

2017 Annual Report

The Barbara McDowell &
Gerald S. Hartman Foundation

SOCIAL JUSTICE THROUGH LEGAL ACTION

Letter from the President

Fundraising and the Future of the Foundation

Dear Friends of the Foundation,

2017 was a banner year for the Barbara McDowell Foundation. It began in May with the appointment of Maggie Menditto as the Foundation's executive administrator and concluded in late September with **the selection of the 2018 grantees** (see pages 3-4). At the annual board meeting in September, the Foundation selected these six grantees for funding at the \$25,000 level each rather than the usual five, resulting in a distribution of **17% more funds** than in previous years. These efforts and the addition of three new high impact cases have fueled the year's central aim of expanding the Foundation's role in the legal aid community. This process of expansion has included three major components:

Outreach

The Barbara McDowell Foundation is now a part of the Twitter, Facebook, and blogging communities. By joining these three pillars of social media, the Foundation has taken steps to make its resources, mission, and the work of our incredible grantees more visible.

Operation

In early 2016, the Foundation instituted additional guidelines for submitting a grant application and implemented new quarterly check-in procedures for grantees. All potential grantees must now agree to these requirements in order to be considered for a grant. This change in the operating relationship between the Foundation and its grantees has allowed for an increased amount of evaluation of potential grantees and oversight of their work. The 2017 grantees were the first generation to which these requirements applied.

Fundraising

Given the diversity of the social justice work performed by our grantees, the Foundation is an ideal vehicle for philanthropic organizations and individuals wishing to contribute to the legal aid community without needing to select just one cause. Beginning in 2018, the Foundation will make a greater impact in the legal aid community by becoming a resource that both collects and distributes funds while employing a rigorous evaluation process of all its potential grantees.

While the Foundation has always been committed to supporting social justice causes through both systemic high impact litigation and its grantmaking, the Foundation believes that by taking these three steps we will be able **to broaden what to expect from a small private foundation**, and, in turn, provide increased support to social justice organizations across the United States.



Sincerely,

Jerry Hartman
President
The McDowell Foundation
jerry.hartman@mcdowellfoundation.org

Get to Know Us

Mission Statement

The Barbara McDowell and Gerald S. Hartman Foundation aims to improve the economic well-being and social conditions of disadvantaged persons and groups in the United States through the making of grants to organizations that undertake systemic litigation with the funds they receive.

What We Do

The Barbara McDowell Foundation comprises two major operating components:

Annual Grantmaking

Each year, the Foundation advertises its grantmaking services to the legal aid community, drawing in applications from across the country. After a rigorous evaluation process conducted by the central staff, the Board of Directors meets to choose a selective number of grantees out of the 15-20 finalists. Grants are usually made in the amount of \$25,000 to social justice organizations to be used in the pursuit of a specific piece of litigation. **Applications for 2019 grants are due August 1, 2018.**

High Impact Cases

In partnership with the Philadelphia-based law firm Drinker Biddle as well as other major law firms, the High Impact Litigation Project is a branch of the Foundation which aims to fight social injustice through direct, pro bono litigation. The Foundation usually takes on several additional cases each year.

History of the Foundation

Barbara McDowell was an exceptional advocate for social justice reforms. During her decorated career, she served as the founding Director of the Appellate Advocacy Program at the Legal Aid Society of Washington, DC, the Assistant to the Solicitor General of the United States, and spent ten years as a partner at the Jones Day Law Firm. Among her many successes are eighteen cases argued before the Supreme Court, with two of these argued on the same day. One such successful case was presented against Chief Justice John Roberts when he was a lawyer in private practice.

Following her untimely death from brain cancer at the age of 56, Jerry Hartman established the Foundation in 2009 in Barbara's name in order to honor and continue her extraordinary work. Jerry also serves as the Foundation's current President. In the nine years since her passing, the Foundation has given more than \$1,000,000 to organizations nationwide.



Meet the 2018 Grantees

Children's Rights • *New York, NY*

Children's Rights is a national advocacy group working to reform failing child welfare systems on behalf of the hundreds of thousands of abused and neglected children who depend on them for protection and care. Through tough legal action complemented by substantive policy expertise, Children's Rights has won landmark victories and brought about sweeping improvements in the lives of abused and neglected kids in more than a dozen states.

The Case: Children's Rights is pursuing a statewide federal class action lawsuit in Missouri challenging the state's longstanding failure **to ensure the safe administration of psychotropic and antipsychotic medications to children in state foster care**. The lawsuit focuses on the state's poor informed consent policy, a broken system for maintaining updated medical records for children, and the failure to operate a secondary review system to identify and address dangerous prescribing practices.

Montgomery, Alabama • Legal Services Alabama

Legal Services Alabama (LSA) is the only statewide non-profit provider of free legal services in Alabama, providing access to justice and quality civil legal assistance to educate and empower Alabama's low-income community.

The Case: Legal Services Alabama is currently preparing litigation against the Alabama Department of Human Resources regarding the implementation of the portion of the Personal Responsibility and Work Opportunity Act related to Able-Bodied Adults Without Dependents. Because of this act, **tens of thousands of Alabama citizens were terminated from the food stamps program** after having received assistance for years. LSA intends to prove that the Department of Human Resources unfairly terminated thousands of Alabamians despite that they qualified for an exception and that the state has imposed overly restrictive interpretations of the Act's exemptions making it unnecessarily difficult for individuals to obtain the benefits which they are entitled to receive.

Bazelon Center for Mental Health Law • *Washington, D.C.*

The Judge David L. Bazelon Center for Mental Health Law advocates for the civil rights, full inclusion, and equality of adults and children with mental disabilities. The Center accomplishes this goal through a unique combination of litigation, public policy advocacy, coalition building and leadership, public education, media outreach, and technical assistance—a comprehensive approach that ensures the largest possible impact.

The Case: The Bazelon Center has filed a case challenging Georgia's system of segregated educational centers, known collectively as the Georgia Network for Educational and Therapeutic Services, or GNETS. The plaintiffs allege that Georgia's use of the GNETS system violates the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Equal Protection Clause by **denying equal educational opportunity to children with disability-related behavioral needs** and by needlessly segregating them in separate and inferior classrooms and schools. Unless these concerns are resolved, the 5,200 students currently segregated into GNETS will continue to fall further behind in school, be less likely to graduate, and be more likely to enter the criminal justice system.

Philadelphia, PA • Public Interest Law Center

The Public Interest Law Center uses high-impact legal strategies to advance the civil, social, and economic rights of communities in the Philadelphia region facing discrimination, inequality, and poverty. It uses litigation, community education, advocacy, and organizing to secure access to fundamental resources and services for large numbers of people.

The Case: The Public Interest Law Center intends to upend the unfair, uneven power dynamic in Philadelphia's Landlord-Tenant Court by bringing one or more federal class actions that combine federal consumer law and existing, but often unenforced, Philadelphia rental protections. These lawsuits are based on the federal Fair Debt Collection Practices Act which prohibits the making of false statements in the collection of a debt. These violations by Philadelphia landlords include **forcing tenants to pay rent unfairly, recovering possession of premises, and the securing of money judgments against tenants.**

Sargent Shriver Center on Poverty Law • *Chicago, IL*

The Sargent Shriver National Center on Poverty Law provides national leadership in advancing laws and policies to secure justice to improve the lives and opportunities of people living in poverty. The organization achieves this mission through two interrelated programs: (1) Advocacy and (2) Advocate Resources & Training.

The Case: The Shriver Center has filed a civil rights lawsuit in federal court against the City of Peoria in Illinois for **intentionally targeting enforcement of their "chronic nuisance" ordinance in predominantly African-American neighborhoods.** Because of these enforcement practices, African-American residents regularly face eviction for conduct that would not result in eviction for white residents. The litigation aims to secure the repeal of the nuisance ordinance and to send a message to other jurisdictions with crime-free and nuisance property ordinances that the enforcement of those laws must comply with civil rights laws.

San Diego, CA • Children's Advocacy Institute

The Children's Advocacy Institute, founded in 1989 as part of the University of San Diego School of Law, is one of the nation's foremost academic, research, and advocacy organizations working to improve the lives of all children and youth.

The Case: The Children's Advocacy Institute will file litigation in federal district court seeking to **establish an absolute right to counsel for abused or neglected children in judicial proceedings** that will forever impact their lives. These proceedings, generally referred to as Dependency Court proceedings, determine every fundamental aspect of an abused or neglected child's life: by whom the child will be raised; where the child will live; when will the child see his/her siblings, relatives, friends; and where will the child go to school. While most states recognize an absolute right to counsel for indigent parents in these proceedings, the Children's Advocacy Institute will work to recognize a right to legal representation for the abused and neglected children who are the central figures in such cases. If successful, this litigation will help to create a precedent that there is an absolute right to counsel for abused or neglected children.

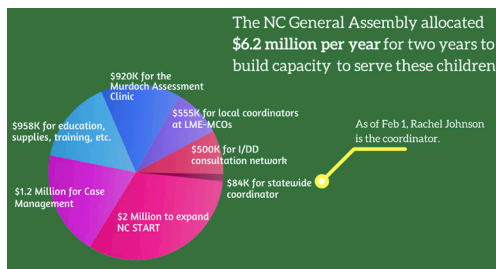
Looking Back

2017 Grants

Our grantees from the past year participated in important litigation nationwide. Selected at the end of September of 2016, two of the five grantee's cases concerned the timely issue of immigration rights in the United States. **The American Immigration Council** and **the National Immigrant Justice Center** used their McDowell Foundation grants to pursue litigation related to excessive agency-imposed barriers and removal orders for asylum seekers to the U.S., respectively. These cases are still active.

The Western Center litigated three separate cases in California counties on behalf of thousands of Californians who had their driver's licenses suspended for inability to pay fees and fines related to minor traffic violations and other non-traffic infractions, such as littering. In Alameda County, it was ruled that the DMV may not suspend licenses without notification, while in Solano County strong protections were instituted through the litigation for traffic court defendants unable to pay their fines. Negotiations in the third case are still ongoing in Los Angeles County Superior Court.

The Shriver Center took on intentional racial segregation in public housing in Alexander County, Illinois, contending that the county's housing authority not only segregated families by race but that they failed to maintain the African-American developments at the same standard as the white ones.



Graphic provided by Disability Rights

And finally, **Disability Rights North Carolina** fought for the state's children and adolescents who are Medicaid eligible and have been identified and diagnosed with complex behavioral, emotional, psychiatric, intellectual, and developmental disabilities. As a result of a settlement agreement, the North Carolina Department of Health and Human Services received sufficient funds to offer training, accreditation, and certification to providers.

2017 High Impact Cases

The Foundation, Drinker Biddle, and Disability Rights North Carolina filed a lawsuit on May 24, 2017, to address the failure of the State of North Carolina to provide **appropriate behavioral health services** to citizens with intellectual and/or developmental disabilities (I/DD). The case was filed on behalf of five plaintiffs with I/DD who are subject to improper segregation or are at risk of segregation. The lawsuit challenges the systemic flaws in the design, funding, implementation, and administration of the North Carolina's health and human services system. In December of 2017, the North Carolina State Court upheld three out of four elements of the complaint, including all the provisions focused on the legal right of individuals to access home and community based services and avoid being subject to discrimination. Discovery and depositions in the case are ongoing.

The Foundation, the Ropes and Gray law firm, Children's Rights, and Disability Rights Iowa filed suit in November 2017 on behalf of boys confined to Iowa's Boys State Training School who have significant mental illnesses. The lawsuit asserts that these boys, aged 12 to 19, do not receive the mental health treatment needed to fulfill the facility's mission of providing a program which focuses on appropriate developmental skills, treatment, placements, and rehabilitation. Instead of providing this **necessary mental health treatment**, the facility to control boys incarcerated there relies upon potentially harmful psychotropic medications administered without appropriate oversight or consent, solitary confinement, and full-body mechanical restraints. The case is ongoing.

Fiscal Year 2017

Beginning Capital Balance January 1, 2017 - - \$1,328,782.37

Total Ordinary Dividends-- \$27,165.87

Long-term Capital Gain Distributions-- \$3,549.05

Non-Dividend Distributions (Return of Capital)-- \$1,182.00

Expenses-- \$9,368.53 (including investment advisor commissions and contractor payments)

Distributions to Grantees-- \$150,000.00

Capital Appreciation-- \$178,723.61

Donations-- \$70,000.00

Closing Capital Balance December 31, 2017 - - \$1,451,626.40

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Rebecca McCullough Tarneja

Attorney at Cooley LLP

Matthew Roberts

Special Counsel, United States Sentencing Commission

Gerald S. Hartman

President of the McDowell Foundation, Former partner at Drinker Biddle LLP

Prior Grantees

2016

Center for Gender & Refugee Studies
Children's Rights
National Center for Law and Economic
Justice
Native American Rights Funds
North Carolina Justice Center
Texas Fair Defense Project

2015

American Immigration Council
Center for Gender and Refugee Studies
Children's Rights
Legal Voice
Nebraska Appleseed

2014

Bet Tzedek Legal Services
Florida Institutional Legal Services
Project
Heart Alliance's National Immigrant
Justice Center
Legal Aid Justice Center
National Advocates for Pregnant Women
New York Lawyers for the Public Interest

2013

Juvenile Justice Project of Louisiana
National Housing Project
National Immigrant Justice Center
New Mexico Center on Law & Poverty
North Florida Center for Equal Justice,
Inc.

2012

Immigrant Law Center of Minnesota
Legal Aid Justice Center
National Center for Law and Economic
Justice
The National Immigrant Justice Center
The National Law Center
The Public Justice Center

2011

Brennan Center for Justice
National Center for Law and Economic
Justice
George Washington University
National Immigrant Justice Center
Mississippi Center for Justice
American Civil Liberties Union
Tahirih Justice Center

The Barbara McDowell & Gerald S. Hartman Foundation

SOCIAL JUSTICE THROUGH LEGAL ACTION

General Inquiries

mcdowellfoundation@mcdowellfoundation.org

Website

www.mcdowellfoundation.org

Phone

(703) 919-0423