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A Performance Audit of Pennsylvania's Access to Justice Act

Conducted Pursuant to Act 2006-81

May 2011

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Report Summary

The Access to Justice Act (AJA) was enacted in 2002 and established a fund to provide civil legal aid assistance to poor and disadvantaged persons in the Commonwealth through the imposition of a fee on filings in state courts and collections by county row officers. The act, initially set to expire in 2007, was extended until November 2012 by Act 2006-81, which also directed the Legislative Budget and Finance Committee (LB&FC) to conduct a performance audit of the act one year prior to that date. The LB&FC was directed to develop findings and recommendations regarding the continuing justification for the activities and financial support provided by the act.

Findings and Conclusions

The AJA established a fund to provide civil legal aid assistance to the poor in the Commonwealth through the imposition of a fee on various courthouse filings, \$2 of which is dedicated to AJA. An additional temporary surcharge was added to certain state court filings in 2009, \$1 of which goes to the AJA, and is to expire in January 2012. The fees are often referred to as user fees, in which those utilizing courthouse procedures help to assure access for those unable to access the courts. These funds, among others, are distributed by the PA Interest on Lawyers Trust Account (IOLTA) Board as grants to fund access to legal representation to low-income Pennsylvanians. The PA Legal Aid Network, Inc. (PLAN, Inc.) administers state-appropriated funds, including all of the AJA funds, and IOLTA Board grants for eight independent regional legal aid programs and five specialized legal service programs. Those programs, and two non-PLAN, Inc. funded programs, comprise the PA Legal Aid Network. See the map on page 7 for the locations of these programs.

Civil legal aid seeks to provide access to the courts for non-criminal matters for which counsel is not otherwise provided.¹ This includes cases involving family law, housing, public benefits and consumer issues. The PA Supreme Court published regulations defining eligibility requirements for these services that, in general, restrict eligibility to a client whose family income does not exceed 125 percent of poverty level (\$27,938 for a family of 4 in 2011).²

Our review found the following:

¹ In Pennsylvania, counsel is required by statute to be provided at no charge in certain cases involving, e.g., termination of parental rights, guardianship of adults, and paternity.

² Income restrictions do not apply to a client in need of services under the Protection from Abuse Act. Additionally, exceptions for income up to 187.5 percent of poverty level may be made in special circumstances.

Civil Legal Aid Funded by AJA Is Available Statewide

The AJA requires the IOLTA Board to contract with eligible legal services providers.³ The IOLTA Board contracts with PLAN, Inc. which distributes grants to eight legal service programs (LSPs) and five specialized programs throughout the Commonwealth.

Other programs not funded through AJA also provide civil legal aid to low income clients. IOLTA funds are used for funding services at the eight Pennsylvania law schools; pro bono initiatives; and civil legal service organizations that are specifically organized to represent the homeless, disabled, abuse victims, and the elderly, or to provide specialized legal services in the areas of education, immigration, bankruptcy, mortgage foreclosure, predatory lending practices, and other areas. In addition, other legal aid programs and private attorneys provide pro bono services that are not affiliated with one of the AJA-funded programs.

Approximately 50 Percent of Eligible Clients Seeking Services Do Not Receive Services Due Primarily to Funding Constraints

Funding for civil legal aid in Pennsylvania, like other states, is provided by many sources, including federal funding from the Legal Services Corporation (LSC), Title XX funds, IOLTA funds, and private funds. AJA funds account for approximately 24 percent of the federal and state funds received by the LSPs. In FY 2009-10, AJA funds were \$10.1 million of the \$58.2 million in total funding received by the LSPs.

As reported by PLAN, Inc., all PLAN programs represent about 100,000 clients annually. Of that, approximately 20,000 are funded through AJA. Using data from those PLAN programs providing individual representation, we were able to determine that over a two-month period in 2009, for every applicant receiving civil legal aid services, one eligible applicant was turned away. This mirrors the national average. Because LSPs do not have the resources to provide services to every eligible applicant, LSPs prioritize the cases based on factors such as the type of case (see below) and the likelihood of success. The programs refer almost all of the cases they reject to other programs. IOLTA reports that only one out of every five low income Pennsylvanians is likely to get legal help from any source.

The LSPs case priorities include issues involving families, housing and income and economic stability. Each category may include other more specific subject

³ The Act defines “eligible legal service provider” as a not-for-profit entity, incorporated in the Commonwealth, that is tax-exempt under the Internal Revenue Code, also known as a 501(c)(3) entity, and that operates for the primary purpose of providing civil legal services to eligible clients and victims of abuse through a contract or subcontract with the Department of Public Welfare.

matter that is reported as a separate category on the table below. As shown below, the largest number of cases handled by LSPs using AJA funds since FY 2003-04 has been in the area of family law, followed by housing.

AJA-funded Closed Cases								
	<u>FY</u> <u>2003-04</u>	<u>FY</u> <u>2004-05</u>	<u>FY</u> <u>2005-06</u>	<u>FY</u> <u>2006-07</u>	<u>FY</u> <u>2007-08</u>	<u>FY</u> <u>2008-09</u>	<u>FY</u> <u>2009-10</u>	<u>Total</u>
Family	2,416	4,895	4,686	4,137	4,357	5,803	4,567	30,861
Housing.....	1,783	3,565	4,319	4,610	4,567	3,918	3,450	26,212
Income Maintenance....	1,091	2,692	2,206	2,255	2,154	2,216	1,913	14,527
Consumer	581	1,865	1,951	2,204	2,101	1,950	1,845	12,497
Health	97	267	219	1,372	877	638	454	3,924
Employment.....	47	470	297	586	717	904	825	3,846
Individual Rights.....	2	47	24	43	135	314	215	780
Education.....	5	29	25	24	23	62	50	218
Juvenile.....	25	45	6	2	0	56	33	167
Other/Miscellaneous	<u>66</u>	<u>291</u>	<u>301</u>	<u>211</u>	<u>222</u>	<u>309</u>	<u>255</u>	<u>1,655</u>
Total Cases.....	6,113	14,166	14,034	15,444	15,153	16,170	13,607	94,687

Source: IOLTA.

Low Interest Rates Have Significantly Reduced IOLTA Funds Available for Civil Legal Aid

Although the use of the IOLTA account was initially voluntary, in 1996, the Pennsylvania Supreme Court made participation in the program mandatory for all eligible licensed Pennsylvania lawyers.⁴ The interest from this account is transferred to the IOLTA Board, which uses it to fund civil legal aid. Similarly, the Minor Judiciary Interest on Trust Account (MJ-IOTA) consists of all qualified funds received by a judge or Magisterial District Judge in the administration of his or her duties.

Due to the drop in interest rates, the revenue from these funds awarded through PLAN, Inc. has decreased from a high of \$9.2 million in FY 2007-08 to \$1.7 million in FY 2009-10. This decline in interest rates and subsequent reduction in revenues available for LSPs were the impetus for the temporary surcharge established by Act 2009-49. This act imposed an additional surcharge on all court filings subject to the additional fee except traffic offenses. The AJA receives \$1 of this sur-

⁴ An IOLTA account is an interest-bearing account established in a banking institution to hold qualified funds by an attorney for a client. Qualified funds are monies being held by an attorney which, in the good faith judgment of the attorney, are nominal in amount or are reasonably expected to be held for a short term that sufficient interest income will not be generated to justify the expense of administering a segregated account. Attorneys are not permitted to accrue interest from client funds.

charge (totaling about \$2.7 million annually), which expires in January 2012. House Bill 2011-1229 would make the surcharge permanent.

Known Case Outcomes Are Generally Positive, and the Large Majority of Clients Appear Satisfied With the Services Provided

The effectiveness of the LSPs can be measured in part through the successful resolution of the cases they handle, the amount of direct dollar benefits to the clients, and the satisfaction of the clients they serve. Based on closed case resolution statistics for those cases where an outcome can be determined, in FY 2009-10 about 74 percent of AJA-funded cases were resolved successfully by the LSPs, and 26 percent were considered to have been unsuccessfully resolved. However, outcome information was not available for those cases that were settled, withdrawn, or resolved by advice. Cases resolved by advice represent 50 percent of the closed cases reported. Total direct dollar benefits reported by the PLAN, Inc., programs for FY 2009-10 were \$16 million in back awards and settlements and \$2 million in monthly benefits.

The LSPs also use satisfaction surveys to evaluate their services. The processes used by the LSPs vary, and the response rate is generally low. Almost all those who respond are satisfied with the services provided, with satisfaction rates ranging from 80 percent to 100 percent. The LSPs also have a grievance procedure for clients who are not satisfied with the services they received. In the last year, 21 grievances have been filed, generally involving complaints that the client's case was not taken.

Audits and Reviews Have Found Few Problems With the Collection and Use of the AJA Funds

The IOLTA Board uses a grant administration process to provide Access to Justice Act funds to LSPs that includes oversight functions. The IOLTA Board distributes an annual grant to PLAN, Inc., the entity that oversees the statewide network of legal aid providers throughout Pennsylvania. PLAN, Inc. then distributes the funds to the legal aid providers as sub-grantees. Each program providing civil legal aid services using AJA funds has case goals, financial audit, and program monitoring requirements. In addition, the program administrator, PLAN, Inc., undergoes a financial audit as part of its grant requirements. The fee collection function performed by the courts and court officers and Magisterial District Judges is audited cyclically by both the Department of the Auditor General and the Judiciary Auditing Agency.

We reviewed PLAN, Inc.'s reports of its monitoring visits to the 13 service providers for FY 2006-07 through FY 2009-10, the independent financial audits for PLAN, Inc. and the 13 service providers for FY 2008-09 and the most recent audits conducted by the Department of Auditor General and the Judicial Auditing Agency.

The monitoring reports identified concerns with program operations regarding, e.g., timely case closing, but the required corrective action was found to have been implemented by the programs. Therefore, in general, no significant ongoing concerns with program administration were noted.

The audit reports of the courts and court officials found some problems with accurate collection and timely remittance of the fees, but those problems appear to have been addressed by the courts and court officials. For example, audit reports found that certain Recorder of Deeds offices were not assessing the fees as required by law. In the next audits, it was noted that these problems had been resolved.

Recommendations

1. **The General Assembly should consider making the Access to Justice fee and surcharge permanent to provide a more stable funding stream for civil legal aid.** Although funding for civil legal aid is available from several sources, one of the more significant state funding mechanisms, IOLTA funds, is dependent on interest rates. As shown in recent years, these rates can vary significantly, greatly affecting the ability of LSPs to continue to provide needed services. Federal and other state funding sources also face an uncertain future.

2. **The IOLTA Board and PLAN, Inc. should develop a follow-up process, possibly using a university or law school program, to determine whether telephone services have been effective.** One of the programs used such an approach for its client satisfaction surveys. Confidentiality issues would need to be addressed, but such a survey would provide feedback to the programs to determine whether the telephone assistance, which accounts for about half the LSPs' caseload, is effective.

I. Introduction

Act 2002-122 established a funding stream to fund civil legal aid services to poor and disadvantaged persons. The Access to Justice Account, a non-lapsing restricted receipt account in the State Treasury, is to be used exclusively to fund these services. Monies in the account are generated by fees charged by courthouse offices for filing certain documents. The Access to Justice Act was initially set to expire in five years (2007). However, Act 2006-81 extended the act until November 1, 2012, and directed the Legislative Budget and Finance Committee to conduct a performance audit by November 1, 2011, to determine if there is a continuing justification for the activities and level of financial support provided for in the act.

Scope and Objectives Statement

1. To determine whether fees are collected as required by the Access to Justice Act.
2. To determine whether requirements for funding eligibility are consistently and appropriately applied.
3. To determine whether funds are distributed in a timely manner.
4. To develop findings and recommendations regarding the continuing justification for the activities and financial support provided by the act.

Methodology

We spoke with staff of the Pennsylvania Interest on Lawyers Trust Account Board (IOLTA) and reviewed annual reports to get an understanding of the grant process to Pennsylvania Legal Aid Network, Inc. (PLAN, Inc.) and sub-grants to the Legal Services Programs (LSP). We reviewed the grant and sub-grant contract materials as well as funding and case information provided by IOLTA. We met with PLAN, Inc. staff and reviewed monitoring reports of the LSPs. We would usually conduct our own file reviews to determine whether the files contained required materials, were closed in a timely manner, etc. Due to the confidential nature of the client files and concerns related to attorney/client privilege, we used the monitoring reports as a substitute review measure. The monitoring reports provided a reasonably detailed account of the file reviews. We also reviewed LSP annual reports and desk reviews and met with LSP staff.

To determine whether fees were being appropriately collected and remitted by the courts and court officers, we reviewed the most recent Department of Auditor General and Judicial Auditing Agency audits of the courts and court officers. We also spoke with the Department of Revenue regarding the requisite time frames for

remitting the funds. We did not independently audit either the AJA or IOLTA accounts.

We reviewed reports on the economic impacts of civil legal aid services on both the individual client and the local economy. We also reviewed case studies of individuals who received civil legal aid services from the LSPs. We reviewed Legal Services Corporation (LSC) reports on unmet civil legal aid needs nationally, and attempted to determine the unmet need for civil legal aid services in Pennsylvania through contacts with the PA Bar Association and review of LSP reports.

We surveyed other states and contacted the American Bar Association (ABA) to identify how civil legal aid is provided throughout the country. We reviewed LSC and ABA standards for civil legal aid.

Although we were directed to conduct the performance audit of AJA, since other funding streams also support civil legal aid services, we included information on those funding streams to provide a more complete picture of civil legal aid in Pennsylvania.

Acknowledgements

We thank IOLTA Executive Director Alfred Azen and Assistant Director Stephanie Libhart for their assistance with this project. We also thank PLAN, Inc. Executive Director Sam Milkes, Esq. for his assistance, as well as the staff of the Mid Penn Legal Services program, and the Dauphin County and PA Bar Associations.

Important Note

This report was developed by Legislative Budget and Finance Committee staff. The release of this report should not be construed as an indication that the Committee or its individual members necessarily concur with the report's findings and recommendations.

Any questions or comments regarding the contents of this report should be directed to Philip R. Durgin, Executive Director, Legislative Budget and Finance Committee, P.O. Box 8737, Harrisburg, Pennsylvania 17105-8737.

II. Overview of Civil Legal Aid and Access to Justice Act

Historical Background

In the United States, the right to an attorney applies in criminal but not civil matters, even though certain civil matters, such as issues involving family law, may be as significant in their impact on an individual as a criminal matter. U.S. Supreme Court Justice Lewis Powell, Jr., stated

Equal justice under law is not merely a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society...it is fundamental that justice should be the same, in substance and availability, without regard to economic status.

Civil legal aid services were first begun in 1964, when the Office of Economic Opportunity was created. This office, with the support of the American Bar Association and Sargent Shriver, launched a legal services program, and in 1974, President Nixon signed into law the Legal Services Corporation Act.

The Legal Services Corporation (LSC) is an independent 501(c)(3) nonprofit corporation that promotes equal access to justice and provides grants for civil legal assistance to low-income Americans. LSC awards grants through a competitive grants process to 136 independent nonprofit legal aid programs with more than 900 offices throughout the nation.¹ The LSC encourages programs to partner with other funders of civil legal aid, including state and local governments, IOLTA boards, access to justice commissions, bar associations, philanthropic foundations, and the business community, in order to obtain needed resources. LSC grantees provide a wide range of civil legal aid assistance, which most frequently involves family law, housing and foreclosure cases, consumer issues, and income maintenance.

Pennsylvania Background Information

Pennsylvania began funding legal aid for the poor in 1973, when the Pennsylvania Legal Aid Network, Inc. (PLAN, Inc.) was established.² PLAN, Inc., is a Pennsylvania not-for-profit corporation, with a board of directors composed of attorneys, clients, and a representative of the programs. Attorneys are appointed by the Pennsylvania Bar Association. Client representatives are appointed by two

¹ The LSC provides funding in Pennsylvania to the Philadelphia Legal Assistance Center, MidPenn Legal Services, Neighborhood Legal Services Association, North Penn Legal Services, Southwestern Pennsylvania Legal Services Inc., Northwestern Legal Services, Legal Aid of Southeastern Pennsylvania, and Laurel Legal Services Inc.

² PLAN, Inc., was first known as the Pennsylvania Legal Services Center. In 1994, it became Pennsylvania Legal Services. In 2006, the name was changed to its current name.

organizations representing clients' interests, the Pennsylvania Welfare Rights Organization and the Pennsylvania Clients Council. The board itself also makes appointments.

Civil legal aid services are available in every Pennsylvania county through Legal Services Programs (LSPs), each of which operates as an independent nonprofit organization. In general, LSPs represent clients whose gross income is at or below 125 percent of the federal poverty level. Annually, these programs handle approximately 100,000 cases in areas including family law, housing, employment, income maintenance, and education.

Interest on Lawyers' Trust Account

To supplement funding for civil legal aid, the Interest on Lawyers' Trust Account (IOLTA) Program, established by Act 1988-59, was created as a voluntary program that permitted lawyers to establish IOLTA accounts for qualified funds given them by their clients.³ An IOLTA account is an interest-bearing account established in a banking institution. The bank holding these funds transfers the interest earned to the IOLTA Board, an independent not-for-profit corporation, which then distributes the funds to civil legal aid providers. In 1996, the Pennsylvania Supreme Court suspended Act 1988-59, assumed jurisdiction for the program in accordance with Pennsylvania's Constitution, and made participation in the program mandatory for all eligible licensed Pennsylvania lawyers. In 2009, due to low interest rates paid on IOLTA accounts and their effect on grants to legal aid programs, the Supreme Court imposed an additional \$25 fee per year on each actively licensed Pennsylvania attorney to support the IOLTA program.

In 2005, the Supreme Court required the Minor Judiciary to establish IOLTA-like accounts. Minor Judiciary officials hold monies from the collection of fees and fines, collateral and cash bonds, and restitution until the funds are transferred to their owner. The interest in these MJ-IOTA accounts is transferred to the IOLTA Board.

In 2007, the PA Supreme Court established an admission fee of \$100 per case to be assessed on out-of-state attorneys who wish to appear in a Pennsylvania Court. The proceeds from this admission fee are dedicated for use by the IOLTA Board. In August 2010, this fee was increased to \$200. Finally, the IOLTA Board also receives funds from voluntary contributions made by lawyers.

The IOLTA Board, which oversees the IOLTA, consists of nine members appointed by the Pennsylvania Supreme Court two of whom are selected from a list

³ Qualified funds are monies received by an attorney in a fiduciary capacity which, in the good faith judgment of the attorney, are nominal in amount or are reasonably expected to be held for a short term that sufficient interest income will not be generated to justify the expense of administering a segregated account.

provided to the Court by the Pennsylvania Bar Association. Each member is appointed to a three-year term, and no member may serve more than two consecutive terms. The Chair of the Board is appointed by the Supreme Court. The Board, upon approval by the Supreme Court, distributes the IOLTA funds to non-profit organizations, law school-administered clinical and externship programs, and administration of justice projects, all of which provide civil legal services free of charge to low-income and disadvantaged Pennsylvania residents.

Access to Justice Act

The Access to Justice Act, Act 2002-122, was signed into law on October 2, 2002. With this act, the General Assembly declared that:

- (1) It is of paramount importance to the citizens of this Commonwealth that all individuals who seek lawful redress of their grievances have equal access to our system of justice.
- (2) The availability of civil legal services is essential to providing meaningful access to justice for indigent persons who cannot afford legal representation.

Until June 30, 2003, the IOLTA's single major source of revenue had been the collection of interest earned on IOLTA accounts with revenue generated dependent upon the interest rates credited by the financial institutions holding the funds. Act 122 created the Access to Justice Account as a non-lapsing restricted receipt account in the State Treasury to be used exclusively to fund these services. Monies in the account are generated by fees imposed on all civil court filings, including filings with Magisterial District Judges, as well as the recording of deeds and mortgages and their related filings, and criminal filings where a conviction or a guilty plea is obtained. Currently, \$2 of the fee is dedicated to AJA.

Effective December 2009, Act 2009-49 imposed a temporary surcharge on the court filings identified in Act 122 (excepting traffic offenses), \$1 of which is to be deposited into the AJA. This act also extended the original fee to defendants accepted into Accelerated Rehabilitation Disposition (ARD) or any other pretrial diversionary program. The surcharge expires in January 2012.⁴ Please see Exhibit 1 for more information on revenue sources.

⁴ House Bill 2011-1229, if enacted, would make the temporary surcharge permanent.

Exhibit 1

Fees and Surcharges Imposed to Support Civil Legal Aid

<u>Access to Justice</u>	<u>Imposed On</u>	<u>Date Implemented</u>
\$2 Fee	<ul style="list-style-type: none">- Initial filings with Prothonotary- Initial filings with Clerk of Orphans' Courts, and Register of Wills- Criminal filings in Court of Common Pleas where a conviction is obtained or guilty plea entered- Initial filings with the minor judiciaries; except in criminal, summary, and traffic matters, fee is only charged when conviction is obtained or guilty plea entered- Each filing of a deed, mortgage, or property transfer with Recorder of Deeds and Clerk of Court- Acceptance into ARD or any other pretrial diversionary program	October 2002 October 2009
\$1 Surcharge	<ul style="list-style-type: none">- On above court filings (except traffic offenses)	December 2009 (expires January 2012) ^a
<u>IOLTA</u>		
\$200 Fee	<ul style="list-style-type: none">- Each Pennsylvania case in which an out-of-state attorney appears	September 2007 (increased from \$100 to \$200 effective September 2010)
\$25 Fee	<ul style="list-style-type: none">- Each active licensed Pennsylvania attorney	April 2009

^aHouse Bill 2011-1229, if enacted, would make the temporary surcharge permanent.
Source: Developed by LB&FC staff.

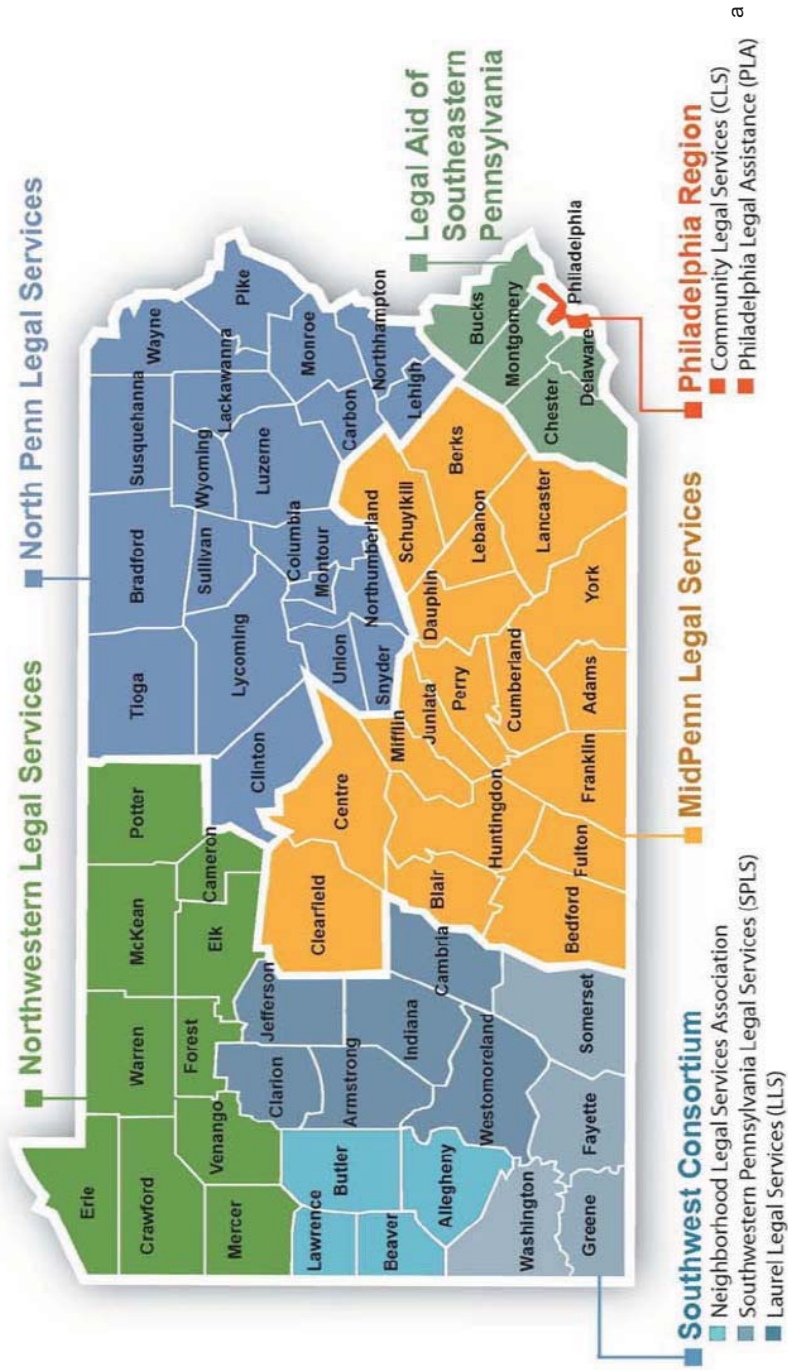
Use of IOLTA and AJA Funds

The monies in the AJA account, including investment income, are appropriated to the Administrative Office of Pennsylvania Courts (AOPC). The monies are then distributed upon requisition to the IOLTA Board which then contracts with eligible legal services providers.⁵ Act 122 defines “eligible legal service provider” as a not-for-profit entity, incorporated in the Commonwealth, that is tax-exempt under the Internal Revenue Code, also known as a 501(c)(3) entity, and that operates for the primary purpose of providing civil legal services to eligible clients and victims of abuse through a contract or subcontract with the Department of Public Welfare. AJA grants fund PLAN, Inc., which distributes grants to the eight legal service providers (LSPs), and five specialized programs. Please see Exhibit 2 for a map showing the statewide distribution of these programs. The IOLTA Board also

⁵ Funds may not be used to make contributions for any political purpose, such as to a specific political party or for lobbying activities.

Exhibit 2

Pennsylvania Legal Aid Network (PLAN)



^a Non-PLAN Funded Program.

^b The PULP is part of RHLS.

Source: PA PLAN, Inc.

awards grants of funds derived from special attorney and judicial trust accounts and other sources. More specifically, other IOLTA-funded grants are awarded to (1) the Pennsylvania Legal Aid Network, Inc., (PLAN), which is a statewide system of legal services programs; (2) the eight Pennsylvania law schools; (3) non-profit organizations to advance pro bono initiatives; and (4) civil legal service organizations that are specifically organized to represent the homeless, disabled, abuse victims, and the elderly, or to provide specialized legal services in the areas of education, immigration, bankruptcy, mortgage foreclosure, predatory lending practices, and other areas including direct grants to PLAN organizations for special projects.

Under Act 2002-122, the Access to Justice Act was to expire in five years (2007). However, Act 2006-81 extended the act until November 1, 2012. Act 2006-81 also directs the LB&FC to conduct a performance audit by November 1, 2011, to determine if there is a continuing justification for the activities and level of financial support provided for in the act.

Program Requirements for AJA-funded Services

The PA Supreme Court published regulations, 204 Pa. Code Ch. 401, establishing eligibility criteria and priorities in allocating resources, i.e., determining which cases to accept.

Eligibility. In order to be eligible for civil legal aid services, a client's family monthly gross income generally cannot exceed 125 percent of the federal poverty guidelines, adjusted according to family size.⁶ In 2011, this was \$27,938 for a family of four. However, legal assistance may be provided without regard to income when the applicant is in need of protective services under the Protection from Abuse Act. There are exceptions to the income eligibility criteria.⁷ For example, LSPs may adopt policies for providing legal assistance to an applicant whose family monthly gross income does not exceed 150 percent of the 125 percent of poverty eligibility income level (i.e., 187.5 percent of poverty income level). LSPs must take into consideration the following factors when determining whether to provide services to clients up to the 187.5 percent level:

- The person is seeking assistance to secure benefits provided by a governmental program for the poor.

⁶ Sources of income include: money or wages earned by individuals 14 years and older before tax, health insurance, and other deductions; spousal and child support; net income from non-farm self employment; net income from farm self-employment; non-resident real property income; Social Security pensions and other retirement payments; state blind pension payments; public assistance such as general assistance and SSI; private and government pensions and annuities; unemployment and workers' compensation; veterans payments; dividends and interest income; income from estates and trust funds and royalties; and net income from room and board payments.

⁷ Exceptions include: earning of a child under 14 years of age; non-reimbursed medical expenses that exceed 10 percent of total family income; child support; money received from the sale of stocks, bonds, house, or car unless the person is in the business of selling such property; withdrawals of bank deposits; money borrowed, tax refunds and rebates, gifts; lump sum inheritances or insurance payments; lump sum lottery winnings; capital gains; among others.

- Current income prospects, taking into account seasonal variations in income.
- Medical expenses.
- Fixed debts and obligations such as taxes.
- Child care, transportation, and other expenses necessary for employment.
- Expenses associated with age or physical infirmity of resident family members.
- Other significant factors related to financial inability to afford legal assistance.

Applicants must also be residents of Pennsylvania.⁸ Additionally, groups, non-profit corporations, associations, or other entities may receive legal assistance from an LSP if the group lacks and has no practical means of obtaining private counsel and:

- At least a majority of the group's members are financially eligible for legal assistance;
- For a non-membership group, at least a majority of the individuals who are forming or operating the group are financially eligible for legal assistance;
- The group has as its principal function or activity the delivery of services to those in the community who would be financially eligible for legal assistance; or
- The group has as its principal function or activity the furtherance of the interests of those persons in the community who would be financially eligible for legal assistance and the representation sought relates to that function or activity.

Funding Priorities. Each LSP is to plan and provide services in such a way that responds to existing and changing client and community needs, promptly and strategically. To accomplish this, each LSP is to appraise the needs of eligible clients in the geographic areas served by the provider and ensure opportunity for participation by representatives of the client community and the LSP's employees in the setting of priorities. Factors that the LSP may consider in setting priorities include, for example, the population of eligible clients in the geographic areas served by the LSP, including those with special legal problems or special difficulties of access to legal services; the resources of the LSP; the availability of other sources of

⁸ Out-of-state students and foreign students who are living in Pennsylvania while attending an education or job-training institution in Pennsylvania are considered residents. Migrant workers who are seasonally employed or seeking seasonal employment in Pennsylvania are also considered residents. LSPs receiving LSC funding may only provide services to legal aliens or citizens. Of the six programs that could provide services to undocumented aliens, only three do so for approximately several hundred clients a year. All programs, regardless of funding source, may provide services to undocumented aliens in cases of domestic violence and human trafficking.

legal assistance; and the relative importance of particular legal problems of the individual clients.

LSPs are specifically prohibited from using the funds for political and lobbying activities, for fee-generating cases, defense of criminal prosecutions, and to provide legal assistance in cases in which the Commonwealth has an obligation to provide counsel to the indigent through another source identified by statute.⁹ See Appendix A for case examples from the various civil legal aid service providers.

General Information on Other States

States differ in structure and administration of civil legal aid services for low-income persons. For example, several states have established a formal access to justice commission, several have coalitions, and still others have bar-based committees with broad-based leadership responsibilities. Participation in IOLTA programs varies from mandatory to voluntary to having an opt-out option.

Funding mechanisms for civil legal aid services also vary. These include using general fund monies, assessing fees on document filings in the court system, assessing *pro hac vice* fees,¹⁰ and imposing fees on attorney license registrations. This section provides a general overview of the other states.

Structure. States use a variety of administrative structures for their civil legal aid programs. (See Exhibit 3.) For example, 22 states have Access to Justice Commissions. In general, these commissions have similar goals:

- Improve and expand the provision of legal assistance, particularly to low-income individuals and families.
- Increase the participation and provision of services by attorneys, legal professionals and volunteers.
- Provide the various social service agencies and organizations with more effective tools to assist those in need of legal services.

Commission members generally include representatives of the judiciary and legal community, representatives of law schools, business and community leaders, representatives from the three branches of government, and clients of civil legal service providers.

There are four states with Access to Justice Coalitions. As an example, the Illinois Coalition for Equal Justice is a joint project of the Chicago Bar Association,

⁹ These include representation for: parties in a contested involuntary termination of parental rights case; parties in juvenile dependency and delinquency cases; adults in need of protective services; in mental competency determination hearings where a person is charged with a crime; in hearings on court-ordered involuntary mental health treatment; and in hearings to determine certain exemptions under Megan's Law.

¹⁰ Imposed on out-of-state attorneys for occasional appearances in the state's courts, usually assessed on a per-case basis.

Exhibit 3

Civil Legal Aid Committees, Commissions, and Entities in the States

Access to Justice Commissions (22)

- Alabama Access to Justice Commission
- Arkansas Access to Justice Commission
- California Access to Justice Commission
- Colorado Access to Justice Commission
- Hawaii Access to Justice Commission
- Kentucky Access to Justice Commission
- Maine Justice Action Group
- Maryland Access to Justice Commission
- Massachusetts Access to Justice Commission
- Minnesota Legal Services Planning Committee
- Mississippi Access to Justice Commission
- Nevada Access to Justice Commission
- New Hampshire Access to Justice Commission
- New Mexico Commission on Access to Justice
- North Carolina Equal Access to Justice Commission
- South Carolina Access to Justice Commission
- Tennessee access to Justice Commission
- Texas Access to Justice Commission
- Washington State Access to Justice Board
- West Virginia Access to Justice Commission
- Wisconsin Access to Justice Commission
- Wyoming Access to Justice Commission

State Coalitions (4)

- Alaska Supreme Court Access to Civil Justice Committee
- Illinois Coalition for Equal Justice
- Utah Access to Justice Service Providers Council
- Vermont Access to Justice Coalition

Bar-based Committees with Broad Access to Justice Leadership Charge (13)

- Arizona State Bar Legal Service Committee
- Delaware State Bar Association Standing Committee on the Provision of Legal Service to Low-income People
- Florida Bar Foundation legal Assistance for the Poor Committee
- State Bar of Georgia Access to Justice Committee
- Idaho Delivery of Legal Services Advisory Council
- Louisiana State Bar Access to Justice Committee
- State Bar of Michigan Standing Committee on Justice Initiatives
- Minnesota State Bar Association legal Services to the Disadvantaged Committee
- New York State Bar Association President's Committee on Access to Justice
- Oregon State Bar Board of Governors Access to Justice Committee
- **Pennsylvania Bar Association Equal Justice for the Poor Committee**
- Rhode Island Bar Association Committee on Legal Services
- Tennessee Bar Association Access to Justice Committee

Statewide, Supreme Court Created Pro Bono Commission (3)

- Idaho Pro Bono Commission
- Indiana Pro Bono Commission
- Maryland Standing Committee Pro Bono Legal Service

Staffed Programs with Broad Access to Justice Leadership Charge (9)

- Arizona Foundation for Legal Services and Education
- Kentucky Access to Justice Foundation
- Legal Services of New Jersey
- Maryland Legal Services Corporation
- New York State Courts Access to Justice Program
- Ohio legal Assistance Foundation
- **Pennsylvania Legal Aid Network**
- Tennessee Alliance for Legal Services
- Legal Services Corporation of Virginia

Source: American Bar Association.

the Illinois State Bar Association, and the Chicago Bar Foundation. Funding for the Coalition is provided by the Lawyers Trust Fund of Illinois. The mission of the Illinois Coalition is to improve access to justice for lower income people by working collaboratively with other groups to publicize and develop Internet-based legal self-help centers throughout Illinois, with a principal emphasis on areas outside Chicago. Working collaboratively with Illinois Legal Aid Online, local judges, circuit clerks, the bar, elected officials, and other interested individuals and groups, the Coalition has established legal self-help centers around the state. The Coalition is governed by an executive committee whose members are appointed by the Chicago Bar Association and the Illinois State Bar Association. The Chicago Bar Foundation provides administrative support to the Coalition.

Thirteen states have bar-based committees with a broad access to justice leadership focus. The Florida Bar Foundation, a 501(c)(3) public charity, is the only statewide organization that provides funding for legal aid and promotes improvements in addressing the civil legal needs of the poor. The Foundation is governed by a 33-member board of directors, which meets quarterly. Supported primarily by IOLTA funds, the Foundation's Legal Assistance for the Poor (LAP) general support grants are awarded to a network of about 31 local, not-for-profit legal aid programs. Together this network provides at least basic access to the justice system for individuals and families residing in every county in Florida. Grants support a broad range of legal assistance for low-income Floridians, including issues involving family law, housing, individual rights, consumer rights, and income maintenance. Funding levels for general support grants are based on the number of poor persons in the county who meet financial eligibility guidelines. LAP grants also support legal assistance for specific client services and to serve specific client groups.

There are three statewide, state Supreme Court pro bono commissions. For example, the Indiana Pro Bono Commission is a project of the Indiana Bar Foundation and consists of 21 members appointed by the Indiana Supreme Court and the Indiana Bar Foundation. District Committees submit an annual report and plan that addresses the unmet legal needs in their community. The Indiana IOLTA program funds the implementation of the district plans and the efforts of the District Committees to improve delivery of civil legal services to the lower income population in their district.

Nine states have staffed programs with a broad access to justice leadership focus. The Pennsylvania Legal Aid Network, Inc. is included in this group. Another example of this type of entity is the Ohio Legal Assistance Foundation (OLAF), a statutorily-created non-profit organization committed to equal access to justice.¹¹

¹¹ Among the 35-plus Foundation board members are appointees from the Governor, the Attorney General, the Chief Justice, the State Treasurer, the State Public Defender, the Speaker of the Ohio House of Representatives and the Ohio Senate President. Other bar leaders and executives concerned about equal justice serve as trustees and are appointed by the OLAF board to three-year terms.

OLAF is charged with administering state funds for Ohio's legal aid societies. State funds for civil legal services to the poor are distributed to legal aid societies throughout the state by a statutory formula based on the poverty population in each county. Every county is served by a legal aid society.

IOLTA Programs. All states use IOLTA accounts to fund civil legal aid programs. IOLTA programs are created either by order of a jurisdiction's highest court or by state statute. There are three types of programs: mandatory, opt-out, and voluntary. A mandatory program is one in which all lawyers in the jurisdiction who maintain client trust accounts must participate. An opt-out program is one in which all lawyers participate unless they affirmatively choose not to participate. A voluntary program is one in which lawyers must affirmatively decide to participate. Pennsylvania, along with 41 other states, has a mandatory program. There are 7 states that have an opt-out program, and 1 state has a voluntary program. See Exhibit 4 for a list of states and types of IOLTA programs.

Other States' Survey Responses

As discussed, states vary in their approaches to civil legal aid. To obtain more detailed comparative information relating to organizational structure, funding sources, and case statistics, we sent an email survey to civil legal aid entities in the other states. A summary of the responses we received follows.¹² Appendix B includes additional funding and case information.

In general, the four states responding to our survey¹³ indicated that they receive general fund monies, as does Pennsylvania. Two states, like Pennsylvania, impose court filing fees, and two states, also like Pennsylvania, impose fees on attorney registrations. When compared to Pennsylvania, Maryland handles a similar number of cases annually, with Pennsylvania handling approximately 100,000, and Maryland handling approximately 103,656 cases. Minnesota handles about half the number of cases, approximately 52,323, as compared to Pennsylvania. See Appendix C for more information regarding state funding in all the states.

Alabama

Alabama has several providers of civil legal aid to the poor. One is a state-wide program funded by the Legal Services Corporation that provides services through 10 offices located throughout the state. The others are pro bono programs: the Birmingham Volunteer Lawyers Program serves Jefferson County, the Mobile Bar Association Volunteer Lawyers Program serves Mobile County, the Madison

¹² We learned from the questionnaire responses that the Georgia Supreme Court Committee on Civil Justice was dissolved in late 2010. There is, however, a Bar Committee known as "Access to Justice." Georgia is considering re-establishing a judicial access to justice committee, which would incorporate the former committee on civil justice. The questionnaire response indicated that the re-establishment of this committee will most likely not occur until FY 2012 at the earliest.

¹³ Indiana also responded but did not provide statistical information for comparison.

State IOLTA Programs*

Mandatory IOLTA Programs

Alabama
Arizona
Arkansas
California (L)
Colorado
Connecticut (L)
Delaware
Florida
Georgia
Hawaii
Illinois
Indiana
Iowa
Kentucky
Louisiana
Maine
Maryland (L)
Massachusetts
Michigan
Minnesota
Missouri
Mississippi
Montana
Nevada
New Jersey
New Mexico
New York (L)
North Carolina
North Dakota
Ohio (L)
Oklahoma
Oregon
Pennsylvania
Rhode Island
South Carolina
Tennessee
Texas
Utah
Vermont
Washington
West Virginia
Wisconsin

Opt-Out IOLTA Programs

Alaska
Idaho
Kansas
Nebraska
New Hampshire
Virginia
Wyoming

Voluntary IOLTA Program

South Dakota

*States in bold converted from voluntary status. States in italics converted from opt-out status. An (L) after the state indicates that the program is established in statute; all those not so indicated are created by a state Supreme Court order.

Source: American Bar Association.

County Volunteer Lawyers Program serves Madison County, and the Alabama State Bar Volunteer Lawyers Program serves the remaining 64 counties in the state.

The Alabama Law Foundation (the state's IOLTA program) distributes funds to the providers. It also acts as the fiscal agent for the Alabama Access to Justice Commission, which has no staff of its own. Funding is not distributed on a formula basis, but the foundation considers the size of the poverty population being served as well as the amount of other sources of funding the provider receives for its operations. In FY 2010, Alabama's civil legal aid providers spent a total of \$10,482,420. Of this amount, \$200,000 were general fund monies.

In CY 2010, civil legal aid providers handled 14,688 cases. The criteria used to determine eligibility for services is income of no more than 125 percent of poverty level, and for LSC-funded cases, income of up to 200 percent of poverty level if certain criteria are met. About 16 percent of those eligible and requesting services actually receive services from these programs.

California

The Legal Services Trust Fund Program (LSTFP) of the State Bar of California manages three sources of funding for legal aid: (1) the IOLTA program, (2) the Equal Access Fund (EAF) program (comprised of state general funds distributed through the courts' budget and filing fee revenue), and (3) Justice Gap funds and Temporary Emergency Legal Services Funds (both voluntary contributions through the attorney member dues bill). Currently, these funding sources are all distributed to 96 legal aid and support centers according to a statutory distribution formula, although there are variations in how the funds are administered. The legal aid programs vary significantly in budget, number of attorneys, constituencies served, and areas and means of service delivery. In total, \$250,108,127 was spent handling approximately 145,000 cases.

The LSTFP distributes grants to the civil legal aid providers. The LSTFP reports to a Commission, which is responsible for making grantee eligibility determinations, approving budgets, and monitoring program compliance. The Commission is appointed two-thirds by the Board of Governors of the State Bar of California and one-third by the Judicial Council.

The distribution of IOLTA funding is according to statute. After administration, 15 percent of IOLTA distribution is divided equally among qualified support centers (whose primary purpose is to provide support to qualified legal aid programs), and the remaining 85 percent is divided among qualified legal aid programs based on qualified expenditures the prior year and a calculus of the poverty population by county. Currently, EAF follows the IOLTA distribution allocation but must be budgeted for specific projects.

Indiana

The Indiana Pro Bono Commission has 14 pro bono district programs. Indiana Legal Services is the LSC-funded entity that serves the state. There are several local civil legal aid providers. The Indiana Pro Bono Commission distributes IOLTA funding based on pro bono district reports and grant applications. IOLTA funds for CY 2010 were \$1,570,867. Further, the Indiana legislature established a civil legal aid fund that is administered by the Indiana Supreme Court, Division of State Court Administration. There are also other funding sources such as foundations and private donors. The Indiana Pro Bono Commission reports it is considering additional funding sources such as filing fees, attorney fees, and grants.

Income eligibility requirements depend upon the program and range from 125 percent of the federal poverty level to 200 percent of the federal poverty level for mortgage foreclosure cases. Indiana's 2009 legal needs of the poor study indicated that 62 percent of those who sought legal representation from the pro bono districts were unable to obtain it, and 75 percent of those who applied for assistance from Indiana Legal Services were unable to obtain it.

Maryland

The Maryland Legal Services Corporation (MLSC) is a statutorily created non-profit entity that receives and administers funding from IOLTA, filing fee surcharges, and a small special funds appropriation. It also funds Maryland Legal Aid, an LSC-funded entity, which consists of about 35 providers that receive at least some funding from the MLSC. In addition, Maryland has a number of initiatives funded by the courts including: self-help centers in all circuit courts (general jurisdiction) and one in a district court (limited jurisdiction) and protective order advocacy representation projects (on-site domestic violence providers). In FY 2010, approximately \$9,800,000 was spent handling 103,656 cases.

The MLSC distributes funds to the civil legal aid providers. The Maryland Judiciary makes additional grants to some providers and contracts with others. Funding distribution to civil legal aid providers is evaluated by the funders primarily by reviewing grant applications.

The criteria used to determine eligibility for services is income up to 125 percent of federal poverty level; this is used by the LSC provider. The MLSC grantees provide services to persons making 50 percent of the median family income for the state. MLSC estimates about 22 percent of those eligible receive services. Maryland Legal Aid has reported turning significant numbers of eligible clients away, a phenomenon that has increased during the economic downturn.

During the 2010 legislative session, court filing fees were raised, which will result in a significant increase in the filing fee surcharges levied in all courts.¹⁴ This was intended to help overcome the significant decline in IOLTA revenue due to historically low interest rates.

Minnesota

Minnesota civil legal services programs operate independently, but receive state and IOLTA funding through the Minnesota Supreme Court. The Minnesota Supreme Court appoints an 11 member committee known as the Legal Services Advisory Committee (LSAC) to distribute the discretionary funds through a grant application process. For state funding, 85 percent of the appropriation must be distributed on a per poverty population basis to the original LSC-funded programs that cover every county in the state. The remaining 15 percent of legislative funding, plus all attorney registration funding and all IOLTA funding, is distributed through a grant application process. In FY 2010, Minnesota spent \$20,477,268 providing civil legal aid services. Of this amount, \$12,100,000 was general fund monies.

The LSAC uses 200 percent of poverty as its funding guideline. Programs may provide services to individuals above this income level, but not using LSAC funds. In CY 2010, civil legal service providers handled 52,323 cases.

Studies Show Positive Fiscal Impact of Civil Legal Aid Services on Economy

In addition to providing individual benefits to the client, LSPs have been shown to bring significant economic benefits to the communities in which they operate. In addition, they reportedly increase federal, state, and local tax revenues, reduce public expenditures, and stimulate the economy. Further, medical-legal partnerships increase hospital revenue when insurance reimbursements are obtained. LSPs are able to obtain federal benefits for their clients such as Medicare, Supplemental Security Income, and federal disability benefits as well as obtain child support payments owed to the clients and obtain restraining orders and protection from abuse orders. Clients receive representation in other family law cases such as child welfare proceedings and shelter care cases and assistance with housing and mortgage issues.

Several studies published in recent years have shown the positive impact that LSPs have on the economy, income, crime prevention, reduced mortgage foreclosures, and employment, among other impacts. These studies attempt to measure the impact that LSPs have on the economy by not only examining the dollar value of

¹⁴ The civil case filing surcharge in circuit courts was increased from \$25 to \$55 in District Courts, the \$5 surcharges for summary judgement cases was increased to \$8, and the \$10 surcharge on all other civil cases was increased to \$18. This increase is effective until June 30, 2013.

awards disbursed to clients, but also factoring a spending multiplier into the analysis. A spending multiplier is money that a client spends in his or her community. Thus, the direct impact of the additional benefits received will ripple through other sectors of the local economy producing indirect impacts. The studies summarized herein generally use a spending multiplier of two to determine the impact on the local economy. This means that for every dollar a client receives in benefits, two dollars will be generated for the local economy.

Two economic impact studies have been completed relating to Pennsylvania's LSPs. These two studies are briefly described below. Additional studies have been completed for programs in other states. These studies are summarized in Exhibit 5.

PA IOLTA Report.¹⁵ In February 2009, the Pennsylvania IOLTA Board issued a report on the results of the Pennsylvania Access to Justice Act for FY 2004 through FY 2008. The total economic impact of civil legal aid assistance supported by AJA funds was reported to be \$154 million, more than four times the amount of funds invested in providing these services.¹⁶ The impacts include:

- \$68 million in economic activity in local communities. Each dollar of federal benefits for clients circulated 1.86 times through local economies, which increased sales for local businesses and impacted 1,710 jobs for working Pennsylvanians.
- \$37 million in direct-dollar benefits for clients (included in the \$68 million). These funds produced needed financial support and reduced the burden of such assistance on taxpayers.
- \$8 million savings in emergency shelter costs.
- \$23 million savings in the costs of domestic abuse, which include medical care for victims, education and counseling for children, police resources, and corrections costs for abusers.
- \$55 million savings for low-income utility customers. In 2007, the PA Utility Law Project represented low-income customers in negotiating an agreement with the gas company that eliminates security deposits and initial enrollment payments and provides significant discounts for low-income customers.

The report also shows additional economic impacts that are not easily quantified, including savings from crime prevention and law enforcement assistance; savings from keeping children in school whose attendance would otherwise have been interrupted by homelessness and/or domestic abuse; efficiencies in Pennsylvania

¹⁵ *Results of the Pennsylvania Access to Justice Act, FYs 2004-08*, February 2009. Available at www.paiolta.org/ajareport/ajareport.htm.

¹⁶ This study used a methodology similar to that used in a study done in 2007 in New York State.

Other State Economic Impact Studies

Massachusetts: Massachusetts Legal Assistance Corporation analyzed the cost savings to the state resulting from legal assistance provided to low income clients. The analysis concluded that in FY 2007, \$600,000 was spent on representing clients who applied for Social Security Disability Income or Supplemental Security Income benefits. This effort yielded \$7.7 million in new federal revenue with an effect on the economy of Massachusetts of \$7.7 million to \$15.4 million. In the same fiscal year, more than 600 Massachusetts low-income tenants avoided eviction because of assistance provided by the Great Boston Legal Services. If evicted, many of these residents would have had to enter the emergency shelter system. Because these residents were able to stay in their own housing, a net savings to the Commonwealth of more than \$7.6 million resulted.

In FY 2007, Massachusetts' Battered Women's Legal Assistance Project (BWLAP) provided legal assistance to 2,989 victims of domestic violence. Relying on a Wisconsin cost benefit analysis, the BWLAP estimated that preventing one assault per victim would avoid \$3,000 in costs for each victim represented. These savings included reduced medical care for injured victims, special education and counseling for affected children, police resources, and prison for perpetrators. In summary, the MLAP was able to show that through the state's legal aid programs, total revenues and cost savings to the Commonwealth were at least \$70.6 million. (*Cost Savings to the Commonwealth Resulting from Legal Assistance Provided to Low Income Clients*, Massachusetts Legal Assistance Corporation, December 2007.)

Minnesota: In early 2003, the Minnesota State Bar Association (MSBA) issued a report on the long-term benefits that have resulted from the state's legal aid programs. The MSBA reported that legal aid secures about \$4 million each year in new child support orders, primarily on behalf of families on public assistance, thus reducing the burden of such assistance on taxpayers. Thousands of disabled persons in Minnesota obtain over \$5 million annually in new federal disability benefits, which eases the burden on state and local government funds. Civil legal aid services prevented homelessness in an estimated 2,650 cases in 2002, which saved the government about \$3.96 million in shelter subsidy costs. Further, because civil legal aid cases are oftentimes settled prior to a court hearing or are screened out for lack of merit, the MSBA estimated that at least \$5.1 million was saved in court time. Legal aid also helps reduce family instability, abuse, and school instability, which are all factors in producing violent crime. The report notes that preventing just five people from committing a violent crime saves the state \$4 million in prison and corrections costs. (*With Liberty and Justice for All; Legal Aid: Essential to the Justice System*, Minnesota State Bar Association, March 2003.)

Nebraska: The University of Nebraska at Omaha Center for Public Affairs Research conducted a study designed to identify and describe the benefits, costs, and economic impact of Legal Aid of Nebraska. This study showed that for 2007 more than \$2.8 million was brought into Nebraska through federal awards to clients, of which 93 percent represented payments from federal Supplemental Security Income and Supplemental Security Disability Income. Additionally, over \$2.3 million in child support payments, \$63,619 in alimony payments, \$7,517 in unemployment payment, and \$103,380 in other payments were obtained for civil legal aid clients. Indirect benefits were also identified. For example, the state realized tax savings in the amount of \$599,313. In total, for 2007, for every dollar spent on civil legal aid services, \$3.97 in benefits was realized. (Jerome A. Deichert and Rod Feelhaver, *The Economic Impact of Legal Aid of Nebraska*, March 2008.)

New Hampshire: New Hampshire's North Country civil legal services appropriation for each of the two-year 2005-2007 biennium was \$270,000. A report by New Hampshire Legal Assistance shows that this appropriation assisted North Country clients obtain federal disability benefits and health care coverage worth more than \$1,589,637, which is more than triple the amount of the appropriation. (*North Country Civil Legal Services Appropriation*, New Hampshire Legal Assistance, July 2007.)

Texas: An economic impact study was conducted in Texas for cases closed in 2007. This study found that almost half of the 108,000 legal aid cases closed in 2007 were family law cases. It is reported that the estimated gain in business activity because of legal aid services amounts to \$457.6 million annually in spending, \$219.7 million in gross product, and 3,171 jobs. For every dollar spent directly for civil legal services, the overall gains to Texas' economy are thought to be \$7.42 in total spending, \$3.56 in gross product and \$2.20 in personal income. Moreover, this study reported that civil legal aid services generate approximately \$30.5 million in yearly fiscal revenues to state and local governmental entities, which is considerably above the approximately \$4.8 million in contributions. (*The Impact of Legal Aid Services on Economic Activity in Texas: An Analysis of Current Efforts and Expansion Potential*, The Perryman Group, February 2009.)

Source: Developed by LB&FC staff from a review of the cited reports.

courts made possible by assistance to clients and self-represented litigants, such as materials and training on how to follow court procedures; and additional tax revenues from jobs preserved as a result of employment cases.

Lehigh University Study of Disability Benefits Assistance.¹⁷ Students from the Lehigh University conducted an analysis of disability benefits assistance provided by North Penn Legal Services (NPLS) using data from cases closed in calendar year 2009.¹⁸ During this year, NPLS closed 431 cases related to disability benefits assistance. The study reports that over \$1.5 million in disability benefits were recovered for the clients. The study also reports that the annual impact on the local economy in the counties served by NPLS might be as high as \$2.5 million. There are also qualitative benefits that accrue, including improving the standard of living and quality of life for the clients receiving the recovered benefits. For example, the study reports that clients who have received the disability benefits are able to receive better health care and continue to make mortgage and rental payments, thus decreasing homelessness. Further, the study reports that receiving such benefits significantly reduces the likelihood that women will become victims of domestic violence.

¹⁷ Kate Auletta, Jessica Cooney, Jennifer Nagel, and Victoria Oleynick, *Economic Impact of Legal Aid: An Analysis of Disability Benefits Assistance Provided by North Penn Legal Services*, 2010.

¹⁸ This report used assumptions put forth by researchers at the University of Nebraska and the University of Massachusetts-Boston, who suggested that for every dollar brought into the state as a result of legal aid activities, an additional dollar is generated.

III. AJA Funding Has Been Relatively Stable in Recent Years, But Overall Civil Legal Aid Funding Is Below FY 2007-08 Levels

Funding for civil legal aid in Pennsylvania comes from a variety of federal, state, and local revenue streams. From FY 2003-04 through FY 2009-10, funding for Pennsylvania's civil legal aid programs increased 38 percent in current dollars, but the state and state-appropriated funds (not including IOLTA and AJA funds) did not keep up with inflation. About 36 percent of total federal and state funding for legal aid in Pennsylvania is from the Legal Services Corporation (LSC). However, the LSC funding to Pennsylvania is less this year, due to a \$15.8 million reduction in LSC's federal appropriation.

The Department of Public Welfare provides 26 percent of the total of federal and state funding for legal aid through the Title XX Social Services Block Grant (SSBG), a General Fund appropriation, and through the Disability Advocacy Project (DAP). Dollar amounts for the SSBG and DAP have remained the same for each of the past seven years. AJA fees were implemented in November 2002 and amended to include a temporary surcharge in 2009. These fees, collected by County Row Offices and the Courts, represent about 24 percent of the total federal and state funding for legal aid. Interest income from the IOLTA accounts has decreased dramatically from the FY 2007-08 level because of lower interest rates now being paid by financial institutions.

Funding Sources for Pennsylvania Civil Legal Aid

Funding for civil legal aid in Pennsylvania is a combination of federal and state government monies as well as locally-raised funds and in-kind resources. Pennsylvania Legal Aid Network, Inc. (PLAN) administers state-appropriated funds and IOLTA Board grants to eight regional legal aid programs and five specialized programs. Table 1 lists the funds by source for PLAN, Inc. funded organizations and Philadelphia Legal Assistance.

Federal Funding

Federal money comes from the Legal Services Corporation (LSC) in the form of competitively awarded grants that are given directly to legal services providers and represents about 23 percent of the overall funding and in-kind (primarily the value of volunteer pro bono services) resources for PLAN, Inc. The LSC Act prohibits the providers from using the funds for fee-generating cases; criminal proceedings; political activities, voter registration, or transportation to polls; training that advocates a particular public policy or encourages political activity; legal assistance

Table 1

**Pennsylvania Civil Legal Aid Programs*
Annual Revenues From All Sources**

	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
FEDERAL							
Federal Legal Services Corporation	\$11,008,605	\$11,107,703	\$11,003,192	\$10,897,470	\$11,306,928	\$14,455,237	\$14,311,370
STATE							
Pennsylvania General Fund	2,604,320	2,519,000	2,519,000	2,569,000	2,771,000	3,184,493	3,158,000
Special State Allocation		138,766	236,914	165,000		125,000	
Special Block Grant Allocation	1,000,000						
Pennsylvania Social Services Block Grant	5,049,001	5,049,000	5,049,000	5,049,000	5,048,994	5,048,995	5,049,000
Pennsylvania Disability Project Funding	909,000	909,000	909,000	909,000	909,000	909,000	909,000
Access to Justice Act	2,140,444	7,394,827	7,342,644	9,900,000	9,677,130	9,684,547	10,100,383
Statewide IOLTA and MJ-IOTA	3,297,910	1,515,756	1,990,955	6,234,600	9,206,135	2,786,643	1,726,746
Other	<u>363,481</u>	<u>249,083</u>	<u>60,724</u>	<u>173,393</u>	<u>18,000</u>	<u>187,594</u>	<u>2,396,608</u>
Subtotal PLAN, Inc. Funds	\$15,364,156	\$17,775,432	\$18,108,237	\$24,999,993	\$27,630,259	\$21,926,272	\$23,339,737
LOCALLY RAISED FUNDS							
Local Efforts and Direct IOLTA Grants	<u>11,688,508</u>	<u>11,689,335</u>	<u>12,052,610</u>	<u>12,750,794</u>	<u>16,146,780</u>	<u>15,037,301</u>	<u>15,813,187</u>
Subtotal Funding	\$38,061,269	\$40,572,470	\$41,164,039	\$48,648,257	\$55,083,967	\$51,418,810	\$53,464,294
In kind Revenues, mostly value of pro bono ...	<u>3,960,535</u>	<u>3,982,253</u>	<u>4,900,499</u>	<u>4,045,609</u>	<u>4,301,867</u>	<u>4,386,921</u>	<u>4,699,453</u>
Total Revenues	\$42,021,804	\$44,554,723	\$46,064,538	\$52,693,866	\$59,385,834	\$55,805,731	\$58,163,747
Less: Organizations Not AJA Funded							
Philadelphia Legal Assistance	\$ 3,440,193	\$ 3,584,666	\$ 3,382,434	\$ 3,503,097	\$ 3,723,792	\$ 3,616,585	\$ 4,285,268
Community Impact Legal Services							
(Locally Raised Funding)	342,246	408,467	513,197	450,025	590,407	403,904	
Less: In kind Revenues	<u>3,960,535</u>	<u>3,982,253</u>	<u>4,900,499</u>	<u>4,045,609</u>	<u>4,301,867</u>	<u>4,386,921</u>	<u>4,699,453</u>
Total Plan Funding (Leveraged by AJA Funding).....	<u>\$34,278,830</u>	<u>\$36,579,337</u>	<u>\$37,268,408</u>	<u>\$44,695,135</u>	<u>\$50,769,768</u>	<u>\$47,398,321</u>	<u>\$49,179,026</u>

*Includes PLAN, Inc. funded organizations and Philadelphia Legal Assistance.

Source: Information provided by IOLTA.

to illegal aliens;¹ or for legal assistance with respect to non-therapeutic abortion, desegregation of elementary or secondary schools, violations of the Military Selective Service Act, or assisted suicide. Grant monies from LSC represent 36 percent of Pennsylvania's total state and federal funding for the seven years shown on Table 1. Pennsylvania's LSC funding ranged from a low of \$10.8 million in FY 2006-07 to a high of \$14.5 million in FY 2008-09 and averages just over \$12 million annually. Between FY 2003-04 and FY 2009-10, LSC funds to Pennsylvania increased 30 percent; however, in February 2011, the U.S. House of Representatives voted to reduce LSC's appropriation for field programs by \$70 million. The federal budget agreement that was reached in April 2011 reduced the funding to LSC by \$15.8 million. Although not as great a consequence had the \$70 million cut remained in place, PLAN, Inc. officials believe this will still effectively result in a reduction in funding to Pennsylvania's programs for the remainder of the federal fiscal year of 7.8 percent, or \$554,128. Without a federal budget in place, LSC had been operating using a series of Continuing Resolutions (CRs) that kept its funding at the previous year's level.

State Funding

Access to Justice Act (AJA) – Act 2002–122 imposed a \$10 fee on court filings, with \$2² designated to provide civil legal assistance to low-income Pennsylvanians. Act 2009–49 established a temporary \$1 surcharge applicable to the same court filings (except traffic offenses) and extended the original fee to defendants accepted into ARD or any other diversionary program. The temporary surcharge is scheduled to end January 7, 2012. The IOLTA Board enters into an annual grant agreement with PLAN, Inc. for those AJA funds collected by the courts and county row offices. PLAN, Inc., in turn, sub-grants the monies to the eight regional programs and five specialized programs within its network. AJA funds may not be used for political or lobbying activities, or cases in which the Commonwealth has an obligation to provide counsel.

AJA grant funding has been 24 percent of the total federal and state monies provided to PLAN, Inc. for civil legal aid from FY 2003-04 through FY 2009-10. AJA grant dollars have increased 37 percent since the first full year of collections (FY 2004-05). Averaging just over \$8.0 million a year, these grants are 38 percent of PLAN, Inc.'s total state funding.

Social Services Block Grant (SSBG) – The Department of Public Welfare (DPW) uses Title XX monies to fund local legal services programs through a contract with PLAN, Inc. The services provided include: termination of employment and unemployment compensation; custody and other family law matters; insurance;

¹ An exception is made in cases of domestic violence, sexual assault, trafficking, and certain other crimes regardless of immigration status.

² The fee was phased in over the first three years: \$1 for 2002-03; \$1.50 for 2003-04; and \$2 thereafter.

health care; income and income supports; discrimination due to race, age, sex, or handicap; wage and pension claims; housing; taxation; wills and estates; Social Security; disability; debtor-creditor issues; and protective services under the Protection from Abuse Act. These funds may not be used for fee-generating cases, criminal cases, or cases that the Commonwealth or political subdivision is obligated to provide counsel to the indigent. Eligible clients include recipients of TANF, SSI, services under the Protection from Abuse Act, Medicaid, General Assistance, and anyone else whose gross family income does not exceed 125 percent of Federal Poverty Income Guidelines.³

The SSBG is 15 percent of total state and federal funding for civil legal aid. The value of PLAN, Inc.'s contract, \$5.05 million annually, did not change between FY 2003-04 and FY 2009-10.

Statewide IOLTA and MJ-IOTA – IOLTA was established in 1988 as a voluntary program to raise funds to provide civil legal services to the poor and disadvantaged, becoming mandatory in 1996. Funds held by attorneys for their clients are placed in an IOLTA account when the amount is small or will be held for a relatively short period of time and investing the funds for the client is not economically practical. At least quarterly, interest earned from these accounts is transferred to the IOLTA Board by financial institutions and distributed via a grant process to LSPs. The IOLTA Board requires that its funds be allocated according to a census-based allocation formula for regional LSPs and according to an agreed-upon per specialty attorney basis for specialty LSPs. The funds cannot be used for fee-generating cases, criminal defense, civil action brought against an official of the court or law enforcement challenging the validity of criminal conviction, advancement of any political party or association or candidate for public office or to support or oppose a ballot question, for capital acquisition or abortion-related representation.

MJ-IOTA, the Minor Judiciary Interest on Trust Account, consists of all qualified funds received by a judge, magistrate, or Magisterial District Judge in the administration of his/her duties. Qualified funds are monies received in a custodial capacity that are nominal in amount or are reasonably expected to be held for such a short period of time that sufficient interest will not be generated to justify the expense of earning interest to benefit the owner of the funds. These funds are remitted to the IOLTA Board at least quarterly by financial institutions and are distributed to PLAN, Inc. via the same grant process used for IOLTA. MJ-IOTA funds may be used for: (1) educational legal clinical programs and internships administered by law schools, (2) delivery of civil legal assistance to the poor and disadvantaged by non-profit corporations, and (3) administration and development of the MJ-IOTA program. Included in the statewide IOLTA funding are the proceeds of

³ 2011 annual income guidelines are \$13,613 for an individual and \$27,938 for a family of four.

the \$25 annual assessment on Pennsylvania-licensed attorneys that was first awarded for legal services during the fiscal year ending June 30, 2010.

The statewide IOLTA, MJ-IOTA, and attorney assessment are 11.5 percent of total state and federal funding, averaging about \$3.8 million annually. Between FY 2003-04 and FY 2009-10, funds from these sources decreased 47 percent. As a result of the interest rates in effect, the funds decreased \$7.5 million, or 81 percent, from FY 2007-08 to FY 2009-10. LSPs were advised by the IOLTA Board to adopt formal plans to address funding variability.

PA General Fund - DPW also contracts with PLAN, Inc. to provide low-income persons assistance with family, consumer, employment, and other civil legal matters, with the emphasis on providing emergency legal services in situations that threaten the basic needs of individuals. The services provided may not include political activities or criminal matters.

This money represents 8.5 percent of the total state and federal funding, or about \$2.8 million on average annually. The state appropriation to legal services has actually declined in the last three years according to PLAN, Inc. documents. In FY 2008-09, DPW implemented a \$100,000 freeze on funding that had already been appropriated. In FY 2009-10, the prior year's freeze was incorporated into the budget and the cut increased to \$108,000. During FY 2009-10, an additional \$31,000 was frozen. In FY 2010-11, there has been a combination of a cut in the appropriation and a \$30,000 freeze.

Disability Advocacy Project (DAP) – DPW contracts with PLAN, Inc. to have LSP attorneys work with DAP program staff within the county assistance offices to identify and represent at formal hearings those individuals who are receiving state-funded forms of assistance, but who are disabled and should be eligible for Social Security Disability or SSI benefits. The movement of individuals from the state-funded programs to a federally-funded program is a cost saving for the Commonwealth. DPW has funded the DAP since the early 1980s. Under the contract, the LSPs handle 1,632 cases annually at an average cost per case of about \$550.

This funding is 2.7 percent of PLAN, Inc.'s total state and federal monies and has been \$909,000 for each fiscal year we examined.

Other State Government Funds – Other state funds are about 1.5 percent of PLAN, Inc.'s state and federal funding and they have ranged from as little as \$18,000 in FY 2007-08 to as much as \$2.4 million in FY 2009-10 with the addition of the American Recovery and Reinvestment Act of 2009 (ARRA) stimulus dollars. The other funds have included, for example, grants from DCED to fund a housing law attorney, from PHFA for a mortgage foreclosure project, and from the county Offices of Aging to provide a range of services for eligible persons over the age of 60.

Locally-raised Funding

LSPs also get direct IOLTA grants for special initiatives and innovative efforts as well as contributions from foundations, United Ways, local governments, private attorneys, and bar associations. Law school clinics and the pro bono services of individual lawyers are also part of local funding. Locally-raised funding is about \$18 million a year and is 35 percent of PLAN, Inc.'s budget.

Distribution of Legal Aid Funds

As noted above, PLAN, Inc. administers the state-appropriated funds and IOLTA statewide grants to the regional legal services programs (LSPs) and to specialized programs. The regional programs consist of Southwestern Pennsylvania Legal Services, Laurel Legal Services, Neighborhood Legal Services Association, Legal Aid of Southeastern Pennsylvania, Philadelphia Community Legal Services,⁴ MidPenn Legal Services, North Penn Legal Services, and Northwestern Legal Service. The specialized programs are the Pennsylvania Institutional Law Project, Pennsylvania Health Law Project, Regional Housing Legal Services (includes the Pennsylvania Utility Law Project), Friends of Farmworkers, and the Commonwealth Advocacy Project. For more detailed descriptive information regarding each of these programs see Appendix D.

Allocation of Funds to Sub-grantees

PLAN, Inc. currently allocates 88 percent of its funding to the LSPs that provide local, county-based client representation. Funding for these regional programs is allocated using the Census Bureau count of poverty population within the service area of each organization. Distribution is proportionate to the number of census counted eligible individuals in each service area. Adjustments are made to account for the undercount of census data that tends to occur in more urban areas using factors that blend the census data at the 100 percent and 125 percent poverty population. As the 2010 census numbers become available, the poverty populations within each service area will be recalculated and funding distributions adjusted accordingly.

PLAN, Inc. allocates the remaining 12 percent to the specialized programs for client representation, using a formula developed in collaboration with the IOLTA Board and adopted by its Board that is based upon the number of attorneys in each program that will be supported by the statewide system. The number of attorneys varies from program to program, based on defined interests and responsibilities. Funding to one specialty program, however, is allocated based upon census count. The Institutional Law Project, unlike the other specialty programs, has a countable census-based population. Table 2 shows the distributions of funds to the regional

⁴ Also in Philadelphia is the non-PLAN funded Philadelphia Legal Assistance, which does receive LSC funding.

Table 2

**Funding Distribution for PLAN, Inc. Programs*
FY 2003-04 Through FY 2009-10**

	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
<u>Regional Programs</u>							
Community Legal Services.....	\$ 7,668,547	\$ 7,950,656	\$ 8,395,958	\$ 9,211,954	\$11,089,686	\$ 9,662,506	\$11,458,475
Laurel Legal Services.....	1,611,644	1,757,731	2,212,695	2,660,116	2,605,599	3,062,376	2,639,948
Legal Aid of Southeastern PA.....	3,996,835	4,267,179	4,543,047	4,994,773	5,669,584	6,149,356	5,688,855
MidPenn Legal Services.....	7,154,409	7,242,043	7,597,772	8,324,858	9,178,159	8,706,551	9,522,361
Neighborhood Legal Services Assoc.	4,667,714	5,581,356	5,985,999	6,859,452	6,833,032	7,535,130	6,757,750
North Penn Legal Services.....	4,331,503	4,889,104	4,621,534	5,598,080	6,355,689	5,685,023	6,443,833
Northwestern Legal Services	1,818,735	2,059,022	1,837,677	2,282,067	2,414,776	2,173,961	2,348,840
Southwestern PA Legal Aid Society..	<u>1,493,280</u>	<u>1,685,163</u>	<u>1,685,163</u>	<u>2,165,274</u>	<u>2,507,144</u>	<u>2,488,456</u>	<u>2,315,649</u>
Subtotal Regional.....	\$32,742,667	\$35,432,254	\$36,879,845	\$42,096,574	\$46,653,669	\$45,463,359	\$47,175,711
<u>Specialty Programs</u>							
Commonwealth Advocacy Project.....	\$ 531,553	\$ 578,231	\$ 1,044,184	\$ 938,764	\$ 1,009,052	\$ 786,825	\$ 752,844
Friends of Farmworkers	407,950	494,194	509,348	607,154	610,852	701,492	559,522
PA Health Law Project	980,226	698,227	933,018	1,308,496	1,857,949	1,008,856	1,137,605
PA Institutional Law Project.....	427,739	470,593	542,471	880,303	1,103,558	799,484	882,528
Regional Housing Legal Services	<u>1,417,498</u>	<u>1,562,572</u>	<u>953,266</u>	<u>1,589,793</u>	<u>2,170,488</u>	<u>1,673,346</u>	<u>2,058,296</u>
Subtotal Specialty.....	\$ 3,764,966	\$ 3,803,817	\$ 3,982,287	\$ 5,324,510	\$ 6,751,899	\$ 4,970,003	\$ 5,390,795
<u>PLAN, Inc.</u>	<u>\$ 1,731,732</u>	<u>\$ 1,325,519</u>	<u>\$ 1,306,775</u>	<u>\$ 1,319,660</u>	<u>\$ 1,666,067</u>	<u>\$ 1,339,006</u>	<u>\$ 1,311,973</u>
Subtotal PLAN Inc. Funded.....	\$38,239,365	\$40,561,590	\$42,168,907	\$48,740,744	\$55,071,635	\$51,772,368	\$53,878,479
<u>Non-PLAN Inc. Funded</u>							
Community Impact Legal Services....	\$ 342,246	\$ 413,446	\$ 513,197	\$ 450,025	\$ 590,407	\$ 403,904	
Philadelphia Legal Assistance	<u>3,440,193</u>	<u>3,584,666</u>	<u>3,382,434</u>	<u>3,503,097</u>	<u>3,723,792</u>	<u>3,616,585</u>	<u>\$ 4,285,268</u>
Subtotal Non-PLAN Inc. Funded ...	\$ 3,782,439	\$ 3,993,133	\$ 3,895,631	\$ 3,953,122	\$ 4,314,199	\$ 4,020,489	\$ 4,285,268
Total PLAN Organizations	<u>\$42,021,804</u>	<u>\$44,554,723</u>	<u>\$46,064,538</u>	<u>\$52,693,866</u>	<u>\$59,385,834</u>	<u>\$55,805,731</u>	<u>\$58,163,747</u>

*All funding sources.

Source: IOLTA.

LSPs and specialized programs. Table 3 shows the distribution of AJA funding only to these programs.

A case goal methodology is used to determine the level of program activity expected for the funding provided. In FY 2006-07, a methodology using a formula to establish case goals was developed to quantify services that can be reasonably expected for IOLTA-funded cases. The process uses the number of cases handled and the most recent audited expenditure data for all funding of PLAN, Inc. organizations (less special use funding such as the allocations for the Welfare Law and Consumer Law Projects) to arrive at an average cost per case for the regional programs and a cost for each specialty program. Appellate work and brief services are treated the same for the purpose of establishing the cost per case and case goals. The regional cost-per-handled-case amount directly correlates to a historic cost-per-case, adjusted by an inflation factor to determine case goals.

The available grant funds for IOLTA and AJA are adjusted for their share of planned major cost initiatives that do not increase the programs' capacities to provide additional services. Adjustments are also made for planned accumulations and/or uses of IOLTA and AJA net assets. After determining a cost per case average amount that is adjusted by an inflation factor, case goals for the upcoming year are calculated by dividing each program's initial funding level (based on each program's eligible poverty population) by the average adjusted cost per case. (The actual inflation-adjusted cost per case used to determine case goals for FY 2009-10 was \$497.)

At the completion of program audits, individual program projections for increases to net assets, and/or use of net assets, and projected special initiative spending are compared to actual amounts and individual program and statewide program case goals are recomputed as necessary, adjusting for deviations between projections and actual amounts. PLAN, Inc. requests an explanation from individual programs whose case counts were less than goals. PLAN, Inc. explains to IOLTA any shortfall in meeting individual program and statewide goals.

In its 2011-12 grant application to IOLTA, PLAN, Inc. states that they have consistently met or exceeded case goals established by state and IOLTA funding sources. As can be seen in Appendix E, however, for the AJA-funded cases handled in FY 2004-05 and in FY 2005-06, case goals were not met. These goals were also established prior to the use of the methodology described above. Appendix E shows that the goals were met or exceeded in subsequent years. Appendix E also shows a comparison of AJA-funded case goals, cases handled, and cases closed by program for FY 2003-04 through FY 2009-2010.

Table 3

**AJA Funding Distribution for PLAN, Inc. Programs
FY 2003-04 Through FY 2009-10**

	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Regional Programs							
Community Legal Services.....	\$ 459,340	\$1,547,442	\$1,463,016	\$2,124,773	\$2,112,841	\$2,094,474	\$ 2,155,993
Laurel Legal Services.....	149,064	402,506	405,388	513,596	515,225	518,210	541,843
Legal Aid of Southeastern PA.....	152,135	559,171	563,187	715,945	728,218	732,380	755,017
MidPenn Legal Services.....	300,597	1,129,078	1,137,200	1,453,064	1,451,929	1,460,344	1,508,348
Neighborhood Legal Services Assoc.	234,173	828,732	834,678	1,059,624	1,062,993	1,069,154	1,107,852
North Penn Legal Services.....	246,361	925,431	932,088	1,186,287	1,190,056	1,196,954	1,236,972
Northwestern Legal Services	107,040	389,857	392,576	485,018	486,558	489,378	530,860
Southwestern PA Legal Aid Society.....	<u>194,608</u>	<u>324,174</u>	<u>324,174</u>	<u>362,990</u>	<u>364,146</u>	<u>366,256</u>	<u>377,248</u>
Subtotal Regional	\$1,843,318	\$6,106,391	\$6,052,307	\$7,901,297	\$7,911,966	\$7,927,150	\$ 8,214,133
Specialty Programs							
Commonwealth Advocacy Project.....	\$ 41,426	\$ 188,973	\$ 188,973	\$ 248,987	\$ 210,301	\$ 211,445	\$ 246,615
Friends of Farmworkers	41,426	87,998	87,998	155,546	203,280	205,767	211,388
PA Health Law Project	41,426	97,490	97,490	280,341	188,280	190,767	196,388
PA Institutional Law Project.....	41,426	182,296	183,639	397,998	320,785	327,036	362,284
Regional Housing Legal Services	<u>82,851</u>	<u>285,653</u>	<u>285,653</u>	<u>499,784</u>	<u>344,095</u>	<u>323,959</u>	<u>359,228</u>
Subtotal Specialty.....	\$ 248,555	\$ 842,410	\$ 843,753	\$1,582,656	\$1,266,741	\$1,258,974	\$ 1,375,903
PLAN, Inc.	\$ 48,571	\$ 446,026	\$ 446,584	\$ 416,047	\$ 498,423	\$ 498,423	\$ 510,347
Total PLAN Organizations	<u>\$2,140,444</u>	<u>\$7,394,827</u>	<u>\$7,342,644</u>	<u>\$9,900,000</u>	<u>\$9,677,130</u>	<u>\$9,684,547</u>	<u>\$10,100,383</u>

Source: IOLTA.

Collection of AJA Fees

As noted earlier, Act 2002–122 imposed a \$10 fee on court filings, with \$2 designated to provide civil legal assistance to low-income Pennsylvanians. Act 2009–49 established a temporary surcharge applicable to the same court filings excepting traffic offenses with \$1 going to AJA. AJA fees are collected by the following county and judicial officers as a portion of filing fees:

- Magisterial District Judges (MDJ)
- Clerks of Common Pleas Court (CCP)
- Prothonotaries
- Clerks of Orphans' Court (and Registers of Wills) (COC)
- Recorders of Deeds (ROD)
- Appellate Courts⁵

All fees are remitted monthly to the Department of Revenue except those from the Magisterial District Judges who remit on a weekly basis. A monthly collections report is submitted by each. Funds are deposited by the Department of Revenue into the Judicial Computer System revenue account. The AJA portion of the combined fee is transferred to the Access to Justice (ATJ) revenue account by the end of the same month the fees are remitted to the Department. The combined JCS/ATJ fee is currently \$23.50.⁶ The portion of the combined fee deposited into the ATJ revenue account is \$3.

Fees remitted by MDJs and COCs are deposited by the Department into the Motor License Fund Clearing Account. This fee includes collections of fines, costs, surcharges and other moneys due the Commonwealth, e.g., traffic fines, court costs, etc. The AJA portion of the combined fee is transferred to the ATJ revenue account by the end of the second month after the month the fees are remitted. The additional month allows the Department to reconcile the combined remittances with the monthly collections report of the various fines, costs, and fees that are separated into 25 different revenue accounts each month.

The Auditor General performs audits of all county and judicial officers to determine whether all amounts due the Commonwealth were collected and remitted in a timely manner. See Finding VI for additional information on these audits.

County Row Offices have accounted for about 55 percent of the AJA collections, with the Magisterial District Judges contributing 40 percent. In January 2011, the AOPC Finance Department estimated the number of transactions that would be subject to the Act 2009–49 surcharge for fiscal year 2010-11. Of the 2.7

⁵ Fees collected by the appellate courts (Supreme, Superior, and Commonwealth) are remitted by the prothonotary in those courts in the same manner as the county prothonotaries.

⁶ Total includes the temporary surcharge.

million transactions projected, 78 percent, or 2.1 million, are expected to come from the county offices, with 1.6 million from the Recorder of Deeds alone. Table 4 displays the AJA fee collections over time by source.

Overall, AJA collections have averaged \$8.7 million annually. Collections peaked at \$9.4 million in FY 2006-07 and then declined each year after until FY 2009-10, when the temporary surcharge was imposed. Collections combined with interest peaked a year earlier (FY 2005-06) at \$9.9 million and then declined each year until FY 2009-10 as both the level of collections and interest fell. The interest in FY 2009-10 was one-tenth the amount remitted in FY 2008-09, but the collection of the temporary surcharge increased the funds remitted to the IOLTA Board to back up over \$9 million. AJA grant funds are allocated to the regional programs using census data and allocated to specialty programs based on the number of specialty program attorneys supporting the work of the PLAN statewide system of providers.

Funding Trends and Projections

PLAN, Inc. has stated that state and state-appropriated funding for civil legal aid has not kept up with inflation. We examined the level of funding in FY 2003-04 and, had this funding grown at the rate of inflation, funding in FY 2009-10 would have been almost \$1.3 million greater.⁷ Overall funding for legal aid peaked in FY 2007-08, declined in FY 2008-09, then rebounded in FY 2009-10 through a combination of federal stimulus funding and the temporary filing fee surcharge (see Table 1).

About 36 percent of total federal and state funding for legal aid in Pennsylvania is from the Legal Services Corporation (LSC). However, the 2011 federal funding agreement for LSC is 4 percent less than its 2010 appropriation. In reality, this is likely to equate to a 7.8 percent, or \$554,128, reduction in funding to Pennsylvania's programs because of the few remaining months left in the federal fiscal year to implement the lower appropriation.

As noted earlier, the state appropriations for legal services have had freezes placed on appropriated funds. FY 2010-11's funding included both a cut in the appropriation and another freeze of some of the appropriated funds. With the overall budget difficulties facing the Commonwealth, continued pressure on legal services funding is likely to continue for FY 2011-12 and beyond.

⁷ Figures based on PA General Fund, Block Grant, and Disability Grant funding. When AJA, IOLTA, and other state funding are included, the funds available are \$4.7 million ahead of inflation. This includes, however, \$2.3 million in ARRA funds.

Table 4

Access to Justice Act (AJA) Fund Collections

	<u>FY 2002-03^a</u>	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>Total</u>
County Row Offices									
Recorder of Deeds	\$ 1,384,471	\$ 4,225,034	\$ 3,618,585	\$ 4,704,758	\$ 4,313,132	\$ 3,743,910	\$ 3,244,079	\$ 3,719,996	\$ 28,953,965
Prothonotary	191,003	559,564	575,453	752,503	820,983	837,913	914,751	1,007,494	5,659,664
Clerk of Orphans Court	29,001	77,907	77,748	100,027	101,159	100,348	99,991	126,822	713,003
Domestic Relations ...	5,638	19,747	20,548	31,546	26,129	21,346	31,747	25,842	182,543
Register of Wills	5,472	14,343	14,250	20,901	18,692	18,554	19,853	22,515	134,580
Total County Row Offices	\$ 1,615,585	\$ 4,896,595	\$ 4,306,584	\$ 5,609,735	\$ 5,280,095	\$ 4,722,071	\$ 4,310,421	\$ 4,902,669	\$ 35,643,755
Appellate Courts.....	\$ 3,356	\$ 12,355	\$ 12,751	\$ 15,581	\$ 31,830	\$ 15,598	\$ 14,118	\$ 16,960	\$ 122,549
Clerk of Courts	13,402	74,155	130,124	245,462	202,840	232,067	235,328	240,664	1,374,042
Magisterial District Judges	605,101	2,527,222	2,804,661	3,503,097	3,928,352	4,188,069	4,168,074	4,075,254	25,799,830
Total Collections From Courts	\$ 621,859	\$ 2,613,732	\$ 2,947,536	\$ 3,764,140	\$ 4,163,022	\$ 4,435,734	\$ 4,417,520	\$ 4,332,878	\$ 27,296,421
Total Collections Before Interest.....	\$ 2,237,444	\$ 7,510,327	\$ 7,254,120	\$ 9,373,875	\$ 9,443,117	\$ 9,157,805	8,727,941	\$ 9,235,547	\$ 62,940,176
Interest From the Commonwealth	0	0	188,524	493,009	284,013	263,447	125,176	12,033	1,366,202
Total AJA Funds Remitted to IOLTA Board	\$ 2,237,444	\$ 7,510,327	\$ 7,442,644	\$ 9,866,884	\$ 9,727,130	\$ 9,421,252	\$ 8,853,117	\$ 9,247,580	\$ 64,306,378

^a November 1, 2002 through June 30, 2003.

Source: IOLTA, based on AOPC reports.

Combined, the stimulus money and the temporary AJA surcharge have made up for half of the reductions in state appropriations and to IOLTA funds. Money from the American Recovery and Reinvestment Act of 2009 (ARRA) ends in the current fiscal year, however, and the temporary surcharge on AJA filing fees is scheduled to expire in January 2012.

One program we spoke with noted that the loss of AJA funding would be a problem, especially when combined with the flat level of state funding, the reduction in IOLTA funds due to low interest rates and the anticipated federal cuts to LSC grant funding. The AJA funding had allowed this program to retain staff through salary increases and to open and operate a four-person office to address client needs in a rural location where there had been none. The program's director noted that without the AJA funds rural services would be reduced, and the office it had opened would probably be closed.

Another concern expressed by a bar association pro bono program director was that a loss of AJA funding could result in a reduction of LSP legal staff and subsequently the ability of the LSP to both monitor and mentor pro bono attorneys unfamiliar with and apprehensive about providing these services, which may be in areas of the law that the private attorney does not often work. The director noted that for each half-hour of an LSP attorney's time about six hours of private pro bono attorneys' time is generated. Therefore, the loss of one LSP attorney would have a "ripple" effect on the services that may be available.

IV. Civil Legal Aid Providers Serve About 50 Percent of Eligible Low Income People Seeking Services

Based upon a nationwide study conducted by the federal Legal Services Corporation (LSC), PLAN, Inc., and IOLTA officials report that civil legal aid is provided to only about 50 percent of the eligible applicants who seek assistance. Using data from those PLAN programs providing individual representation, we were able to determine that over a two-month period in 2009, for every applicant receiving civil legal services, one eligible applicant was turned away. Officials also told us that the turn away rate of low-income Pennsylvanians in the state's rural areas is greater than the one out of two.

The LSPs track the number of applicants for services who are rejected. The reasons for rejecting these applicants vary from program to program. For example, of NLSA's rejected applicants, 70 percent failed to meet financial requirements, while 97 percent of Mid Penn's rejected applicants were turned away for "other" reasons e.g., client/case out of program's service area, client a non-citizen, or client did not show for appointment with advocate. These rejections are in addition to the 50 percent of eligible applicants whose cases are rejected.

According to the LSC reports and PLAN, Inc. officials, the unmet need for services of eligible applicants is the result of a variety of factors including insufficient funding and current program priorities. In some cases, eligible applicants are rejected because the case is non-meritorious or the likelihood of a successful outcome is slim. AJA-funded cases were 20 percent of all PLAN, Inc. cases handled in FY 2009-10, and AJA provided 19 percent of overall funding to PLAN, Inc. and the LSPs.

Unmet Client Need Nationwide

In 2005, LSC published a report¹ using 2004 data collected by survey to examine the unmet need for legal aid services nationwide. According to this study, for every client served by an LSC-funded program, at least one person who sought help was turned down because of insufficient program resources. The study also reported that only about one in five of the legal problems experienced by low-income people are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer, and the majority of legal aid lawyers work in LSC-funded programs.

To determine these statistics, LSC surveyed all of its grantees regarding the number of applicants they received and the number of cases that received services

¹ *Documenting the Justice Gap in America: The Current Unmet Civil Legal Need of Low-Income Americans*. This report is available at LSC.gov.

during a two-month period of time. The totals were then multiplied by six to arrive at the projected annual total.

Legal aid programs regularly find that people who have contacted them for assistance with one problem have other legal problems as well. According to this study, most people who appear in state courts without an attorney do so because they cannot afford one, and the majority are low-income individuals who qualify for legal aid.

In 2009, LSC updated and expanded the analysis conducted in 2005 by replicating the survey of all 137 of its grantees. As was shown in the 2005 report, the LSC found that only one out of two low-income individuals seeking legal assistance received such services. The report also notes that state legal needs studies conducted from 2000 to 2009 generally indicate that less than one in five low-income persons get the legal assistance they need. The report found that there is one legal aid lawyer for every 6,415 low-income people while there is one private attorney providing personal legal services for every 429 people in the general population above the LSC poverty level. The ratio for legal aid attorneys has not changed significantly since 2002; however, the private attorney to population ratio has decreased from the one in 525 calculated for 2000. In Pennsylvania, PLAN, Inc. programs had 293 attorneys handling cases in 2010.² Based on an eligible population of 1.7 million low-income people, that is one attorney for every 5,802 low-income people.

Civil Legal Aid Infrastructure in Pennsylvania

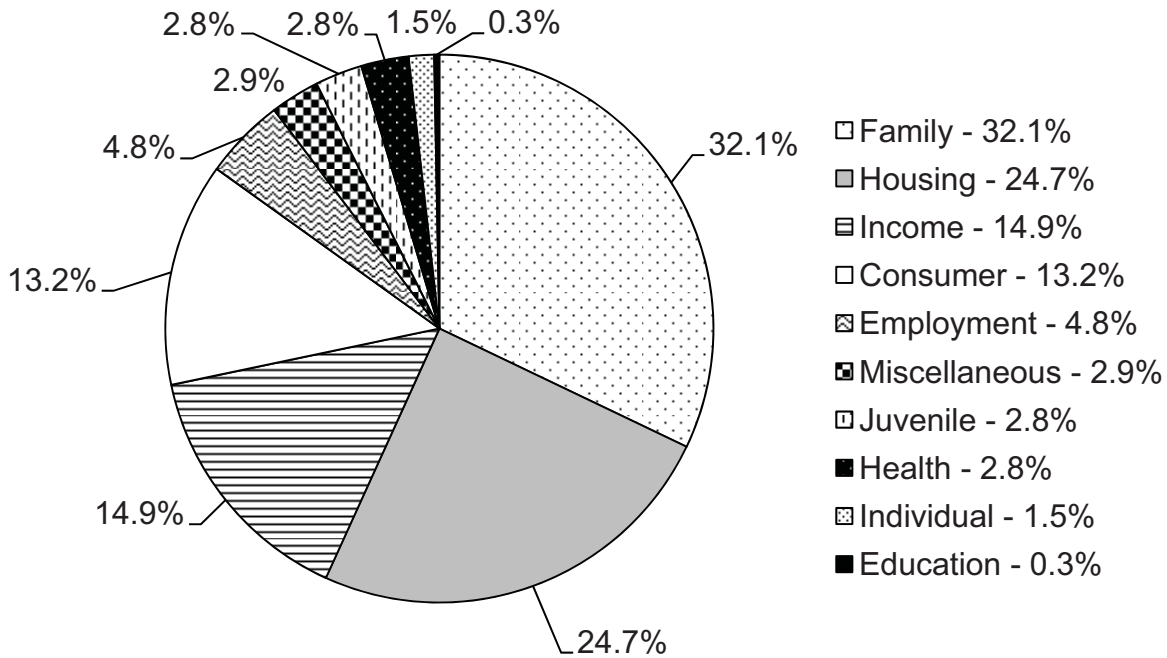
As noted previously, legal aid services in Pennsylvania are provided by a variety of sources, a main resource being the eight regional programs and five specialized programs funded through PLAN, Inc. and those funded through LSC. As can be seen by the map of programs (Exhibit 2), residents of all counties have access to services. The programs handled 106,397 cases in FY 2009-10 from an estimated eligible population of 1.7 million (based on the 2000 Census count). Exhibit 6 shows the types of cases handled by the LSPs in FY 2009-10.

As discussed in Finding III, PLAN, Inc. allocates funding to the programs using the census-based eligible population in each of the programs' service areas. With the release of the 2010 census numbers, the distribution of funds will be adjusted to reflect any change in population statistics.

² As of December 2010, for all programs except PLA. The PLA number is as of September 2010.

Legal Aid Cases Handled, by Type

FY 2009-10



Source: PLAN, Inc.

Applicant Rejections by Programs

Programs reject applicants for legal aid services for a variety of reasons. In some cases the applicant is ineligible due to income level, the case is not a civil case, or there is a conflict of interest. In other instances, the applicants may be eligible for services but rejected because the case does not fall within the program’s priorities or there is no advocate available to handle the case. Applicants who qualify for services but cannot be served due to lack of resources are a significant part of the unmet need of Pennsylvania’s legal aid system.

Program Priorities

Legal Services Programs set priorities to determine which cases they will accept. These priorities are based on client surveys and surveys of social service agencies, community organizations, judges, bar associations, private lawyers, and other stakeholders. These surveys along with the results of other assessment methods are used to determine the legal needs of the client population served by the respective LSPs. Some programs supplement the surveying process with focus group meetings, personal interviews with stakeholders, and demographic analysis.

In general, the regional programs tend to accept cases relating to housing; family issues; economic stability such as relates to receipt of public benefits; employment; consumer rights; and elder law. Specialty programs tend to accept cases that have a broader impact, for example, cases involving predatory lending practices.

One regional legal service program, Mid Penn Legal Services, used the above survey methodology to establish priorities for case acceptance. MPLS also took into consideration the available program resources, the accessibility of other sources of free or low cost legal assistance, and the susceptibility of the particular problems to solution through legal processes. As a result, MPLS set the following as their priorities: maintaining/enhancing economic stability for families and individuals (problems related to employment, public benefits, or consumer debt, for example); preservation of housing and related housing needs for families, individuals, and groups (problems with rental housing or homeownership); and protecting the safety, stability and well-being of families and individuals (e.g., problems dealing with family law, the elderly or disabled, healthcare, or consumer rights).

Additionally, MPLS guidelines provide that, for extended representation, acceptance of a case is made by an advocate after determining that the case has legal merit and there is a reasonable likelihood of achieving tangible results that benefit the client; the case is at a stage and in a forum where legal representation is advisable; personnel are available; representation is not prohibited by LSC regulations (MPLS receives LSC funding); and there is no ethical conflict.

The priorities for specialty programs are somewhat different due to the difference in the clients they represent. For example, the Regional Housing Legal Services (RHLS) specialty program provides representation to organizations engaged in the creation of housing and economic opportunities for lower income persons. It does not provide representation to for-profit organizations, except when they are a subsidiary of a non-profit, and it does not provide representation concerning tax opinions, securities matters, or tax shelters. The clients represented by RHLS must have all of the following characteristics: their activities must be charitable and benefit lower income persons; their board of directors are composed, in part, of lower income (legal services eligible) persons; their board of directors must have lower income representation and the board must be responsive to its lower income membership; and be unable to afford private counsel.

As noted in Finding III, AJA is only one funding source for legal aid and has somewhat different eligibility standards. Cases may be rejected because funding for that specific kind of case is not available or is a lower level priority. Other cases may be accepted because a specific funding source is available.

Unmet Client Need of PLAN, Inc. Regional Programs

The data we used to determine the unmet need of PLAN, Inc. regional programs is based on the same information provided to LSC for their nationwide survey. Each program noted the number of applicants and rejections over a two-month period in 2009. The data used for the PLAN, Inc. programs included only those programs receiving LSC grant funds; therefore, Community Legal Services (CLS) in Philadelphia was not included. However, the non-PLAN-funded Philadelphia Legal Assistance (PLA) is an LSC grantee, and we have included their survey results in this analysis in order to reflect services in Philadelphia.

As shown in Table 5, the number of applicants the programs were unable to serve was roughly equal to the number of applicants who received service (either brief/advice or extended service).

The actual number of applicants who could not be served in Pennsylvania in FY 2009-10 is shown on Table 6. As can be seen in Table 6, almost 60 percent of the applicants rejected by the LSPs were financially eligible to receive legal aid services. The programs did refer almost all the cases they rejected to other service providers although these referrals do not result in the provision of free legal services.

Table 5

PLAN, Inc. Regional Program* Cases by Category						
FY 2009-10						
<u>Categories</u>	<u>Unable to Serve</u>	<u>Unable to Serve Fully</u>	<u>Total Unavailable</u>	<u>Advice/Brief Service</u>	<u>Extended Service Cases</u>	<u>Total All Services</u>
Consumer.....	868	672	1,540	333	650	983
Education.....	79	5	84	3	13	16
Employment.....	319	140	459	76	132	208
Family.....	3,077	1,573	4,650	642	2,769	3,411
Juvenile.....	129	79	208	4	59	63
Health.....	150	75	225	52	113	165
Housing (no foreclosure) ..	487	800	1,287	262	684	946
Foreclosure.....	176	259	435	72	130	202
Income.....	303	244	547	272	1,272	1,544
Individual.....	341	10	351	4	2	6
Misc.....	<u>1,333</u>	<u>52</u>	<u>1,385</u>	<u>113</u>	<u>66</u>	<u>179</u>
Total.....	7,262	3,909	11,171	1,833	5,890	7,723
Total Projected for Year ^a .	<u>43,572</u>	<u>23,454</u>	<u>67,026</u>	<u>10,998</u>	<u>35,340</u>	<u>46,338</u>

* Information in table provided to LSC for its report does not include data from the five specialty programs or CLS because they are not LSC-funded, but does include data from PLA which is funded by LSC but not by PLAN, Inc. The count does not include individuals who were denied services because they were financially or otherwise ineligible.

^a Note: Initial total is the actual count of cases for two month period in 2009. Total projected for year multiplies the two-month total by six.

Source: PLAN, Inc.

Table 6

Rejections and Number of Referrals by Programs

FY 2009-10

<u>Program</u>	<u>Total Rejected</u>	<u>Financially Eligible Rejected</u>	<u>Total Referred Out</u>
Community Legal Services.....	4,232	2,243	4,232
Laurel Legal Services.....	7,481	4,478	7,393
Legal Aid of SE Pennsylvania	9,037	2,600	9,037
Mid Penn Legal Services.....	2,716	2,676	1,477
Neighborhood Legal Services	5,960	1,858	5,960
North Penn Legal Services.....	15,400	12,700	15,400
Northwestern Legal Services	N/A	N/A	3,910
Southwestern PA Legal Services	<u>N/A</u>	<u>N/A</u>	<u>6,627</u>
Total.....	<u>44,826</u>	<u>26,555</u>	<u>54,036</u>

* Total rejected differs from unable to serve data in previous table because complete information from two programs was unavailable, CLS data included in this table – PLA data is not, and this is data reported for entire fiscal year, not a projection based upon a two-month survey.

Source: PLAN, Inc.

Handled and Closed AJA-funded Cases

AJA accounted for 19 percent of the total of PLAN, Inc.'s funding for FY 2009-10, and PLAN, Inc. programs handled a total of 19,432 AJA-funded cases, including 5,825 cases pending as of June 30, 2010, or 20 percent of all the 106,397 cases the programs handled in FY 2009-10. Table 7 displays the number of AJA-funded cases handled by case category from FY 2003-04 through FY 2009-10 and indicates those cases still pending as of June 30, 2010.

The number of cases handled by the PLAN, Inc. programs increased 116 percent: from 8,989 in FY 2003-04 to 19,432 in FY 2009-10. The number of cases handled peaked in FY 2008-09 at almost 21,000, and then dropped in FY 2009-10 to about the same level as the cases handled in FY 2005-06. PLAN, Inc.'s programs handled an average 18,391 cases annually (includes an average of 4,868 cases pending for each year). The Family³ and Housing⁴ categories constitute 60 percent of the cases handled with Income Maintenance⁵ and Consumer⁶ adding another 29 percent.

³ Category includes, for example, child custody cases and protection from abuse (PFA) cases.

⁴ Category includes eviction cases, mortgage foreclosures, and landlord issues for example.

⁵ Category may include government benefits (state and/or federal) and unemployment compensation cases..

⁶ Category includes cases dealing with consumer debt.

Table 7

AJA-funded Cases Handled by PLAN, Inc.

	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Total	Pending as of 6/30/2010	Total Handled
Family	2,416	4,895	4,686	4,137	4,357	5,803	4,567	30,861	1,483	32,344
Housing	1,783	3,565	4,319	4,610	4,567	3,918	3,450	26,212	1,293	27,505
Income Maintenance	1,091	2,692	2,206	2,255	2,154	2,216	1,913	14,527	1,099	15,626
Consumer	581	1,865	1,951	2,204	2,101	1,950	1,845	12,497	750	13,247
Health	97	267	219	1,372	877	638	454	3,924	190	4,114
Employment	47	470	297	586	717	904	825	3,846	579	4,425
Individual Rights	2	47	24	43	135	314	215	780	298	1,078
Education	5	29	25	24	23	62	50	218	26	244
Juvenile	25	45	6	2	0	56	33	167	18	185
Other/Miscellaneous	66	291	301	211	222	309	255	1,655	89	1,744
Total Cases	6,113	14,166	14,034	15,444	15,153	16,170	13,607	94,687	5,825	100,512
Pending at End of FY	2,876	5,074	5,283	5,016	5,170	4,804	5,825			
Cases Handled Annually	8,989	19,240	19,317	20,460	20,323	20,974	19,432			

Source: IOLTA.

AJA-funded closed cases are 23 percent of all cases closed by PLAN, Inc. Table 8 shows the number of AJA-funded cases closed by category over the same time period. Appendix F presents the number of AJA-funded closed cases by county.

The number of closed cases increased by 123 percent from FY 2003-04 to FY 2009-10, and the annual number of cases closed peaked in FY 2008-09. Mirroring the distribution of case by category of cases handled, Family and Housing categories were 60 percent of the total cases closed, with Income Maintenance and Consumer cases adding 29 percent. To date, PLAN, Inc. has closed 74 percent of the cases it has handled, ranging from a low of 68 percent in FY 2003-04 to a high of 77 percent in FY 2008-09.

Table 8

AJA-funded Closed Cases By PLAN, Inc.								
	<u>FY</u> <u>2003-04</u>	<u>FY</u> <u>2004-05</u>	<u>FY</u> <u>2005-06</u>	<u>FY</u> <u>2006-07</u>	<u>FY</u> <u>2007-08</u>	<u>FY</u> <u>2008-09</u>	<u>FY</u> <u>2009-10</u>	<u>Total</u>
Family	2,416	4,895	4,686	4,137	4,357	5,803	4,567	30,861
Housing.....	1,783	3,565	4,319	4,610	4,567	3,918	3,450	26,212
Income Maintenance.....	1,091	2,692	2,206	2,255	2,154	2,216	1,913	14,527
Consumer	581	1,865	1,951	2,204	2,101	1,950	1,845	12,497
Health	97	267	219	1,372	877	638	454	3,924
Employment.....	47	470	297	586	717	904	825	3,846
Individual Rights	2	47	24	43	135	314	215	780
Education.....	5	29	25	24	23	62	50	218
Juvenile.....	25	45	6	2	0	56	33	167
Other/Miscellaneous	<u>66</u>	<u>291</u>	<u>301</u>	<u>211</u>	<u>222</u>	<u>309</u>	<u>255</u>	<u>1,655</u>
Total Cases.....	<u>6,113</u>	<u>14,166</u>	<u>14,034</u>	<u>15,444</u>	<u>15,153</u>	<u>16,170</u>	<u>13,607</u>	<u>94,687</u>

Source: IOLTA.

V. Known Case Outcomes Are Generally Positive, Clients Appear Satisfied With the Services They Receive, and Costs Per Case Closed Appear Reasonable

The effectiveness of the LSPs can be measured in part through the successful resolution of the cases they handle, the amount of direct dollar benefits to the clients, and the satisfaction of the clients they serve. Based on closed case resolution statistics where the outcome was known, in FY 2009-10 about 74 percent of AJA-funded cases were resolved successfully by the LSPs and 26 percent were considered to have been unsuccessfully resolved. However, outcome information was not available for those cases that were resolved through advice. This category represents 50 percent of the closed cases reported. Total direct dollar benefits reported by the PLAN, Inc. programs for FY 2009-2010 were \$16 million in back awards and settlements and \$2 million in monthly benefits.

The LSPs also use satisfaction surveys to evaluate their services. The processes used by the LSPs vary, and the response rate is generally low. Overall, those who respond are generally satisfied with the services provided. The LSPs also have a grievance procedure for clients who are not satisfied with the services they received. In the last year, 21 grievances have been filed.

Resolution of Legal Aid Efforts

According to PLAN Inc., for FY 2009-10, where outcomes were known, 74 percent of AJA-funded cases and 75 percent of overall cases were successfully resolved by the LSPs. Only 26 percent of AJA-funded cases and 24 percent of overall cases were lost. See Table 9. As is also noted in the table, about half of the overall cases were cases in which clients received advice on how to pursue their legal concern and the outcome of the client's action is unknown.

IOLTA and PLAN, Inc. note that there is great benefit to providing advice to clients even when more extensive representation is not undertaken. For example, a client can learn to advance her legal interests when the LSP cannot handle the case due to lack of resources. On the other hand, society and the courts benefit when clients receive frank advice that there is no legal merit to their proceeding with their cases. Finally, a client's circumstances can be improved by learning of resources available to help the client, e.g., the state's program to help individuals facing foreclosure.

The LSPs reported approximately \$16 million in back awards and settlements for their clients in FY 2009-2010. As shown on Table 10, monthly benefits received were almost \$2 million. In addition to the direct dollar benefits is the cost avoidance that may have occurred. As reported by IOLTA in its 2008 report on

AJA, from 2004-2008 \$8 million was saved in emergency shelter costs since families were able to avoid homelessness through legal aid services. See Finding II for additional information regarding the economic impact of civil legal aid programs.

Table 9

Closed Case Resolution Statistics by PLAN, Inc. Programs						
FY 2009-10						
	<u>AJA Cases Only</u>			<u>PLAN Overall Cases</u>		
	<u>Cases</u>	<u>% of Known</u>	<u>% of Total</u>	<u>Cases</u>	<u>% of Known</u>	<u>% of Total</u>
Cases Won	3,426	74.2%	25.4%	15,661	74.6%	23.5%
Cases Lost.....	<u>1,194</u>	25.8	<u>8.8</u>	<u>5,335</u>	25.4	<u>8.0</u>
Known Subtotal....	4,620		34.2%	20,996		31.5%
	<u>Cases</u>	<u>% of Un-known</u>	<u>% of Total</u>	<u>Cases</u>	<u>% of Un-known</u>	<u>% of Total</u>
Cases Settled	1,669	18.8%	12.4%	8,329	18.2%	12.5%
Cases Withdrawn...	488	5.5	3.6	2,479	5.4	3.7
Cases Advised.....	<u>6,716</u>	75.7	<u>49.8</u>	<u>34,893</u>	76.4	<u>52.3</u>
Unknown Subtotal	8,873		65.8%	45,701		68.5%
Total.....	<u>13,493</u>			<u>66,697</u>		

Source: PLAN, Inc.

Table 10

Direct Dollar Benefits to Clients by PLAN, Inc. Programs		
FY 2009-10		
<u>Program</u>	<u>Back Awards/Settlements</u>	<u>Monthly Benefits</u>
Community Legal Services.....	N/A	N/A
Laurel Legal Services.....	\$ 241,564	\$ 13,709
Legal Aid of SE Pennsylvania	798,287	779,707
Mid Penn Legal Services.....	1,318,315	329,047
Neighborhood Legal Services	1,081,395	198,931
North Penn Legal Services.....	2,396,592	343,646
Northwestern Legal Services	2,633,446	235,500
Southwestern PA Legal Services	6,551,414	20,868
Commonwealth Advocacy Project	370,000	N/A
Friends of Farmworkers	321,659	N/A
PA Institutional Law Project	<u>200,000</u>	<u>N/A</u>
Total.....	<u>\$15,912,672</u>	<u>\$1,921,408</u>

Source: PLAN, Inc.

Satisfaction Surveys

The programs attempt to evaluate the effectiveness of the services provided through client satisfaction surveys or program evaluation forms. The methodologies used by the programs vary from giving clients a survey at the conclusion of client services to randomly selecting a minimum number of clients to survey from each month's completed cases to having law students contact clients for follow-up interviews regarding their experience with the program. One program has initiated an on-line survey that is e-mailed to clients. The results from this survey are combined with those of survey forms left in the waiting room of the program.

The survey return rates for most of the programs are quite low, ranging from just over 5 percent to as much as 25 percent for one of the specialized programs. Client satisfaction rates for the nine programs providing this information ranged from 80 percent to 100 percent of clients reporting they were satisfied or very satisfied with the services provided by the programs. Six of the programs reported satisfaction rates of over 90 percent with two reporting that 100 percent of the clients responding to the survey were satisfied with their services.

Grievances

Another method to determine the effectiveness of the legal aid programs is to examine the number and types of grievances filed by clients. Grievance procedures are provided to the client as part of the retainer agreement. Generally speaking, the process can include both an informal and a formal procedure.¹ The informal grievance process directs the client to contact the attorney or paralegal handling the case to address their concerns. If this does not resolve the issue, then the client is advised to contact a manager or supervisor. If the manager or supervisor cannot resolve the issue, then the client is to file the complaint with the LSP's executive director either in writing or by telephone. If the complaint is not resolved by the executive director, the client can file a formal complaint with the program's Client Grievance Committee of the Board. The decision of the Grievance Committee is final for some programs, although others include contacting the program's full Board of Directors for a final level of review.

Four regional programs and one specialty program monitoring reports indicate that each had client grievance procedures in place and none had had grievances filed for the year monitored. In the last year, a total of 21 grievances were filed for all PLAN, Inc. programs for all cases regardless of funding source. No grievances were filed in the last year for all of the specialty programs and three of the regional programs. In general, the grievances were from people seeking services who were told that the programs could not provide to them. In some cases, an individual was turned down because the program was already representing the other

¹ Each LSP has its own grievance procedure.

side in the dispute and could not accept the case due to this conflict. The program usually resolves these issues by helping the individual obtain pro bono counsel. None of the grievances filed last year were taken to the local program's board for resolution.

As noted earlier, extended representations will usually have grievance procedures included as part of the retainer agreement. The monitoring reports note that in some programs there was a failure to document advising clients of the procedures, especially for brief service, e.g., telephone cases.

Use of AJA Resources Per Case Appear Reasonable

AJA collections have increased 23 percent since FY 2002-03, with some of that increase due to the surcharge that was imposed as a result of Act 2009-49. Over these same fiscal years, the dollars collected (excluding interest) per case closed averaged \$567, and ranged from \$366 in FY 2003-04 to \$641 in FY 2009-10. AJA grant dollars per case closed ranged from a low of \$350 in FY 2003-04 to a high of \$742 in FY 2009-10 with an average value of \$594. AJA grant dollars by case handled (this includes open pending cases at the end of the fiscal year) ranges from a low of \$238 in FY 2003-04 to a high of \$520 in FY 2009-10 with an average value of \$437. IOLTA and PLAN personnel use cases handled as the grant reporting metric. By any of the measures, the averages per closed case appear reasonable.

VI. Monitoring and Auditing Activities Have Found No Significant Problems With Overall Program Administration

The IOLTA Board uses a grant administration process to provide Access to Justice Act funds to civil legal aid service programs. The IOLTA Board distributes an annual grant to PLAN, Inc., the entity that oversees the statewide network of legal aid providers throughout Pennsylvania. PLAN, Inc. then distributes the funds to the legal aid providers as sub-grantees. See Finding III for additional information about program funding. Each LSP receiving AJA funds has case goals and financial audit and program monitoring requirements. In addition, the program administrator, PLAN, Inc., undergoes a review pursuant to its grant agreement. The fee collection function performed by court officers is audited cyclically by the Department of the Auditor General and the Judicial Auditing Agency.¹

We reviewed PLAN, Inc.'s reports of its monitoring visits to the 13 LSPs for FY 2006-07 through FY 2009-10, the independent financial audits for PLAN, Inc. and the 13 LSPs for FY 2008-09 and the most recent audits of county courts and court officers and Magisterial District Judges conducted by the Department of Auditor General and the Judicial Auditing Agency audit of the Judiciary. Although concerns were identified in several of the monitoring reports, discussed below, in general no ongoing significant concerns with program administration were identified and where concerns were identified, actions were required to address the identified problems.²

IOLTA Oversight of PLAN, Inc.

IOLTA's primary measure of services provided by PLAN, Inc. and the LSPs involves the case goals methodology used to determine the level of program activity expected for the funding provided (see Finding III). IOLTA also receives reports from PLAN, Inc., including the quarterly service narrative, financial reports, final annual reports and audits. IOLTA staff has recently started to accompany PLAN, Inc. on its monitoring visits to LSPs. These visits resulted in recommendations to change the monitoring visit process. For example, at the CAP visit they found that the file sampling was overwhelmingly telephone or brief service cases. They are

¹ The Judicial Auditing Agency is comprised of a Superior Court Judge, Commonwealth Court Judge, the President Judge of the court of Common Pleas of Philadelphia County and the President Judge of the Court of Common Pleas of Allegheny County. The agency is authorized to retain a certified public accountant to audit the financial affairs of the unified judicial system. The agency may accept the reports of the Department of Auditor General in fulfilling this requirement.

² We would usually conduct our own file reviews to determine whether the files contained required materials, were closed in a timely manner, etc. Due to the confidential nature of the client files, and concerns related to attorney/client privilege, we used the monitoring reports as a substitute review measure. The monitoring reports provided a reasonably detailed account of the file reviews.

changing that process to include a greater number of the more involved cases. IOLTA is also in the process of developing a specific monitoring plan for PLAN, Inc.

Use of Interest Funds Identified in the Financial Audit. The IOLTA staff identified a concern related to the use of interest funds by PLAN, Inc. and the LSPs as part of the financial audit. Specifically, IOLTA disagreed with PLAN, Inc.'s suggested methodology for determining derivative income and its use. This resulted in a change to the grant agreement specifying that program income be attributed to grant funds if the income was derived from the grant funds, e.g., interest income, receipt of attorneys' fees. Although this income would have been used to serve low income clients, it was not specifically accounted for in the AJA fund accounts of the LSPs until recently.

PLAN, Inc. Oversight of the LSPs

PLAN, Inc. conducts desk reviews and monitoring site visits of the LSPs every three years. A desk review assesses the overall quality and productivity of the program gauging such activities as quantity of cases, extent of attorney supervision, effectiveness of pro bono programs, staff evaluation systems, and other areas. Desk reviews are not specific to a particular funding source and do not result in required corrective action to address its findings. They provide an opportunity for PLAN, Inc. to address "best practices" with the LSPs and the direction of the program. We reviewed three such reports and found that the LSPs reviewed generally compared favorably with national and statewide norms in areas such as years of experience of attorney staff and number of extended representations for each \$10,000 expended.

A monitoring visit is a site visit that includes testing fiscal operations, intake, and contract compliance systems. It focuses on compliance with grant agreement provisions and program requirements and results in a written report. Corrective action is required to be taken by the LSP to address compliance issues identified in the report.

In addition, LSPs are required to submit, within 105 days after the end of the fiscal year, a financial statement that has been subject to an audit or review by an independent certified public accountant. PLAN, Inc. also receives end-of-year (EOY) reports from the LSPs each fiscal year that contain data about program finances, case work of the programs, special projects undertaken, resource development activities, technology development, client involvement, and other areas of inquiry.

Monitoring Reports Have Identified No Significant Ongoing Problems With LSPs. Monitoring visits to the LSPs are conducted by PLAN, Inc. every three years to test fiscal operations, intake and contract compliance systems. The visit results

in a written report. This review includes such activities as proper case closing, management of fiscal operations, reporting of case data, and compliance with IOLTA and DPW regulations and grant conditions. We have reviewed all monitoring reports completed since FY 2006-07.

The reviews conducted by PLAN, Inc. included:

- A review of the most recent EOY report.
- A review of audited financial statements for the three year period under review.
- A review of the current and prior year budget and reimbursement requests.
- A review of the prior monitoring report and update of any issues identified in it.
- Many included a self review of cases to determine compliance with requirements, e.g., notice of grievance procedure, notice of case closure.
- Discussion of additional cases with the PLAN, Inc. reviewer.
- Analysis of open cases to determine adequacy of case closing procedure.

In recent years, the review also uses checklists to test for fiscal, regulatory, and contract compliance. These areas include:

- general procedures;
- eligibility and reporting;
- contract, regulatory, and administrative;
- fiscal; and
- internal controls.

The most common issues identified in the 17 monitoring reports (we had two reports for 4 of the LSPs) reviewed were:

- Need for a formal policy to address funding variability. This became an issue in 2008 due to the reduction in IOLTA funds as a result of low interest rates (7 reports). According to PLAN, Inc. all programs now have such plans.
- Need to review case closing procedures to ensure cases do not remain open without ongoing activity (7 reports).
- Financial audit report submitted late (5 reports where the financial report was submitted 2 to 12 days beyond the 105 day deadline).
- Failure to document that grievance procedures have been communicated to the client, in particular in telephone service cases (5 reports).

- Need for the development of an accounting procedures manual (4 reports).
- Failure to have signed intake forms in the case file (3 reports).

When a problem is identified in the review, corrective action is required and a deadline is established for that action. For example, in the 2010 monitoring report of the Northwestern Legal Services Association (NWLS), the corrective action required NWLS to review open case files and determine if the cases should remain open or be closed. A report showing the review and determination of status of these cases was to be provided to PLAN, Inc. by September 15, 2010. PLAN, Inc. received a response from NWLS on July 23, 2010, detailing the status of the 85 cases identified in the monitoring report and satisfactorily explaining the timing of case entries in the system.

We reviewed two monitoring reports for four of the programs, with the most recent issued in 2010. Two of the LSPs had implemented the corrective actions required in their prior visit when their 2010 visit occurred. One LSP had no corrective actions noted as needed in its prior monitoring report. The fourth LSP, the PILP, had implemented corrective actions as required from the previous audit, but due to other concerns a follow-up visit was scheduled approximately 6 months after the initial monitoring visit. The follow-up visit documented significant improvements in the case closing and case management functions of the PILP although some corrective actions recommended in the initial visit were not fully implemented at the time of the follow-up visit.

Fraudulent Expenses Were Identified for One LSP in Its Financial Audits.

We reviewed the LSPs' most recently submitted financial statements. Although recommendations for corrections to procedures may have been noted, in general, no significant fiscal issues were identified. However, fraudulent expenses were identified in June 2008 for Southwestern Pennsylvania Legal Services, but did not involve AJA funds. Fraudulent expenses were improperly disbursed from the LSP's bank accounts by a fiscal employee. The funds and the costs of the special audit were fully recovered from the employee, who was immediately terminated and referred for prosecution resulting in a conviction. The affected governmental entities were made whole. Internal controls were enhanced, and no problems were found in SWLS's next financial audit.

Audits of the Courts and Court Officers Have Found Minimal Issues with Fee Collection and Remittance

The Department of Auditor General conducts audits of the county courts and county court officers and the Magisterial District Courts. In addition, the Judicial Auditing Agency conducts audits of the Judiciary.

Auditor General Review of County Courts and Court Officers. The Fiscal Code, 72 P.S. §401(b), requires the Department of the Auditor General to audit the accounts of each county officer to determine whether all moneys collected on behalf of the Commonwealth have been correctly assessed, reported, and promptly remitted. This provision also requires the Auditor General to prepare and submit a report to the Department of Revenue so it can settle its accounts.³ We reviewed each county's most recent audit reports for the various county offices, including the prothonotary, recorder of deeds, register of wills, orphans' court, and common pleas court in order to determine if there were any findings relating to the assessment and collection of Access to Justice fees.⁴

We identified 12 audit reports with findings relating to fee collection and remittance, which are summarized on Exhibit 7. It is important to note that the audit reports show the Judicial Computer System/Access to Justice (JCS/ATJ) fees in one combined category. Of the 12 reports, 11 indicated improper assessment of fees. For example, pursuant to regulations issued by the Administrative Office of Pennsylvania Courts, the ATJ fee is to be assessed on each count of a divorce complaint. As shown on Exhibit 7, three reports indicated that the fee was not assessed on each count of a divorce complaint as required. In 4 reports, ATJ fees were assessed on Accelerated Rehabilitative Disposition (ARD) cases even though these types of cases were not to be assessed this fee.⁵ One report noted that fees were not assessed on easement documents as required, and another report indicated that fees were not assessed on all mortgage filings. In three reports, the Auditor General found that the fees collected were not transmitted to the Department of Revenue within the time period required.

In all cases, when an issue was noted as a finding in the report, the auditors explained why and how the issue existed and how the issue could be resolved. The auditee was also given the opportunity to respond to the finding. If issues were noted in the prior audit, the current report notes if the issue was corrected or still exists.

Auditor General Reports of Magisterial District Courts. The Fiscal Code requires the Auditor General to audit the accounts of each district court to determine whether all moneys collected on behalf of the Commonwealth have been correctly

³ Copies of the audit reports are also submitted to the auditee, the Court Administrator at AOPC, the county commissioner, and others including the county controller and the president judge.

⁴ The Auditor General also conducts audits of each county's sheriff's office, treasurer's office, domestic relations office, and probation and parole offices. These offices do not, however, collect any fees remitted to the Access to Justice Fund, and, therefore, were not included in this review.

⁵ Act 2009-49 imposed the fee on defendants accepted into ARD or any other pretrial diversionary program.

Summary of Auditor General Report Findings Regarding Collection and Disbursement of Access to Justice Fees

- Beaver County (January 2004 – December 2007) – The audit of the Recorder of Deeds office found that the office did not assess the Judicial Computer System/Access to Justice (JCS/ATJ) fees as mandated by law on right-of-way (easement) documents. The office recorded 1,194 documents and did not assess the \$10 fee on any of the documents. The total dollar amount not assessed was \$11,940. The auditors recommended that the office review the law to ensure that the fee is assessed as mandated by law. The office's response indicated that its solicitor told them to not assess the fee because there is a difference between a right-of-way and an easement. Because of the audit, the office indicated it would begin to assess the fee on rights-of-way effective January 1, 2009.
- Blair County (January 2002 – December 2005) – The Auditor General found that monthly payments submitted to the Department of Revenue by the Prothonotary and the Orphans' Court were transmitted late. In both offices, the payments were late for 18 of the 48 months audited. Additionally, the report notes that this condition existed in each of the two prior audits. The Auditor General also found that the Prothonotary did not properly assess JCS/ATJ fees on divorce complaints. Of 19 cases tested, 12 were not assessed the fee on each count of the divorce filing. This failure to properly assess the fees has resulted in a loss of revenue to the Commonwealth. The report notes that this same condition was cited in the two prior audit reports. While the Auditor General sought a response from the auditees regarding these findings, no response was offered.
- Butler County (January 2003 – December 2006) – The Auditor General's examination of the Prothonotary found that certain fees were not assessed properly. Specifically, the auditors examined 13 divorce cases where there was more than one count, and in all cases the JCS/ATJ fee was not assessed on each additional count. The Prothonotary's office assessed the \$10 fee on the first count, and a \$5 fee on each additional count in each case. In response to this finding, the prothonotary indicated that she contacted her solicitor to determine how to properly assess the fee.
- Indiana County (January 2004 – December 2006) – The report indicates that the Clerk of the Court of Common Pleas did not assess certain costs and fees as mandated by law. Specifically, of 70 cases tested by the auditors, in 7 cases the JCS/ATJ fee was assessed in error. It appears that this fee was assessed on Accelerated Rehabilitative Disposition (ARD) cases. The auditors recommended that the Clerk review the law to ensure that costs and fees are assessed as mandated by law. The Clerk offered no response.
- Lehigh County (January 2004 – December 2007) – This report of the audit of the Recorder of Deeds office notes that during the prior audit, JCS/ATJ fees were not assessed on all mortgage satisfactions, mortgage releases, and mortgage assignments. Upon follow-up in this current audit, the auditor found that office complied with the assessment requirement.
- Lancaster County (January 2004 – December 2006) – Of the 75 cases tested in the Clerk of the Court of Common Pleas' office, there were 5 cases in which the JCS/ATJ fees were assessed in error. It appears that fees were assessed on ARD cases. This report also notes that the Commonwealth's portion of revenue was not always transmitted to the Department by the Clerk within the time period required. Specifically, 30 of 36 payments made to the Department of Revenue were not transmitted within the time period required. The auditors noted that this condition was cited in the prior audit. In response to this finding, the Clerk stated that the condition exists due to ongoing complications with the accounting part of the computer program used by both the Treasurer's and the Clerk of Court's office. It was noted that the Treasurer usually asks the Clerk of Courts to wait for the monthly report of fines, costs, restitution, and supervision fee collection information, thus, submissions of state reports were often late. The Clerk notes that this problem has been corrected and reports are now forwarded in the time period required.

Exhibit 7 (Continued)

- Northampton County (January 2001 – July 2005) – Of the 60 cases tested in the Clerk of the Court of Common Pleas' office, there were 3 cases in which JCS/ATJ fees were not properly assessed. It appears that fees were assessed on ARD cases. The auditors recommended that the Clerk review the law to ensure that costs and fees are assessed as mandated by law. The Clerk in response indicated that the Clerk will review the law.
- Philadelphia County (January 2004 – December 2007) – This current report notes that in the prior audit, the Department of Records was not properly assessing JCS/ATJ fees. The report notes that the Department is now in compliance with the assessment requirement.
- Philadelphia County (January 2004 – December 2007) – This audit report of the Prothonotary's Office indicates that the JCS/ATJ fees were assessed once on every divorce complaint regardless of the number of counts. The auditors stated that the Administrative Office of Pennsylvania Courts issued regulations that provide for, with respect to divorce actions, a separate statutory fee to be imposed for each count in the complaint in addition to the count requesting divorce. The auditors recommended that the Prothonotary notify the Family Court and Court Administration to begin assessing the fees on each count in a divorce complaint. The audit report also notes that this same finding was included in the prior report. The Prothonotary responded to the recommendation by indicating that the Family Court was so advised and will be making proper assessments.
- Schuylkill County (January 2005 – December 2008) – Of the 60 cases tested in the Clerk of the Court of Common Pleas' office, there were 13 cases in which the JCS/ATJ fees were not assessed properly. It appears that fees were assessed on ARD cases. The auditors recommended that the Clerk review the laws to ensure that fines, costs, fees, and surcharges, are assessed as mandated by law. The Clerk, in response, indicated that the exceptions noted were the result of the office following the sentencing order of the judge and plans to notify the court of this finding. The auditors agreed that there were some instances where the judge's orders did not indicate to assess certain costs, however, there were instances where the office did not assess the proper amount of fines, costs, fees, and surcharges, as mandated by law.
- Somerset County (January 2006 – December 2008) – The audit report of the Recorder of Deeds office notes that during the prior audit the JCS/ATJ fees were not assessed as mandated by law. The auditors found that during the current audit, the office complied with the assessment mandate.
- York County (January 2004 – December 2006) – The auditors found that 22 out of 36 payments made to the Department of Revenue by the prothonotary were not transmitted within the time period required. Further, collections from December 2003 to November 2005 for writ taxes and JCS/ATJ fees on protection from abuse cases were not remitted to the Department of Revenue until December 29, 2005. Additionally, a portion of collections from January 2006 to May 2006 for the same taxes and fees was not remitted until June 9, 2006. As such, the auditors recommended that the office transmit the Commonwealth's portion of taxes, surcharges, fees, and fines as required. The prothonotary responded, "We will work on this. We thought that the due date was the 15th."

Source: Development by LB&FC staff from a review of county audit reports.

assessed, reported and promptly remitted. This provision also requires the Auditor General to prepare and submit a report to the Department of Revenue so it can settle its accounts.⁶

We reviewed each Magisterial District Court's most recent audit report in order to determine if there were any findings relating to the assessment and collection of Access to Justice fees. While these summary reports did not include findings specifically relating to Access to Justice fees, there were several reports describing conditions that may have affected the assessment, collection, and remittance of these monies to the Department of Revenue.

Specifically, of the 644 Magisterial District Court reports reviewed, there were three reports indicating the misappropriation of funds, four reports indicating late remittance of collections to the Department of Revenue, two reports indicating that escrow monies were not disbursed in a timely manner, two reports indicating that local police were writing traffic citations under local ordinances instead of the Vehicle Code, and two reports indicating that monies collected were not properly receipted and deposited in a timely manner. See Exhibit 8.

In all cases, when an issue was noted as a finding in the report, the auditors explained why and how the issue existed and how the issue could be resolved. The auditee was also given the opportunity to respond to the finding. If issues were noted in the prior audit, the current report noted if the issue was corrected or still exists.

Judicial Department Audit Report. We reviewed the audit report prepared for the Judiciary for the years ending June 30, 2009 and 2010, for the purpose of determining whether there were any findings relating to the Access to Justice account. Included in this audit, which was conducted by Ernst & Young LLP, were the Supreme Court, Superior Court, Commonwealth Court, Courts of Common Pleas, Magisterial District Judges, Philadelphia Traffic Court, Philadelphia Municipal Court, Statewide Judicial Computer System Augmentation Account, and the Access to Justice Account, among other judicial entities.⁷ The audit report did not include any findings relating to the collection or disbursement of these monies.

⁶ Copies of the reports are also submitted to the auditee, the Court Administrator at AOPC, the county commissioners, the county controller, the district court administrator, and others, as appropriate, including local police departments.

⁷ The other judicial entities include: Civil Procedural Rules Committee, Criminal Procedural Rules Committee, Minor Court Rules Committee, Rules of Evidence Committee, Appellate Court/Orphans' Court Rules Committee, PA Board of Law Examiners, Juvenile Court Rules Committee, Domestic Relations Committee, Judicial Council, Interbranch Commission, Court Administrator, Judicial Center Operations, District Court Administrators, Court Management Education, UJS Security, Integrated Criminal Justice System, Common Pleas Senior Judges, Common Pleas Education, Ethics Committee, Magisterial District Judge Education, Philadelphia Municipal Law Clerks, Domestic Violence Service, County Court Reimbursements, Court Accounts, Gun Courts, Federal Court Improvement Project, Federal Drug Court Training Grant, Federal Drug Court MIS Grant, Judicial Conduct Board, and the Court of Judicial Discipline.

Summary of Auditor General Report Findings Regarding Collection and Disbursement of Access to Justice Fees in Magisterial District Courts

- Allegheny County (January 2006 – August 2008) – This audit disclosed that at least \$59,690 had been misappropriated during the audit period. The auditors prepared a schedule that shows the allocation of misappropriated funds by classification. In other words, 61.69 percent of the monies collected were owed to the state; 15.93 percent were owed to the county; 15.72 percent were owed to municipalities; and 6.66 percent were owed to other entities. When the percentages were applied to the amount misappropriated, the auditors determined that the state was owed \$36,823. The Magisterial District Judge noted in his response to the audit that the employee who was responsible for the misappropriation was terminated and prosecuted.
- Berks County (January 2004 – December 2006) – This audit disclosed that payments to the Department of Revenue for the Commonwealth's portion of fines, costs, fees, and surcharges collected were transmitted late for 23 of 36 months examined. This condition resulted in the Department of Revenue not receiving Commonwealth monies in a timely manner. This condition was also cited in the prior audit. The Magisterial District Judge responded that the checks for the payment are signed and mailed as soon as possible after he received them.
- Bradford County (January 2004 – December 2006) – This audit found that escrow monies were not disbursed timely. Specifically, the auditors found that escrow funds collected from October 1992 through June 2006 in the amount of \$2,722 were not disbursed as of December 2006. Because the district court's bank account is essentially an escrow account on behalf of the Commonwealth and other entities, the court should review undisbursed funds monthly and take appropriate action to disburse such funds to whom they are due. The Magisterial District Judge indicated that he will seek a disbursement of the funds promptly.
- Bucks County (January 2005 – December 2007) – The auditors found that township police were citing traffic violations under local ordinances rather than the Vehicle Code. Thus, the appropriate fines, fees, costs, and surcharges were not assessed properly, and the Department of Revenue did not receive its portion of the assessment as all monies assessed were remitted to the local municipality. The Magisterial District Judge did not provide a response to this finding.
- Centre County (January 2006 – December 2007) – The auditors found that monthly payments made to the Department of Revenue for the Commonwealth's portion of fines, costs, fees, and surcharges collected were transmitted late for 16 of the 24 months examined. Additionally, 50 of the 150 weekly payments tested were not transmitted timely. The Assistant Court Administrator responded to this audit finding by indicating that at the time of the audit the office was vacant and, as such, senior magisterial judges were assigned on a rotating basis.
- Dauphin County (January 2004 – December 2006) – This audit showed that there was inadequate internal controls over the bank account because escrow funds were held from 288 to 3,980 days without being disbursed as required. This resulted in \$6,343 not being disbursed timely. This was also a finding in the previous audit report. The Magisterial District Judge did not offer a response to the audit finding.
- Erie County Traffic Court (January 2002 – December 2005) – The Auditor General found that at least \$272,207 had been misappropriated during the period of the audit. The report indicates that of this amount, \$72,745 was due the Commonwealth. A Magisterial District Judge indicated in his response to the report that Traffic Court was disbanded and, as of March 2006, all citations are now filed in the appropriate district court. The report indicates that, at the time of the report, none of the misappropriated funds had been recovered.

Exhibit 8 (Continued)

- Fayette County (January 2006 – April 2007) – This audit confirmed that an employee failed to deposit \$8,883.56 in the bank. The employee admitted to not making the deposits and charges were filed by the Pennsylvania State Police. In the response to the audit, the Magisterial District Judge noted that full restitution had been made to the court.
- Montgomery County (January 2006 – December 2008) – The auditors found that payment for the Commonwealth’s portion of fines, costs, fees, and surcharges collected was transmitted late for 32 of the 168 weekly payments tested by the auditor. The report notes that the same condition was noted in the two preceding audits. The Magisterial District Judge responded that the court would make every attempt to have the checks issued on time. He also indicated that an additional clerk had been assigned to assist with this responsibility.
- Montgomery County (January 2006 – December 2008) – This audit disclosed that initial costs for civil cases were not always receipted and deposited timely. Specifically, in all 10 civil cases tested, the date of the initial filing costs differed from the date monies were receipted and subsequently deposited. The time lapse from the date of filing to the subsequent receipt and deposit date ranged from 8 days to 240 days. This finding was also noted in the prior audit. The Magisterial District Judge noted that the court adopted a new policy to address this finding.
- Northampton County (January 2005 – December 2007) – The auditors found that the monthly payments to the Department of Revenue for the Commonwealth’s portion of fines, costs, fees, and surcharges collected, was transmitted late for 9 of the 36 months tested. The total amount of late payments was \$11,425. Additionally, 23 of 119 weekly payments tested were not transmitted timely. These conditions resulted in the Department of Revenue not receiving Commonwealth monies in a timely manner. The Magisterial District Judge offered no response to this finding.
- Union County (January 2005 – December 2007) – This current audit report notes that a \$35,276 balance was due to the Commonwealth as a result of the prior audit. As of the date of the current audit report, this balance remained unpaid. The current audit also notes an additional payment of \$3,908 was due to the Commonwealth as a result of traffic citations being improperly issued under local ordinances rather than the Vehicle Code. The Magisterial District Judge did not offer a response to the report.
- Westmoreland County (January 2007 – December 2009) – This audit found that constables, when serving warrants, were collecting fines and costs on behalf of the court. In 5 of 12 cases examined, collections of fines, costs, and fees made by a constable were deposited into the constable’s personal bank account and were subsequently remitted to the court. In 4 of 12 cases reviewed, the collections received by the constable were not remitted timely to the court with the time from the date of collection to the receipt date ranging from 4 to 14 days. Further, the constables were not issuing official receipts for the fines and costs collected and were not completing the warrants properly. The auditors noted that this situation leads to the significant risk of funds being lost or misappropriated. The Magisterial District Judge indicated in response to the audit finding that he does not see this situation as a problem and indicated that he would not change his procedures.

Source: Development by LB&FC staff from a review of county audit reports.

VII. Appendices

APPENDIX A

Case Examples of Civil Legal Aid Clients

- Mr. O., whose eyesight is so poor he can only see very large print, cannot read his mail, and he doesn't have a phone. Through no fault of his own, he could not communicate with the people at the Social Security office to get the benefits he needed—benefits designed specifically to help aged, blind, and disabled people who have little or no income. A CLS attorney worked with Mr. O. to ensure the Social Security Administration properly handled his case, and he was able to get ongoing monthly benefits.
- Dan M. was worried that his family would lose their house. They had five children. His wife had serious complications during childbirth that led to extensive surgery, and she was not able to work. Even though Dan worked overtime at the prison where he worked as a guard, they were buried in medical bills and soon got behind, even with the mortgage on their modest row home near the hospital in Lancaster. The mortgage company in Texas filed a foreclosure complaint. Dan and his family contacted MidPenn for help. Dan tried for a loan modification as part of the federal government's Home Affordable Mortgage Program (HAMP). The company lost his paperwork - three times. Only when MidPenn filed a defense to the foreclosure action for failure to comply with HAMP, did settlement talks begin. Over time the MidPenn attorney was able to work out a favorable resolution for Dan and his family.
- Mrs. T., a 66-year-old retiree, was living on her own in an apartment. The unit had so little heat that she was forced to spend most of her time at her daughter's apartment. After going without running water for a full month, trying unsuccessfully to get the landlord to replace a broken toilet seat, and experiencing other habitability issues, Mrs. T. approached LASP for help. Her Legal Aid attorney helped her put her rent into escrow for 3 months and defended her at an eviction hearing before the Magisterial District Justice. As a result of LASP's involvement, the landlord made the repairs, Mrs. T. was given an abatement in rent and she was able to continue to live independently in housing that was brought up to reasonable living standards.
- John, a 50 year old man, was diagnosed with HIV in the early 1990s. Advances in medicine have enabled John to live longer, but the ability to work remained a challenge due to his physical and mental health conditions. When the side effects from his medication became debilitating, he filed for disability benefits but was initially denied. The AIDS Assistance Office at Lehigh Valley Hospital referred John to NPLS. With the help of NPLS, John won monthly benefits of \$900 along with a retroactive payment of \$40,000.
- A soldier in the U.S. Army scheduled for deployment to Iraq tried to arrange visitation with his nine-month-old son while home on leave for a month. The mother of the child was very uncooperative with his requests, telling the soldier he could only see the toddler for a couple of hours during his entire leave. NWLS represented the soldier in a court hearing that enabled the father to get extensive visitation rights with his son prior to his deployment. After his leave ended, the paternal grandmother sent the NWLS attorney handling the case some pictures of the father and son during their time together that the soldier was able to take with him to Iraq as a reminder of his child.
- Charles S. brought a civil rights action against officials of the Philadelphia prison system for failing to protect him. While forced to feed inmates in punitive segregation, he was viciously attacked by a known violent inmate who had been placed in isolation due to previous violent outbursts. Prison policy prevents such inmates like Charles, who was classified for general population, from this dangerous assignment. PILP represented Charles, and an amicable settlement was reached prior to trial.

Source: Developed by LB&FC staff from the annual reports of the legal services programs.

APPENDIX B

Funding Sources and Types and Numbers of Cases Handled in Selected Other States

<u>Funding Sources</u>	<u>Amount</u>
Alabama (FY 2010)	
IOLTA/IOTA	\$ 969,000
<i>Pro hac vice</i> Fees	133,000
General Fund	200,000
Legal Services Corporation.....	7,415,331
Other (federal & state grants, United Way, contributions, etc.)	<u>1,765,000</u>
Total	\$ 10,482,420
California	
IOLTA/IOTA (CY 2010).....	\$ 12,920,758
Court Filing Fees (CY 2010)	6,234,275 ^a
Attorney Fees (CY 2009)	12,886,786
General Fund (CY 2010).....	10,690,725 ^a
Legal Services Corporation (FY 2010).....	51,136,382
Other (CY 2009).....	156,239,201 ^b
Individual Contributions	9,149,103
Organizations	4,921,655
Special Events.....	14,852,372
Foundations.....	44,263,942
Older Americans Act.....	6,589,853
Federal	17,003,969
State	11,458,499
City	20,330,748
Cy Pres Awards.....	15,547,771
Client Fees/Reimbursements	694,681
Other.....	<u>11,426,608</u>
Total.....	\$250,108,127
Maryland (FY 2010)	
IOLTA/IOTA	\$ 2,200,000
Court Filing Fees.....	7,100,000 ^c
General Fund	<u>500,000</u>
Total	\$ 9,800,000
Minnesota (FY 2010)	
IOLTA/IOTA	\$ 2,250,000
Attorney Fees.....	1,800,000
General Fund.....	12,100,000
Legal Services Corporation.....	<u>4,327,268</u>
Total	\$ 20,477,268

Appendix B (Continued)

<u>Types of Cases Handled</u>	<u>Number</u>
Alabama (CY 2010)	
Domestic Violence	980
Bankruptcy	584
Family	2,792
Housing.....	4,444
Employment.....	110
Consumer	1,929
Education	29
Utilities	78
Public Benefits.....	853
Wills & Other Misc.	<u>2,889</u>
Total	14,688
California (CY 2009)	
Family	20,000
Housing.....	21,000
Consumer	7,000
Education	7,000
Elderly	10,000
Utilities	10,000
Public Benefits.....	25,000
Other	<u>45,000</u>
Total	145,000
Maryland (CY 2010)	
Family	46,700
Housing.....	26,201
Employment.....	4,556
Consumer	9,113
Public Benefits.....	2,278
Immigration	4,556
Education, Health, Indiv. Rights, Wills, Trusts, & Misc.	<u>10,252</u>
Total	103,656
Minnesota (CY 2010)	
Family	15,355 ^d
Housing.....	10,543
Employment.....	1,455
Consumer	6,435 ^e
Public Benefits.....	5,701
Education	377
Immigration and Misc.....	<u>12,457</u>
Total	52,323

^a Equal Access Fund.

^b Legal services providers received this funding directly from these sources.

^c Court filing fees are expected to increase by another \$6.1 million (for a total of \$13.2 million) in the FY 2011 due to a fee increase passed in the 2010 legislative session.

^d Includes domestic violence cases.

^e Includes bankruptcy cases.

Source: LB&FC staff survey questionnaire.

APPENDIX C

Court Fees, Fines, and State Appropriations by State and Major Changes From 2010 Legislative Sessions* (As of November 2010)

State	Court Fees and Fines, ^a 2010	State Appropriation, 2010	2010 Legislative Session Changes
AL	None	\$225,000; initiated 2008	Appropriation increased to \$225,000
AK	None	\$350,000; initiated 2008	Appropriation increased to \$350,000
AZ	None	\$1,000,000 to provide legal services to women with children who are victim of domestic violence.	No change
AR	\$342,000 from \$20 "reopening" fee for civil cases, initiated 2005, plus estimated \$500,000 from \$10 circuit court filing fee, initiated 2009.	None	No change
CA	\$6,746,000; initiated 2005	\$11,009,000; initiated in 1999-00.	No change
CO	Approximately \$143,430 from filing fee increase in dissolution proceedings for the Family Violence Justice Fund; passed 2009.	\$750,000 Family Violence Justice Fund for 2008-09; initiated 1999, eliminated 2004, restored 2005, increased 2008.	
CT	Approximately \$9,000,000, initiated 2009	\$1,500,000 in 10-11; initiated 2005	Filing fee revenue coming in higher than estimated because of increase in foreclosure filings. Appropriation of \$500,000 for 09-10; \$1,500,000 estimate for 10-11
DE	None	\$166,500 from Grant-in-Aid program for general legal services. \$45,000 elder law appropriation. Contingency appropriation of \$275,000.	Contingency appropriation restored to \$275,000 (amount it had been prior to 09 session); Grant-in-Aid funds increased from \$150,800 to \$166,500 (\$101,500 to CLASI, \$65,000 to DVLS).

Appendix C (Continued)

State	Court Fees and Fines, 2010	State Appropriation, 2010	2010 Legislative Session Changes
FL	As of 2004, local filing fees are no longer used for legal services, but state law requires counties to fund.	\$1,000,000 for general legal services; additional \$1,000,000 for foreclosure assistance added in 2010.	Have retained \$1,000,000 and will receive an additional \$1,000,000 for foreclosure assistance.
GA	For pro bono in 3 counties only; total is \$645,000	\$1,724,829 to provide legal services for victims of domestic violence (no divorces). Initiated in 1998. Also, \$91,000 for senior hotline.	Appropriation reduced to \$1,724,829; hotline to \$91,000.
HI	\$204,000; initiated in 1996	None	Some of appropriation may be restored (?)
ID	None	None	No change.
IL	DuPage County only, for family and children's issues, \$275,000, initiated in 1995	\$1,750,000 to fund legal information centers, regional legal services hotlines, dispute resolution centers, self-help assistance desks, and civil legal services providers, initiated 2000.	No change.
IN	None	\$1,500,000; initiated in 1997	No change.
IA	None	\$1,930,671; initiated 1996.	Amount increased to \$1,930,671; remains below 2008 level.
KS	\$846,000, initiated in 1996	None	
KY	\$3,618,000; initiated in 1994, increased (doubled) in 2003	\$480,000, initiated in 1996, increased in 1998; decreased in 2008.	
LA	\$384,000 in 09-10; 1997 legislature authorized local jurisdictions to assess fees; implemented in several jurisdictions.	\$150,000.	\$150,000 of \$500,000 lost in 09 reinstated. (\$100,000 split between 4 programs + \$50,000 additional for Capital Area program.)
ME	\$1,846,848, initiated in 1997, increased in 2005	\$258,000 to Pine Tree Legal Services; \$189,000 to Legal Services for the Elderly	
MD	Approximately \$14,000,000; initiated in 1998; increased in 2004 and again in 2010	\$500,000 from state abandoned property fund (initiated 1985)	Filing fee surcharge increase of approximately \$6.1 million annually with a 3 year sunset

Appendix C (Continued)

State	Court Fees and Fines, 2010	State Appropriation, 2010	2010 Legislative Session Changes
MA	None; was filing fee surcharge from 1983-94; converted to general appropriation in 1994	\$9,500,000	No change.
MI	\$7,844,000, initiated in 1993	None	No change.
MN	Dedicated surcharges on civil filing fees and certain real estate filings existed until late 1980s; now are a revenue source for appropriation	\$11,798,560 (including \$877,000 earmarked for family law).	Additional cut of \$284,000 annually takes effect in 2011FY.
MS	\$643,000 in 2008FY; initiated in 2006	None	No change.
MO	\$3,200,000 in 2008; initiated 2003; sunset provision extended in 2007 to 12/31/12.	None since FY02-03 (filing fee surcharge initiated).	No change
MT	\$110,000, to serve domestic violence victims; initiated 1999, increased 2005	None	No change
NE	\$2,445,000, initiated in 1997; increased in 2002; also, \$290,000, initiated in 2006, from \$1 fee on criminal penalties	None	No change
NV	\$3,708,000, from several legislatively authorized surcharges implemented in some local jurisdictions.	None	No change.
NH	None	\$1,740,000, initiated in 1997	No change.
NJ	Yes (see State Appropriation)	Approximately \$20,000,000 (Initiated in 1966-67, numerous additions through the years, then approximately 1/3 reduction in 2010.)	Loss of \$9,700,000
NM	\$1,885,000 for 08-09.	\$2,088,000, initiated 2007	\$20,000 increase in state appropriation, but there is a current threat to entire appropriation.

Appendix C (Continued)

State	Court Fees and Fines, 2010	State Appropriation, 2010	2010 Legislative Session Changes
NY	Yes, portion of total state funding comes from a fee on criminal history searches; created in 2003.	\$2,500,000 for general legal services (through combination of appropriation and criminal history search fees) + \$1,218,000 for services for domestic violence + \$15,000,000 from Judicial budget, new in 2010, to offset much of IOLTA cuts.	\$2,000,000 criminal history search fee and \$6,687,396 general legal services reduced to \$2,500,000 combined. Domestic violence funding unchanged. \$15 million new in Judicial Budget to offset \$18,000,000 in IOLTA cuts. Therefore net increase in state funding of 8,813,000, but between IOLTA and state the loss is \$9,687,000.
NC	\$3,077,986 for general legal services; converted from appropriation in 2001; \$1,378,830 for domestic violence added in 2004; estimated \$250,000 from fee on foreclosure filings, added 2010.	\$712,500 for general legal services, \$71,250 for foreclosure assistance)	Appropriations cut 5%, to \$712,500 for general legal services and \$71,250 for foreclosure assistance. New funds through increased fee on foreclosure filings.
ND	Approximately \$312,000; initiated in 1989; increased in 1997 and 2009	None	No change.
OH	\$16,168,600 in FY08; initiated in 1985, increased 2005.	None	No change.
OK	None	\$932,726 for family law cases, initiated in 1996; most recent increase in 2006	Appropriation cut by 13.9%, to \$932,726.
OR	\$5,240,100; initiated in 1977, legislature approved increase in 2003 that phased in over 3 years.	\$500,000 (\$1,000,000 for the biennium)	No change to the appropriation or filing fee by reason of the Legislative Session, but there will likely be a small decrease in the actual amount of appropriation received due to governor's across-the-board cuts to prevent deficit.
PA	\$9,709,000 in FY08-09, initiated in 2002, + \$2,700,000 for next 2 years	\$3,039,000, initiated 74-75, several increases, small decrease 2010.	09 appropriation cut by about .7%. Because 09 appropriation was reduced midyear, the \$3.039 million was more than 09 actual.
RI	\$306,000; initiated in 1996	\$135,000 for FY09	No change.
SC	\$1,770,000; initiated in 1997	None	No change.
SD	\$60,000 in first FY; initiated 2009	None	Filing fee amount should increase because of fixing collection problems.

Appendix C (Continued)

State	Court Fees and Fines, 2010	State Appropriation, 2010	2010 Legislative Session Changes
TN	\$1,877,900 from 2 sources - filing fee surcharge (initiated in 1995), parking/speeding ticket surcharge (initiated in 1999) and \$1,566,000 from tax on bail bonds (initiated 2001)	None	Legal services 1 of 4 entities to receive proceeds from forfeited bonds of DV offenders who violate restraining orders. No estimate of amount to be received. Otherwise, no change.
TX	\$9,770,000; initiated in 1997, added to in 2009; \$650,000 in civil fines for deceptive trade practices from AG's office.	\$2,500,000 per year, since 2002, from the Crime Victims Compensation Fund to provide civil legal services to crime victims. \$1,500,000, started in 05-06, in general revenue funds. \$10,000,000 temporary (for 2 years) to replace lost IOLTA funds.	No change.
UT	None	\$195,000, initiated 2003, increased 2007, to provide assistance in family law and domestic violence cases.	No change.
VT	None	Approximately \$735,000	No change.
VA	\$7,800,000; initiated in 1992; increased in 2002 and 2003, then big increase in 2008	\$1,900,000; initiated in late 70's, increased periodically, most recently in 2007.	5% cut in appropriation, from \$2,000,000 to \$1,900,000.
WA	Yes (see State Appropriation)	\$11,151,000; initiated in 1992 with passage of non-dedicated filing fee. Most recent increase in 2007.	Reduced by \$408,000.
WV	\$314,000 to serve domestic violence victims; from civil filing fees and jury fees; initiated 2003	\$400,000 to serve domestic violence victims; increased 2008	No change.
WI	None	\$1,959,000, initiated in 2007; funded by surcharge assessed on certain types of cases.	
WY	Estimated \$1,250,000; initiated 2010	None	Filing fee surcharge passed; will generate \$1,000,000-\$1,500,000

* This appendix focuses on court fees and fines and state appropriations of state funding. This information does not include IOLTA funding or any funding that is not a direct state appropriation of state funds. Thus, this does not show total state funding amounts.

^a Court fees and fines have generally not been impacted by budget cuts related to the financial crisis, and in some states have risen because of increased activity.

Source: ABA Resource Center for Access to Justice Initiatives, Standing Committee on Legal Aid and Indigent Defendants.

APPENDIX D

Legal Service Programs Funded With AJA Funds

Southwestern Legal Services Consortium

LAUREL LEGAL SERVICES

Laurel Legal Services (Laurel) provides a full range of legal services to people of low income in civil matters. The range of legal services to be provided is determined by available resources, restrictions and specific funding sources and priorities adopted by the program.

Service Area: Encompasses the counties of Armstrong, Cambria, Clarion, Indiana, Jefferson, and Westmoreland. The program maintains a permanent office site in each of these six counties. The main office, located in Greensburg, Westmoreland County, houses the administrative staff as well as legal staff.

SOUTHWESTERN PENNSYLVANIA LEGAL SERVICES

Southwestern Pennsylvania Legal Services (SPLS) works in collaboration with Neighborhood Legal Services and Laurel Legal Services to further the goals of the Southwestern Pennsylvania Legal Services Consortium.

Service Area: Fayette, Greene, Somerset, and Washington Counties. SPLS maintains a permanent office site in each of these four counties. The main office, located in Washington, Pennsylvania, houses the administrative staff as well as legal staff.

NEIGHBORHOOD LEGAL SERVICES ASSOCIATION

Neighborhood Legal Services Association (NLSA) provides services to eligible residents at 125 percent of poverty for PLAN sources. NLSA did not adopt higher income guidelines as permitted by the AJA regulations. Any exceptions to the 125 percent of poverty standard are for special funding sources that permit representation of over-income victims of domestic violence, or for which indirect costs are tracked.

Service Area: Allegheny, Beaver, Butler, and Lawrence Counties.

Legal Aid of Southeastern PA

Legal Aid of Southeastern Pennsylvania (LASP) was created on January 1, 2001, through a merger of Montgomery County Legal Aid and Bucks County Legal Aid Society, as well as absorption of the operations of Legal Aid of Chester County. In addition, LASP also absorbed the operations of the Delaware County Legal Assistance Association on July 1, 2001. LASP provides legal representation to low-income people, to empower them to solve problems without legal representation through legal education and increased access to the courts and to change community practices and systems that cause or aggravate poverty.

Service Area: Bucks, Chester, Delaware, and Montgomery Counties. The program maintains permanent office sites in Bristol, Chester, Doylestown, Norristown, Pottstown, and West Chester.

Appendix D (Continued)

Community Legal Services

Community Legal Services (CLS) provides legal assistance to low-income Philadelphia residents. CLS services include client representation, policy design and recommendations, community education and working with community partners. CLS houses nine different legal units, specializing in a different area of law, such as Community Economic Development, Consumer Law, Elder Law, Employment Law, Energy, Family Advocacy, Housing, Language Access, and Public Benefits.

Service Area: CLS provides services within Philadelphia County and maintains two permanent office sites within the county. The main office, located in center city Philadelphia, at 1424 Chestnut Street, houses the administrative staff as well as legal staff. The second office is located in North Philadelphia.

MidPenn Legal Services

MidPenn Legal Services (MidPenn) provides equal access to justice and high quality legal services to low income persons and survivors of domestic violence in 18 counties in Central Pennsylvania. MidPenn was created in 2000 through the merger of Keystone Legal Services, Central Pennsylvania Legal Services, and Legal Services, Inc.

Service Area: Adams, Bedford, Berks, Blair, Centre, Clearfield, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Perry, Schuylkill, and York Counties. The program maintains an office in each of these, except Fulton, Huntingdon, Juniata, and Perry. The Harrisburg office houses the administrative staff as well as the Dauphin/Perry service office.

North Penn Legal Services

North Penn Legal Services provides civil legal assistance to individuals, households and qualified economic groups who face barriers to equal opportunity under the law. Effective January 1, 2001, three Pennsylvania non-profit organizations – Legal Services of Northeastern Pennsylvania, Susquehanna Legal Services and Lehigh Valley Legal Services – merged with Northern Pennsylvania Legal Services. The name of the surviving organization was simultaneously changed to North Penn Legal Services (North Penn).

Service Area: Bradford, Carbon, Clinton, Columbia, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Pike, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, and Wyoming Counties. The program maintains a permanent staff site in thirteen (13) of these counties. Administrative staff is located in the Bethlehem and Scranton offices. These two offices also house legal staff.

Northwestern Legal Services

Northwestern Legal Services (NWLS) assists low-income individuals and families by guiding them through the legal system using advocacy and education to obtain justice with the goal of improving their quality of life and strengthening the community. The NWLS service area is comprised of a predominately rural population. There is a variety of practices and systems in place at NWLS that assure, to the extent possible, equal access to legal services from all segments of the low-income community in the service area. These practices include a central intake system, telephone advice, circuit riding, outreach intake sites, program website, and a monthly television program televised on the local access channel.

Service Area: Cameron, Crawford, Elk, Erie, Forest, McKean, Mercer, Potter, Venango, and Warren counties. The program maintains a permanent office site in Bradford, Erie, Farrell, Franklin, Meadville, and Warren. The main office, located in Erie, houses the administrative staff as well as the legal staff.

Appendix D (Continued)

Specialized Programs

PENNSYLVANIA INSTITUTIONAL LAW PROJECT

Pennsylvania Institutional Law Project (PILP) provides legal services to eligible persons in institutions within the Commonwealth of Pennsylvania. The institutionalized population consists of persons incarcerated in county jails, state prisons, and federal institutions. It also includes persons housed in state hospitals and retardation centers with the vast majority of these persons incarcerated in prisons and jails.

Service Area: Statewide.

PENNSYLVANIA HEALTH LAW PROJECT

The Pennsylvania Health Law Project (PHLP) maintains offices in Philadelphia, Harrisburg and Pittsburgh. PHLP represents low-income and elderly persons, along with persons with disabilities, seeking access to healthcare coverage and quality health care services in Pennsylvania. The program addresses issues concerning adequacy of health care for Pennsylvania's Medical Assistance recipients, the disabled, the elderly and the children enrolled in the Children's Health Insurance Program (CHIP). The PHLP provides individual legal representation and advice, impact litigation, special project work, representation to groups and organizations, legislative and administrative advocacy, community legal education and training, and other support services to legal services programs and community advocates.

Service Area: Statewide. The Pennsylvania Health Law Project (PHLP) maintains offices in Philadelphia, Harrisburg, and Pittsburgh.

REGIONAL HOUSING LEGAL SERVICES

Regional Housing Legal Services (RHLS) provides legal services and technical assistance to community-based organizations that develop affordable housing and engage in economic development activities that benefit low-income people, informs, trains and supports consumers, and those who serve consumers, on housing and utilities issues, and engages in policy analysis and promoting system innovations focused on critical housing, economic development, neighborhood revitalization, and utility issues.

Service Area: Statewide. RHLS maintains permanent office sites in Glenside, Harrisburg, Pittsburgh, and Gettysburg. The main administrative office is located in Glenside.

COMMONWEALTH ADVOCACY PROJECT

Commonwealth Advocacy Project (CAP) provides legal support for eligible low-income people who live in Pennsylvania. Special emphasis is placed on areas where local legal services programs are restricted from engaging in representation. This special project represents clients through a variety of means including litigation, community education, training for clients and staff and legislative and administrative advocacy. Services are also provided to other local legal services programs when requested. The program works very closely with a number of established client organizations and is active in assisting new client groups during their start-up phase.

Service Area: Statewide. Offices are located in Harrisburg, Pittsburgh, Reading, and Hazelton.

Appendix D (Continued)

FRIENDS OF FARMWORKERS

Friends of Farmworkers (FOF) seeks to improve the living and working conditions of indigent farmworkers, mushroom workers, food processing workers, and workers from immigrant and migrant communities. FOF has particularly close ties with the Mexican mushroom worker community in Chester and Berks counties and also works closely with Philadelphia's Asian community regarding the concerns of immigrant, refugee and migrant workers. Clients eligible for representation include Pennsylvania residents or migrant workers who have been employed in Pennsylvania and who meet income requirements. For DPW or IOLTA funded activity, clients are at or below 125 percent of the federal poverty level. For Access to Justice Act (AJA) activity, the board approved representation of clients at or below 187.5 percent of the federal poverty level.

Service Area: Statewide.

Source: PLAN, Inc. monitoring reports of the legal services programs.

APPENDIX E

AJA-funded Case Goals, Cases Handled, and Closed Cases by Program

	<u>Fiscal Year 2003-04</u>			<u>Fiscal Year 2004-05</u>		
	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>
<u>PLAN, Inc. Sub Contracted Regional Programs</u>						
Community Legal Services	2,197	2,232	1,246	4,975	5,341	3,975
Laurel Legal Services	673	634	465	1,309	923	665
Legal Aid of Southeastern PA.....	792	376	237	1,824	1,196	908
MidPenn Legal Services	1,581	1,603	1,399	3,689	3,943	2,998
Neighborhood Legal Services Assoc.....	1,199	1,483	1,270	2,699	1,682	1,317
North Penn Legal Services	1,295	1,402	785	3,023	3,360	2,266
Northwestern Legal Services.....	549	383	204	1,236	1,407	1,043
Southwestern PA Legal Aid Society	<u>619</u>	<u>855</u>	<u>505</u>	<u>925</u>	<u>1,137</u>	<u>818</u>
Subtotal Field	8,905	8,968	6,111	19,680	18,989	13,990
<u>PLAN, Inc. Sub Contracted Specialty Programs</u>						
Commonwealth Advocacy Project.....	0	0	0	0	9	7
Friends of Farmworkers	0	0	0	0	173	134
PA Health Law Project.....	0	0		0	0	
PA Institutional Law Project	0	15	1	0	41	25
Regional Housing Legal Services.....	<u>0</u>	<u>6</u>	<u>1</u>	<u>0</u>	<u>28</u>	<u>10</u>
Subtotal Specialty	0	21	2	0	251	176
 Total PLAN, Inc. Funded Programs.....	 <u>8,905</u>	 <u>8,989</u>	 <u>6,113</u>	 <u>19,680</u>	 <u>19,240</u>	 <u>14,166</u>
	<u>Fiscal Year 2005-06</u>			<u>Fiscal Year 2006-07</u>		
	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>
<u>PLAN, Inc. Sub Contracted Regional Programs</u>						
Community Legal Services	5,100	5,059	3,172	5,207	5,209	3,401
Laurel Legal Services	1,342	1,226	834	999	1,012	698
Legal Aid of Southeastern PA.....	1,870	1,853	1,385	1,622	2,009	1,486
MidPenn Legal Services	3,782	3,312	2,770	3,510	3,317	2,925
Neighborhood Legal Services Assoc.....	2,767	2,537	1,875	2,499	2,124	1,886
North Penn Legal Services	3,099	3,186	2,548	2,950	2,997	2,193
Northwestern Legal Services.....	1,267	1,173	919	924	1,153	964
Southwestern PA Legal Aid Society	<u>948</u>	<u>834</u>	<u>479</u>	<u>945</u>	<u>934</u>	<u>705</u>
Subtotal Field	20,175	19,180	13,982	18,656	18,755	14,258
<u>PLAN, Inc. Sub Contracted Specialty Programs</u>						
Commonwealth Advocacy Project.....	12	7	0	48	37	13
Friends of Farmworkers	61	61	40	209	166	70
PA Health Law Project.....	0	0	0	1,246	1,248	1,070
PA Institutional Law Project	39	46	11	82	221	24
Regional Housing Legal Services.....	<u>31</u>	<u>23</u>	<u>1</u>	<u>28</u>	<u>33</u>	<u>9</u>
Subtotal Specialty	143	137	52	1,613	1,705	1,186
 Total PLAN, Inc. Funded Programs.....	 <u>20,318</u>	 <u>19,317</u>	 <u>14,034</u>	 <u>20,269</u>	 <u>20,460</u>	 <u>15,444</u>

Appendix E (Continued)

	Fiscal Year 2007-08			Fiscal Year 2008-09		
	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>
<u>PLAN, Inc. Sub Contracted Regional Programs</u>						
Community Legal Services	5,179	5,138	3,521	4,660	4,615	3,406
Laurel Legal Services	1,219	1,291	1,014	1,270	1,384	1,106
Legal Aid of Southeastern PA.....	1,566	1,575	1,186	1,825	2,171	1,466
MidPenn Legal Services	3,369	3,329	2,755	3,400	3,626	2,934
Neighborhood Legal Services Assoc.....	2,135	2,904	2,298	2,455	2,615	2,113
North Penn Legal Services	2,485	2,516	1,800	2,689	3,017	2,526
Northwestern Legal Services.....	1,267	1,635	1,325	1,292	1,312	1,083
Southwestern PA Legal Aid Society	<u>797</u>	<u>725</u>	<u>513</u>	<u>849</u>	<u>1,132</u>	<u>891</u>
Subtotal Field.....	18,017	19,113	14,412	18,440	19,872	15,525
<u>PLAN, Inc. Sub Contracted Specialty Programs</u>						
Commonwealth Advocacy Project.....	39	106	91	85	122	78
Friends of Farmworkers.....	288	183	72	238	227	82
PA Health Law Project.....	486	468	462	258	263	211
PA Institutional Law Project.....	76	434	112	255	462	268
Regional Housing Legal Services.....	<u>19</u>	<u>19</u>	<u>4</u>	<u>18</u>	<u>28</u>	<u>6</u>
Subtotal Specialty	908	1,210	741	854	1,102	645
 Total PLAN, Inc. Funded Programs.....	 <u>18,925</u>	 <u>20,323</u>	 <u>15,153</u>	 <u>19,294</u>	 <u>20,974</u>	 <u>16,170</u>
	Fiscal Year 2009-10					
	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Closed Cases</u>			
<u>PLAN, Inc. Sub Contracted Regional Programs</u>						
Community Legal Services	4,203	4,295	2610			
Laurel Legal Services	1,184	1,213	791			
Legal Aid of Southeastern PA.....	1,517	1,624	1132			
MidPenn Legal Services	3,063	3,072	2250			
Neighborhood Legal Services Assoc.....	2,503	2,647	2164			
North Penn Legal Services	2,802	3,040	2201			
Northwestern Legal Services.....	1,014	1,749	1382			
Southwestern PA Legal Aid Society	<u>725</u>	<u>807</u>	<u>590</u>			
Subtotal Field.....	17,011	18,447	13,120			
<u>PLAN, Inc. Sub Contracted Specialty Programs</u>						
Commonwealth Advocacy Project.....	155	162	86			
Friends of Farmworkers.....	187	187	89			
PA Health Law Project.....	126	141	140			
PA Institutional Law Project.....	380	468	172			
Regional Housing Legal Services.....	<u>19</u>	<u>27</u>	<u>0</u>			
Subtotal Specialty	867	985	487			
 Total PLAN, Inc. Funded Programs.....	 <u>17,878</u>	 <u>19,432</u>	 <u>13,607</u>			

Source: Developed by LB&FC staff using data supplied by IOLTA.

APPENDIX F

AJA-funded Closed Cases by County Fiscal Year Ending June 30

County	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Pending at 6/30/10	Cumulative Cases
Adams	35	98	76	127	121	136	63	32	688
Allegheny	851	1,003	1,433	1,565	1,958	1,776	1,588	455	10,629
Armstrong	71	87	96	153	156	100	69	45	777
Beaver	132	126	147	206	215	127	178	38	1,169
Bedford	38	73	76	45	69	78	80	7	466
Berks	243	720	557	637	505	645	468	208	3,983
Blair	90	252	239	196	141	191	196	20	1,325
Bradford	35	176	99	88	42	180	102	19	741
Bucks	29	143	238	245	255	281	254	101	1,546
Butler	140	115	150	216	137	150	220	20	1,148
Cambria	139	176	310	259	338	452	265	136	2,075
Cameron		3	2	4	7	5	7	4	32
Carbon	27	36	86	82	77	101	111	19	539
Centre	32	97	111	132	122	137	113	59	803
Chester	55	219	279	270	200	276	236	95	1,630
Clarion	44	71	73	94	79	91	71	9	532
Clearfield	25	99	114	128	116	119	107	45	753
Clinton	5	47	36	37	34	37	44	18	258
Columbia	35	87	140	149	92	104	130	61	798
Crawford	18	144	105	118	166	140	171	73	935
Cumberland	103	135	144	160	207	175	211	37	1,172
Dauphin	152	287	216	254	348	268	227	57	1,809
Delaware	70	306	531	626	537	513	362	165	3,110
Elk	9	36	21	27	34	35	32	12	206
Erie	80	408	405	416	515	481	634	136	3,075
Fayette	201	343	155	305	180	365	196	86	1,831
Forest		5	4	5	10	16	8	11	59
Franklin	36	88	71	55	66	131	77	24	548
Fulton	3	7	2	6	6	9	6	2	41
Greene	55	122	71	30	64	140	120	65	667
Huntingdon	27	42	40	65	70	73	69	42	428
Indiana	56	92	98	58	195	166	107	146	918
Jefferson	27	45	38	59	46	71	62	21	369

Appendix F (Continued)

County	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Pending at 6/30/10	Cumulative Cases
Juniata.....	13	23	19	22	14	7	12	3	113
Lackawanna	42	167	211	176	168	215	217	95	1,291
Lancaster	211	375	461	395	405	438	322	170	2,777
Lawrence.....	118	71	136	155	219	181	197	32	1,109
Lebanon	94	124	132	113	136	119	104	20	842
Lehigh	104	189	215	172	125	147	131	76	1,159
Luzerne	168	565	763	723	463	612	418	96	3,808
Lycoming.....	114	287	266	233	203	305	266	149	1,823
McKean	18	92	57	95	137	89	88	45	621
Mercer	40	162	196	174	227	166	235	75	1,275
Mifflin	25	66	44	107	81	89	78	24	514
Monroe.....	29	147	166	121	135	232	247	77	1,154
Montgomery	82	289	343	491	264	461	360	187	2,477
Montour	5	19	19	32	18	22	20	18	153
Northampton	78	126	160	93	110	142	100	71	880
Northumberland	72	78	88	110	127	158	137	71	841
Perry	10	58	46	37	43	62	43	15	314
Philadelphia.....	1,267	4,025	3,221	3,702	3,650	3,498	2,703	1,766	23,832
Pike	9	35	35	26	26	59	71	25	286
Potter.....	6	23	7	13	21	8	21	16	115
Schuylkill	144	262	242	265	221	273	141	74	1,622
Snyder.....	11	19	19	28	45	39	25	10	196
Somerset.....	68	104	49	60	58	157	109	45	650
Sullivan.....	2	18	11	3	3	11	12	4	64
Susquehanna.....	11	62	39	37	31	49	34	8	271
Tioga	7	33	57	50	31	34	33	6	251
Union	21	27	24	20	38	32	53	65	280
Venango.....	28	126	81	98	147	112	140	25	757
Warren	15	49	39	68	78	60	59	11	379
Washington	182	238	200	364	239	264	193	55	1,735
Wayne	5	97	61	55	80	87	50	35	470
Westmoreland	130	187	222	250	272	274	235	72	1,642
Wyoming	8	64	43	29	21	54	57	22	298
York.....	113	271	199	310	209	145	112	94	1,453
Totals	6,113	14,166	14,034	15,444	15,153	16,170	13,607	5,825	100,512

Source: IOLTA.

APPENDIX G

Response to This Report



SUPREME COURT OF PENNSYLVANIA
PENNSYLVANIA INTEREST ON
LAWYERS TRUST ACCOUNT BOARD

May 18, 2011

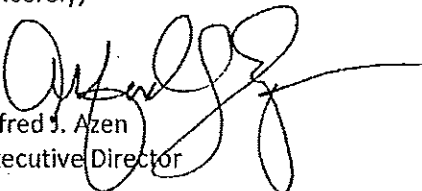
Patricia A. Berger, Esq.
Senior Counsel
Legislative Budget and Finance Committee
Room 400A Finance Building
P.O. Box 8737
Harrisburg, PA 17105-8737

Re: Response to the AJA Performance Audit

Dear Ms. Berger:

Enclosed is the response of the PA IOLTA Board and the Pennsylvania Legal Aid Network, Inc. to the Pennsylvania Legislative Budget and Finance Committee's "Performance Audit of Pennsylvania's Access to Justice Act" dated May, 2011.

Sincerely,


Alfred J. Azen
Executive Director

Cc: William T. Hangle, Esq., Chair PA IOLTA Board
Gerald A. McHugh, Esq., Chair, PLAN Inc.
Sam Milkes, Esq., Executive Director, PLAN Inc.
Stephanie Libhart, Assistant Director, PA IOLTA Board
Rhodia Thomas, Esq., Executive Director, MidPenn Legal Services

Enclosure

g:\aja\reports\performance audit\performance audit response transmittal may 18 2011.docx

Pennsylvania Judicial Center
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PO Box 62445, Harrisburg, PA 17106-2445
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Administering Pennsylvania's Interest On Lawyers Trust Account (IOLTA) Program

**RESPONSE OF THE PA IOLTA BOARD AND THE PENNSYLVANIA LEGAL AID NETWORK, INC. TO THE
PERFORMANCE AUDIT REQUIRED BY THE ACCESS TO JUSTICE ACT, ACT 2006-81**

MAY, 2011

We appreciate the opportunity to offer these comments of the PA IOLTA Board and the Pennsylvania Legal Aid Network, Inc. related to the performance audit report issued by the Pennsylvania Legislative Budget and Finance Committee of the Pennsylvania General Assembly, dated May 2011, regarding the use of filing fees authorized by the Access to Justice Act (Act 2006-81). We appreciate the professionalism with which the audit was conducted. The audit was thorough, and the approach was well designed. We do not dispute any of the findings.

In Pennsylvania, if you are accused of a crime and cannot afford a lawyer, the court will provide one. But if you are involved in a civil matter – seeking protection from an abusing spouse, a landlord-tenant dispute, a foreclosure, a custody dispute - and cannot afford a lawyer, your best option for getting representation is through the Pennsylvania Legal Aid Network (PLAN) of legal aid providers. Each year, about 100,000 cases of low-income Pennsylvanians are handled by legal aid. Most applicants are seeking help with family or housing disputes and most cases are of an urgent nature. PLAN organizations are often the only place an eligible client can expect to receive legal assistance. If the applicant is turned away from legal aid, there is no where else to turn.

The PLAN has been funded by the Commonwealth since 1973. At its peak in 1976, Commonwealth appropriated general and Title XX federal funding of the PLAN totaled \$10.4 million. If that amount had kept pace with inflation, the annual appropriation for the fiscal year ending June, 2011 would be \$41.6 million. Today, however, thirty-seven years later, those two state-appropriated sources total \$8.1 million. Other funding sources have been developed over the years, but not enough to keep pace with rising costs. Twenty years ago legal aid funding supported 358 lawyers; last year there were only 259 legal aid lawyers.

With advances in technology, methods have been developed to provide better legal information to indigent Pennsylvanians. WWW.PaLawHelp.org provides a wealth of legal information that in certain situations can help individuals help themselves. Telephone technology has allowed for the efficient provision of more legal advice and brief services to many clients across many county jurisdictions. This has allowed legal aid advocates to say “yes” to more of the people contacting the legal aid office for help. Constraints on resources often require that limited services be provided, even if the client would benefit from more extended representation. While sometimes less than ideal, many people are thankful to be able to talk directly with an attorney to discuss their legal problem, potential legal options and the legal merits of their case. The use of telephone “helplines” also allow the monitoring of applicant contacts to legal aid offices to assist in the identification of program priorities and issues where targeted legal representation may help many individuals who find themselves in similar circumstances. But the core service provided by PLAN continues to be extended representation in individual cases. Those cases

require individual attorneys, either legal aid staff professionals or private attorneys providing pro bono assistance, to handle one case at a time.

PERFORMANCE AUDIT RECOMMENDATIONS.

The Access to Justice Fee should become permanent. In May 2011, the Pennsylvania Bar Association's (PBA) Board of Governors, and its 350 plus member House of Delegates voted without dissent to endorse the continuation of and expansion of the use of filing fee surcharges to supplement the funding of legal aid. A copy of the PBA resolution is attached. The resolution supports the continuation of the temporary Act 49 fee for another 24 to 48 months and its expansion to include all filings currently covered by Act 122; and the expansion of the Act 122 fee from \$2 to \$3 to support legal aid funding. We concur with the resolution of the PBA.

The IOLTA Board administers two major funding sources for civil legal aid; interest received from special attorney trust accounts (IOLTA), and the AJA filing fees. In addition, at the time of licensure renewal, every Pennsylvania lawyer pays \$25 to supplement the funding of civil legal services for the poor, resulting in about \$1.5 million of funding to the IOLTA Board for that purpose. The IOLTA funding varies widely from year to year depending upon the interest rates that financial institutions pay on the special trust accounts. During the best years, over \$12 million was received. Currently, however, around \$4 million is received. (The change of IOLTA funded grants over the last several years was even greater because of the allocation of IOLTA funds that had been accumulated in the earlier years). The AJA funding is relatively stable and not as sensitive to the vagaries of the economy. With more core sources of stable funding it is more likely to be able to offer stable legal assistance to eligible clients over time.

Evaluation of Telephone Advice. Telephone helplines (sometimes also known as hotlines) were promoted as a "best practice" by the federal Legal Service Corporation in the early 2000's. Such systems have proven to be most helpful when brief services are provided in conjunction with the helpline contact with the client. Helpline brief service cases might include writing a letter to a creditor or landlord of the client, having a telephone conversation with the health insurer of the client, contacting a county welfare office on behalf of a client, or similar activities carried out by legal aid staff. About 50% of the PLAN brief service cases are in the form of assistance by telephone.

The outcome is less certain when the only service provided through the helpline is in the form of counsel and advice. The legal advice will be tailored to the specific facts presented by the client (that is, a lawyer client relationship will have been established for the limited advice provided), but often, it is not known if the client made contact with a third party or acted on the advice provided. The chance the client did so is thought to improve if the telephone advice provided by legal aid is followed up with a letter to the client. For example, a client may be advised to take pictures of conditions in their rental housing unit that make it uninhabitable in that condition and to document why partial rent is being withheld to repair the condition. A follow-up letter to the client may help with specific suggestions and other general legal information.

A helpline provides fast service for the majority of clients who need only limited services. In additional PLAN programs sometimes provide limited helpline services to clients who could benefit by more

extended representation, but resources do not permit the programs to provide the full services. For example, in the illustration above, if a client's residence is truly uninhabitable, the client would clearly benefit by the full engagement of an attorney to help render the residence habitable. But many programs have been forced to limit representation to more acute cases and to limit services in such circumstances based on established local priorities. Helpline services can be provided without requiring the client to make an appointment or travel to an office. A helpline can be useful for serving certain hard to reach populations such as persons with disabilities that make it difficult to travel to an office, rural populations, people who cannot take time from a job or family responsibilities, and frequently, the elderly. Helplines are also useful when the legal aid program has determined as a matter of policy that it can only offer legal advice about particular issues or in selected particular substantive areas because of limited program resources.

The Performance Audit makes a recommendation for a survey process to determine the effectiveness of telephone assistance. The PA IOLTA Board and PLAN agree this is a useful area of inquiry and will follow up on this recommendation, to determine an appropriate way of studying this question and whether the study should include only telephone advice or other types of limited service provided in conjunction with the telephone contact. It is worth noting that a November 2002 study by the Center for Policy Research based in Denver, Colorado (the study's Table of Contents and Executive Summary are attached) comprehensively reviewed the effectiveness of providing legal assistance with telephone hotlines. There is much to be learned from this study about which clients tend to benefit from these services and which do not (e.g., this service tends to be less effective for clients with language barriers or lower educational levels). The study, which involved extensive surveying of clients who had been assisted by a hotline, found that 69% of the clients regarded the service as somewhat or very helpful.

OTHER COMMENTS.

Call for Pro Bono. The IOLTA Board and PLAN have been promoting the use of pro bono by practicing private lawyers and law students. The IOLTA Board awards grants (funded from other non-AJA sources) to law schools to promote hands-on experience by law students (supervised by a law school professor or other attorney) in the representation of indigent clients in civil matters, and to inculcate a pro bono ethic during the law students' formative years. Many law students practice at legal aid organizations as part of the law school grant funded activities. The IOLTA Board also awards grants (funded from other non-AJA sources) to bar associations and legal aid organizations to help fund the administration needed for organized pro bono efforts. The most effective administrative infrastructures have an intake process for applicants, screen the potential case for legal merit, and determine the financial eligibility of the client. The case must be matched to the expertise of the willing volunteer. Sometimes cases require financial resources such as for the use of experts and out-of-pocket expenses. Additionally, effective pro bono programs provide: legal education and training to volunteer attorneys for typical pro bono representation; back-up consultation and support for a referral; malpractice insurance for the representation; procedures to ensure adequate monitoring and follow-up of assigned cases; recognition of volunteer attorneys for their service; and other support activities.

PLAN organizations make great efforts to seek out and involve the private bar in the delivery of pro bono services to clients. In every county of the state, there is a system in place to screen clients for eligibility and to refer clients to willing pro bono lawyers. If a referral is made through a PLAN organization, the representation provided by the volunteer attorney is covered by the organization's malpractice insurance. With a special IOLTA grant, North Penn Legal Services developed Document Automation software that allows the use of templates for certain court filings. Templates have been developed for consumer debt and mortgage foreclosures, and allow responsive pleadings to be developed efficiently by pro bono attorneys (and legal aid staff). Any lawyer who agrees to do a pro bono case has the Document Automation software made available to them through a website developed specifically to assist lawyers who volunteer; www.PaProBono.Net.

On January 7, 2011, Chief Justice Ronald Castille appealed to all Pennsylvania lawyers to provide pro bono assistance in the civil legal representation of poor. He noted in part "Pennsylvania is dealing with a civil legal aid crisis where half the people who appear at a legal aid office and who qualify for legal aid are denied such help due to lack of resources. . . . As Chief Justice, I join with Gretchen Mundorff, President of the Pennsylvania Bar Association, in urging every Pennsylvania attorney to take at least one new pro bono matter or to continue to work on an ongoing pro bono matter through a legal aid provider or an organized pro bono program." Pro bono volunteerism is encouraged by the IOLTA Board and PLAN organizations. But that help is most effective when it is adequately organized and supported in the ways described above. Even then, the distribution of lawyers volunteering (and their expertise) does not neatly fit the location of eligible clients needing help.

Economic Benefits of Civil Legal Aid. The Performance Audit summarizes six studies that demonstrate the positive fiscal impact that civil legal aid has on the economy in their states (Pennsylvania, Massachusetts, Minnesota, Nebraska, New Hampshire, and Texas). Studies on the economic impact of the provision of legal services have been conducted in other states as well, including New York, Kentucky, Missouri and Virginia, where the combination of savings to the state, such as by reducing shelter costs for those who would lose housing and who would flee domestic violence, combined with the economic impact of legal services were found to generate the following (see www.greatprograms.org/Economic_impact_assessment/resources_for_economic_impact_assessment.htm) :

- New York: \$900 Million; see pp. 13-14 of the report.
- Kentucky (AppalRed Legal Aid): \$9.3 Million; see p. 6 for the summary and piechart.
- Missouri: \$33.1 Million; see p. 6 for the presentation of economic impact and savings.
- Virginia: \$67 Million; see p. 4 for the summary of economic impact and savings.

In addition to aiding in the peaceful resolution of civil legal conflicts, legal aid also helps avoid significant costs to the government in other areas, increases economic activity (and taxes), and secures economic benefits and resources critically needed by the legal aid client. Each dollar of funding for legal aid is leveraged multiple times by these economic impacts; in Pennsylvania it was estimated to be more than

\$4 for each \$1 of funding. Additionally, there were many economic benefits which could not be quantified such as efficiencies in Pennsylvania courts made possible by legal aid to clients and self-represented litigants, and savings from crime prevention and law enforcement assistance.

Civil Right To Counsel. In August 2006, the American Bar Association (ABA) unanimously adopted a landmark resolution calling on federal, state, and territorial governments to provide low-income individuals with state-funded legal counsel when basic human needs are at stake. This action was the first time the ABA officially recognized a governmental obligation to fund and supply effective legal representation to all poor persons involved in high stakes proceedings that place them at risk of losing their homes, custody of their children, protection from actual or threatened violence, access to basic health care, their sole source of financial support, or other fundamental necessities of life. In November 2007 the PBA passed a resolution consistent with the ABA's, identifying the high stakes civil proceedings as those involving shelter, sustenance, safety, health or child custody. The PBA established a Committee to develop broad implementation strategies for the right to counsel and for maximizing private bar involvement in efforts to improve access to the civil justice system. The Philadelphia Bar Association has formed a "Civil Gideon" Task Force to consider expanding the civil right to counsel in Pennsylvania. Civil right to counsel activities are ongoing in twelve other states.

Until such time as there is a government-funded civil right to counsel, civil legal aid supporters must constantly attempt to find stable funding sources for critically needed legal assistance for those who otherwise have no access to legal help. As Justice Lewis Powell once observed: "Equal Justice under law is not just a caption on the façade of the Supreme Court building. It is perhaps the most inspiring ideal of our society. . . . It is fundamental that justice should be the same, in substance and availability, without regard to economic status."

RESOLUTION
OF THE
PENNSYLVANIA BAR ASSOCIATION
REGARDING
ACCESS TO JUSTICE FILING FEES



*Unanimously approved by the PBA Board of Governors on May 4, 2011

**Approved by the PBA House of Delegates on May 6, 2011

The Access to Justice Committee recommends that the Board of Governors and House of Delegates approve the following resolution:

**ACCESS TO JUSTICE COMMITTEE
RESOLUTION**

WHEREAS, the Commonwealth of Pennsylvania is presently experiencing a budgetary crisis with significant ramifications to the Commonwealth's court system and the provision of legal services to Pennsylvania's low income community;

WHEREAS, the failure to fully fund the court system and legal services would have an adverse impact on access to justice, falling disproportionately on those with low income and the disadvantaged;

WHEREAS, the Commonwealth's court system faces its sixth, consecutive year of structural deficits not of its creation and despite historic cost-saving measures it is impossible for the system to remedy those deficits without additional funding;

WHEREAS, the Commonwealth's court system should be funded adequately through general government revenues;

WHEREAS, anticipated funding for legal aid in Pennsylvania will be significantly lower in the coming fiscal year due to federal budget cuts, the end of stimulus funding, and the continued low IOLTA interest rates;

WHEREAS, legal aid programs in the Commonwealth are already lean and leveraged, some having made significant cuts in past years by eliminating positions or pension contributions and by taking other concessions from employees to maintain staff positions in order to ensure access to justice for the poor, and all having obtained the assistance of pro bono lawyers to assist in representation of the poor;

WHEREAS, due to a lack of resources, the current funding for legal aid for the neediest among us in Pennsylvania forces legal aid offices to turn away half of the people who contact those offices and are eligible to receive services;

WHEREAS, many more eligible low income Pennsylvanians facing significant legal problems do not even attempt to access services;

WHEREAS, the current national and statewide financial conditions have increased the number of low income individuals who are in need of legal services in order to be able to achieve access to justice;

WHEREAS, dating back over 20 years, the PBA has consistently advocated adequate funding for access to justice, by state and federal funding for legal services, use of filing fees to help fund legal services, and more recently filing fees to help adequately fund the courts;¹

WHEREAS, the Pennsylvania Legislature has instituted Act 122, which includes provision for modest filing fees of \$2.00 for legal aid programs and Act 49 which provides for a temporary filing fee of \$11.25 imposed on various courthouse filings, \$1.00 of which is for legal services and \$10.25 of which is for funding of the Courts;

WHEREAS, the Act 49 filing fees were limited and did not include criminal convictions and traffic citations;

WHEREAS, the court and legal services portions of Act 49 are set to sunset January 1, 2012;

WHEREAS, the legal services portion of Act 122 is set to sunset on November 1, 2012;

WHEREAS, it is anticipated that the sunset of Act 49, January 2012, will likely be considered in the current budget discussions by the Pennsylvania Legislature;

WHEREAS, while recognizing that filing fees are no substitute for full funding of the Court and legal aid programs by the legislature, the current budgetary crisis does not allow the organized Bar to support termination of existing sources of funding that are required to adequately fund the Court and provide some access to legal services for low income Pennsylvanians;

NOW THEREFORE, be it resolved that the PBA supports extension of Act 49 fees on all court filings included in Act 122 for a period not to exceed 48 months, during which period the PBA shall further vigorously advocate increased appropriations to fund adequately the court system's general government operations and legal services, which would allow for the eventual elimination of those filing fees; and

FURTHER, be it resolved that the PBA supports the continuation of the Act 122 filing fees at an amount of up to \$3 per filing dedicated to funding legal services.

Respectfully submitted,

Dveera Segal, Chair

****Unanimously approved by the PBA Board of Governors on May 4, 2011***

*****Approved by the PBA House of Delegates on May 6, 2011***

ⁱ (a) In 1990, approving the 1989 Report and Recommendations of the PBA Task Force for Legal Services to the Needy, the House of Delegates endorsed increased state and federal funding for legal services and a filing fee of \$5 to \$10 (depending upon venue) to support legal services;

(b) In May 1999, the House of Delegates modified the above resolution, by supporting filing fees of \$4 and \$5 (depending upon venue) to support legal services;

(c) In June 2005, the Board of Governors endorsed the "repeal" of the sunset on filing fees in Act 122, and authorized "the President to use the resources of the PBA through its leadership, legislative office and other means to help achieve that repeal and elimination;"

(d) In November 2007, The House of Delegates endorsed a resolution calling for increased state and federal funding for legal services;

(e) In July 2009, after endorsing the need for full funding of the courts, the House of Delegates also approved a resolution calling for an increase in filing fees of up to \$12.

THE HOTLINE OUTCOMES ASSESSMENT STUDY

NOVEMBER 2002



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***The Hotline
Outcomes Assessment Study***

**Final Report - Phase III:
Full-Scale Telephone Survey**

November 2002

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Acknowledgements



The Hotline Outcomes Assessment Study was commissioned by the Project for the Future of Equal Justice, with funding by the Law and Society Program of the Open Society Institute.

The Center for Policy Research gratefully acknowledge the assistance of the following:

Hotline Outcomes Assessment Study Advisory Group: Jonathan Asher, Sandy DeMent, John Eidleman, Michael Genz, Wayne Moore, Susan Reif, MaryAnn Sarosi.

Managers and staff at participating Hotlines, especially Zina Hill, Center for Arkansas Legal Services; Bill Tanner, Crystal Sims, and Bob Cohen, Legal Aid Society of Orange County; Leslie Corbett, Al Schwartz, and Jim Brown, Coordinated Advice and Referral Program for Legal Services, Chicago; Lynda Krupp, Legal Aid and Defender Association of Detroit; Joan Kleinberg, Coordinated Legal Education, Advice and Referral, Washington.

Project for the Future of Equal Justice: Julia Gordon, Senior Staff Attorney; Robert Echols, Consultant.



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Executive Summary

The Center for Policy Research (CPR) has worked with the project for the Future of Equal Justice (PFEJ) since June 1999 to conduct the Hotline Outcomes Assessment Study, an independent assessment of the effectiveness of using telephone Hotlines to provide brief legal advice and referrals to low-income people. This report describes the results of Phase III of the Study, which researched whether clients understand the advice they are given by Hotlines, whether they follow up on it, and whether they realize a satisfactory resolution of their problems.

The study methodology included:

- Generating samples of callers at five legal Hotlines that were representative of the total universe of clients served at legal services programs;
- Conducting telephone interviews with 2,034 callers three to six months after they contacted the Hotlines and eliciting their general reactions to the Hotlines, as well as the specific outcomes of their cases;
- Having experienced legal services lawyers generate both factual and evaluative assessments of outcomes, which were based on a review of case files and interview notes, including verbatim responses to questions about legal outcomes; and
- Analyzing the resulting data set to produce profiles of callers across the five sites and outcome patterns with special attention to the client, case, and advice characteristics of cases with favorable and unfavorable outcome patterns.

The key findings were:

- **Where an outcome could be determined, Hotline cases were almost evenly split between successful (48%) and unsuccessful (52%) outcomes.**
- **When callers understand what they are told to do and follow the advice they are given, they tend to prevail.** Only 6 percent of all clients received unfavorable results because they did not prevail after following the advice of Hotline workers. In contrast, 13 percent failed because they did not understand the advice that was given, and 9 percent because they lacked the time, initiative, or courage to try to do what the worker suggested.
- **Most clients who do not act fail to understand the advice they are given or are too intimidated or overwhelmed to attempt the recommended action.** Three to six months after phoning the Hotline, 21 percent of callers had not acted on the advice they received. About a quarter of the no action cases were attributed to clients not understanding what they were supposed to do, another 25 percent were too afraid to try or lacked the time or initiative, and an additional 10 percent were told to hire a private attorney and reported that they could not afford or find one.

- **Many Hotline cases result in outcomes that cannot readily be classified as successful or unsuccessful.** Success could not be gauged for many clients because they had a matter that was still pending three to six months after phoning the Hotline (19%) or their responses to questions about their cases were so unclear that PFEJ lawyers were unable to determine outcomes (9%).
- **Certain types of Hotline services are more apt to result in favorable outcomes.** Brief services yielded the highest favorable outcome ratings, followed in order by coaching clients on how to deal with a private party; providing written legal information, and coaching clients on how to proceed pro se in court. Favorable assessments were still lower when clients were instructed on dealing with a government agency or were referred to another agency.
- **Clients who were told to hire a private attorney had the worst outcomes and were the most dissatisfied.** Only 11 percent of clients who were told to hire an attorney achieved favorable case outcomes and 52 percent rated the Hotline as unhelpful. Of clients who were advised by Hotline workers to hire a private attorney, only 18 percent did so.
- **Outcomes for housing and consumer cases are most apt to be rated favorably, while family cases are most apt to be pending.** Housing and consumer cases had the highest rate of favorable outcomes, while family cases were lowest with many still pending when clients were interviewed. The findings for housing cases may reflect the fact that many unsuccessful housing clients had moved and were not reachable for an interview.
- **Hotline clients with the best and worst case results had distinct demographic characteristics.** Clients with outcomes that were rated most favorably were significantly more likely to be white, English-speaking, educated at least to the eighth-grade level, and have a marital status other than being separated from a spouse. Clients who received the least favorable outcomes were Spanish-speaking, Hispanic, individuals with the lowest education levels, those who reported no income, and those who were separated and lived apart from their spouse.
- **Many clients face barriers that may affect their ability to follow through on Hotline advice.** Many Hotline callers disclosed problems that may affect their ability to handle their legal problem such as: a family disability or a serious health problem; serious transportation problems; depression or fear of an ex-partner or current household member; inflexible work, school, or daycare schedules; or problems reading or speaking English well enough to complete forms and other legal paperwork. While clients with disabilities fared no worse than the average, the other barriers listed above were associated with outcomes that were significantly less favorable.
- **Some types of follow-up actions by the Hotline may boost the chances of callers experiencing favorable results.** Higher favorable outcomes were associated with getting a letter or other written material, a follow-up phone call from the Hotline, or help from someone other than the Hotline worker.

- **Clients rated their experiences with Hotlines favorably.** Nearly half (41%) characterized the Hotline as “very helpful” and 28 percent as “somewhat helpful.” Two-thirds of clients at every site credited the Hotline with helping them make better decisions, feel more confident about their abilities, and keep the problem from escalating.
- **Disappointed Hotline callers typically said there was nothing anyone could do or that they wanted a lawyer to do more for them, although a small fraction of callers complained about being treated rudely.** Approximately 2 percent of callers complained about disrespectful and uncaring treatment by Hotline workers.
- **User satisfaction ratings are associated with Hotline outcomes, but the relationship is not perfect.** While 63 percent of clients with favorable outcomes gave the Hotline a “very favorable” rating versus only 19 percent of clients with unfavorable outcomes, a third (32%) with unfavorable outcomes rated the Hotline as “somewhat helpful.” A quarter of the clients who did not follow the Hotline’s advice or did not prevail rated the Hotline as “very helpful.”

Recommendations

To increase the ratio of favorable to unfavorable outcomes, Hotlines should adopt the following measures to enhance understanding and promote action:

- **Hotlines should recognize that certain demographic groups are particularly less likely to obtain favorable outcomes.** Hotlines should develop special protocols for dealing with non-English speakers, individuals at the lowest education levels, and those who report no income, possibly including increased support or more extended services.
- **Policymakers should take further steps to evaluate whether Hotlines are an appropriate method of delivering service to non-English speakers.** Although the non-English speaking clients in this study were provided services by the Hotline in Spanish, they had a particularly high rate of failure to act due to inability to understand the Hotline advice.
- **Hotlines should screen callers for certain barriers that are associated with unfavorable outcomes.** Hotlines should routinely question clients about a variety of barriers that affect their ability to address their legal problems and obtain successful outcomes. Screening for these problems is likely to require special attention during intake, since the PFEJ lawyers noted that most of these barriers could not be discerned from existing case files. Hotlines should develop protocols for dealing with these clients, possibly including increased support or more extended services.

- **Hotlines should institute or improve follow-up procedures.** Hotlines would do well to institute tickler systems flagging cases for a callback to check on the client's progress. Cases that should be flagged are those in which one of the following factors is present:
 - The recommended action is one where clients are less likely to obtain a favorable outcome: representing self in court; dealing with a government agency; obtaining legal assistance from another provider.
 - The client falls into one of the demographic categories identified above that are less likely to obtain a favorable outcome.
 - The client reports one of the barriers described above as associated with a reduced likelihood of obtaining a favorable outcome.

- **Hotlines should develop or increase their capacity to provide brief services or institute a brief services unit.** Brief services are more likely to result in successful outcomes than advice or referral services. In cases where it may be possible to resolve the client's problem with a letter, telephone call, or completion of a form or referral, it is likely to be a more effective use of resources for the Hotline or a related unit to perform the action than for the Hotline to advise the client how to do so.

- **Hotlines that do not routinely provide written information to clients should do so.** The provision of written information, whether a generic pamphlet on an issue or a letter detailing the advice provided, increases the likelihood of a successful outcome.

- **Hotlines should recognize that telling a caller that they should obtain a private attorney is unlikely to result in a successful outcome.** Most clients who are advised by the Hotline to retain a private attorney, particularly in divorce cases, will not be able to afford one willing to take their case. Hotlines should explore alternative services that are more likely to result in successful outcomes.

- **Hotlines should be aware of the limitations of client satisfaction data and analyze the data they get in ways that maximize their utility.** While user satisfaction is a legitimate and an important indicator, it is not a perfect measure of Hotline effectiveness. Clients are frequently more generous in their evaluations of Hotlines than their personal situations would suggest, which may reflect the fact that some clients who do not get what they want feel empowered by the information they receive.

- **Hotlines should conduct random follow-up telephone interviews with clients.** In order to more accurately assess performance, Hotlines would do well to institute random follow-up interviews to gauge the effectiveness of their services and to identify ways to improve them.