up to \$250,000 to help poverty lawyers with their student loans. The city council funds will be limited to poverty lawyers who both live and work in the District. The foundation is in a position to provide supplemental funding for poverty lawyers who can't afford to live in the District but are nonetheless working here with a legal service provider organization.

*RW:* So we have a total of \$364,000 for this year to fund the new program. We think it will give young lawyers an opportunity they would not otherwise have to go into public service and help meet the legal needs of the poor.

**What are the eligibility requirements?**

*KG:* Recipients will need to work at a legal service provider that would qualify for funding from the foundation. That requirement covers many of the D.C. Council's criteria for eligibility. Recipients will also need to have debt service that outweighs their income. There's also an income cap.

Assuming that a person meets the income, employment, and relevant residency criteria, he or she would be eligible for loan repayment assistance of up to \$1,000 a month. That amount is to be used to pay down the debt service on a participant's school loans.

**Are you now accepting applications?**

*KG:* We launched the program in the fall. All the information about the program will be on the foundation's Web site at [www.dccbarfoundation.org](http://www.dccbarfoundation.org).

**Has there been any interest expressed so far?**

*KG:* Even before the program began we had a call from someone wanting the application form.

*RW:* Yes, there's no problem with lack of demand.

**Are you going to do outreach in law schools as well?**

*KG:* Yes. The foundation has a small working group, chaired by board member John Payton, designing the standards and developing the implementation of this program. Representatives from the legal service provider community

also serve on that working group. In short, the word is already out, albeit informally. Our formal outreach will include law schools and providers to make sure all eligible lawyers know when and how to apply.

**Will the foundation's contributions to the loan repayment assistance program come out of the pool of grant-making funds?**

*KG:* We expect the D.C. Council appropriation to make up the bulk of the funding for this program. However, we do anticipate undertaking a modest, targeted fundraising just for the loan repayment assistance program, or perhaps to secure funds for poverty lawyers working part-time and therefore currently ineligible under the city council legislation.

It remains to be seen what the level of need will be. The thought is that once the program is up and running, it will change the face of the legal service provider community. Lawyers who might not have been able to accept a position at a legal service organization will now be able to pursue those jobs and still be able to satisfy their debt obligations.

*RW:* This program also will create a new cadre of leaders in the legal services community, the next generation. We have an important opportunity to increase the number of lawyers in the District who provide legal services to the poor.

**Are other states doing similar programs?**

*RW:* Some, but not many. A few law schools also have similar programs. So some progress is being made. But the needs are particularly great in D.C., and the city council has taken a significant and necessary step in supporting this program.

*KG:* I think that this program will be a flagship loan repayment assistance program for the entire country in many ways. We want to make sure that we embrace the whole pool of talented lawyers wanting to do poverty law. A person shouldn't turn down a supervisory position in a legal aid organization because the salary increase would make him or her ineligible for loan repayment assistance. We want to make sure that we're really helping the lawyers who will in turn benefit the entire community. The foundation views this as an important complement to the grant program.

On the site visits we conducted with grant applicants, we noticed that some organizations were struggling to fill positions. They've had vacancies for some time and have had difficulty attracting people to the field. We can't afford to raise the baseline salaries at every single provider that we fund. What we can do is try to level the playing field, so that a job at a legal service provider in the District is an affordable option for more people. So the loan repayment assistance program that we're setting up will do just that: give assistance to every provider in this community.

**What will the foundation do in the immediate future?**

*RW:* We are preparing to administer the grants appropriated by the D.C. Council to support legal service providers. We're also participating in listening sessions with different segments of the legal services community to help us decide how we'll design our request for proposals. Then we'll publish the request for proposals and begin receiving and processing the applications for these grants.

*KG:* We should point out that the D.C. Council appropriation is the direct result of the work of the D.C. Access to Justice Commission, chaired by Peter Edelman, professor of law at the Georgetown University Law Center. Based upon the commission's efforts, the city council appropriated a total of \$3.2 million to be used to increase the number of lawyers working on housing-related issues and in underserved neighborhoods and communities, to create a shared legal interpreter bank for legal service providers, and to fund the loan repayment assistance program. We will administer those funds and programs in the coming years.

**What does the foundation need most from the Bar?**

*RW:* Well, money doesn't hurt. After all, our primary task is to give financial support to organizations providing legal services to the poor. To accomplish that goal, we need as much funding as we can get.

As I mentioned, at present we only meet 10 percent of the legal needs of the poor. Legal service providers are underfunded, and there simply aren't enough of them. What we have found is that for years and years we just were filling in a hole, helping organizations just get by, trying not to lose ground in the fight for access to justice. We hope that with our current funding levels, we can reach a point—and I believe we are getting there—where we can fill that hole and expand the legal services system to help more people, more effectively, and in more ways. We will be able now to work on programmatic changes, develop new programs, and target funds to specific areas or subjects.

That's not a luxury that we have had to any significant degree in the past. Now I think we can be more strategic in how we spend the money.

*KG:* I think that's right. One thing that the Bar can do is recognize that funding legal services—giving both time and money for legal services—is a professional obligation for every lawyer, regardless of the size of the firm where they currently work. What's more, giving to the D.C. Bar Foundation is a way to ensure that your dollar goes a long way and reaches some of the less well known, but important, legal service programs in the city.

*RW:* Also, none of this is a substitute for individual performance of pro bono work, which is every lawyer's obligation. What's more, pro bono work helps these

organizations leverage their resources, so that even though they don't have many lawyers on staff, they can train or mentor pro bono attorneys to assist them in their efforts. That creates a multiplier effect.

The money is very important, but the pro bono assistance is an essential part of this equation. It is not either-or. We all have to work to provide legal services to the poor people who need them and fulfill our obligation as a legal profession to ensure access to justice for all D.C. residents. But we also need to help fund the experts in poverty law who labor day in and day out at great sacrifice. Without them we would not meet even the 10 percent of the legal needs that we reach, and access to justice would be little more than a slogan.

We have an opportunity right now to make a real difference for the people who most need our assistance. But it requires each and every one of us to pitch in.

*To learn about the D.C. Bar Foundation, visit [www.dcbfoundation.org](http://www.dcbfoundation.org), or contact Katia Garrett at 202-467-3750, ext. 56, or [garrett@dcbfoundation.org](mailto:garrett@dcbfoundation.org).*

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