

Pennsylvania Legal Aid Network
Excellence Awards Dinner - March 20, 2013
Remarks
Chief Justice Ronald D. Castille

- **The Supreme Court recognizes the dedication of lawyers who represent indigent and needy clients in Legal Aid offices around the Commonwealth.** We also recognize the personal financial sacrifice these lawyers make to help members of society who are often in great need of legal services.
- You take up the cause:
 - (1) of those who are unable to afford legal help as they face the threat of eviction or foreclosure on their homes.
 - (2) of those unable to afford legal help when their lives are thrown into chaos by domestic violence.
 - (3) of those struggling with unexpected health problems, heavy debts, the loss of jobs.
 - (4) and many, many other situations requiring competent legal representation.
- **As Chief Justice, I know that attorneys who choose to represent the poor do not do it for the financial reward.** Legal Aid work is not a road that leads to monetary wealth. But for many attorneys, it is a road that leads to deep personal satisfaction.
- Unfortunately, there are not enough dedicated individuals such as yourselves. And the needs, as you who practice law in the field know, far outstrip your ability to meet them.
- A report on the Pennsylvania Access to Justice Act estimates that one of every two people who apply for Legal Aid in Pennsylvania is turned away for lack of resources.
- An important program to provide funding for legal services for the indigent is the Access to Justice Act. The Act requires that a share of court filing fees in Pennsylvania must be dedicated to legal services

for the indigent. For the fiscal years from 2004 to 2008 this surcharge on filing fees yielded \$36.5 million for legal services. AJA fees for FY 2011-12 totaled \$9.0 million alone.

- Even so, the Access to Justice Report stated: "Only one in five low-income Pennsylvanians having a critical legal problem is likely to get legal help from any source." In other words, only 20 percent of the civil legal needs of qualified indigent individuals are presently addressed. While half of those who apply for Legal Aid are turned away, many others in frustration never even apply.
- That is the downside. In a moment I would like to talk to you tonight about what the Supreme Court is doing to help. But first let's look at what IS being addressed by Legal Aid offices.
- In the fiscal year ending June 30, 2012, Pennsylvania Legal Aid Network estimates that agencies **handled 95,800 cases with 256 attorneys and 94 paralegals around Pennsylvania along with staff and many volunteers.**
- The PLAN agencies handled those cases even as demands for your services were stretched to the limit.
- You handled those cases despite the fact that funding sources were threatened and curtailed.
- Funding of Legal Aid offices even in the best of times is limited, but as a result of the financial crisis of 2008, times have been especially difficult for Legal Aid. Only \$2.5 million is appropriated for legal services in the state budget.
- Near-zero interest rates set by the Federal Reserve have had a devastating impact on annual revenues provided under the Supreme Court's IOLTA program.
- As a result, this year's IOLTA collections were down to \$3.2 million as compared to \$12.2 million collected in 2007 before the economic recession. A 74% decline.

- In 2012, the IOLTA program distributed a total of \$13.4 million from all sources to legal aid organizations in Pennsylvania. Eighty-six percent of that funding went to the Pennsylvania Legal Aid Network.
- IOLTA also provides \$200,000 to each of Pennsylvania's law school's clinical and internship programs to encourage aspiring law students to become involved in legal services.
- \$13.4 million may sound like a lot of money, but it isn't. Not when compared with previous years. IOLTA's grants to legal aid organizations dropped radically from 2008 to today.
- **The \$13.4 million in grants IOLTA distributed in 2012 was 40% less than 2008 when IOLTA distributed \$22 million to the same Legal Aid organizations.**
- This happened mainly because of the near-zero rates on bank interest rates on lawyer's trust accounts. Banks were paying almost no interest on these trust accounts. Consequently, IOLTA was receiving miniscule income in comparison, and the impact on legal services organizations has been devastating.
- Unfortunately, the situation may not change soon. The Federal Reserve Bank interest rate has been static since 2008 and is expected to remain static for the foreseeable future.
- Until interest rates rise, IOLTA's main source of income will remain depressed, putting great stress on the lawyers and the staff who work in the Legal Aid field.
- Compounding the problem, we also see the efforts in the U.S. Congress to further cut back on funding for the Legal Services Corporation block grants to the states.
- **When the financial crisis first developed, the Pennsylvania Supreme Court recognized the situation and acted to address its consequences to legal aid delivery.**

- It is not easy to fill a sudden \$9 million funding gap created when the Federal Reserve interest rate cuts drastically lowered the return on income from bank interest rates.
 - Our Court acted in several ways.
 - In April 2009 the Court increased the annual attorney registration fee from \$175 to \$200 for Pennsylvania's 67,000+ licensed attorneys. The \$25 increase was dedicated solely to IOLTA to be used only for Legal Aid funding and minor administrative costs. The fee increase is generating over \$1.5 million a year for legal services revenue by IOLTA. Further, the Court diverted another \$10 from the filing fee last year and again this year dedicated to IOLTA. That equals @ another \$670,000 per year for legal services funding.
 - As each Pennsylvania lawyer pays that extra \$25 registration fee (and the \$10 temporary fee), he or she is contributing to legal services by subsidizing IOLTA and consequently indirectly supporting the work of Legal Aid organizations.
 - The Supreme Court also responded to the shortfall in IOLTA funding by supporting legislation last year that resulted in an increase in court filing fees under the Access to Justice Act. A portion of that increase is dedicated to IOLTA. In the past, IOLTA received a \$2 share of each court filing fee. The total of those \$2 fees added up to \$8.85 million for IOLTA in the last fiscal year. IOLTA's share of the fee has now been increased to \$3 on many court filings. We expect that increase to produce \$2.8 million in added revenues for IOLTA programs each year.
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- In another action, the Court ordered in (September 2008) that lawyer trust accounts be kept only in banks willing to pay interest rates on IOLTA accounts equal to the highest rates they paid to their best customers. In other words, we wanted IOLTA accounts to get the same rates the banks' best customers were getting. And we now get those rates. It is called "comparability." (It is only about 1/2% but at least it is something).
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- **The Court also recognizes that lawyers working in the legal services field often struggle with heavy educational debts. National statistics show the average graduate debt load is \$78,000 per graduate for public law schools and \$128,000 per graduate for private law schools.**
- A little ahead of the financial crisis we established a rule in 2007 that requires out-of-state lawyers who appear in Pennsylvania courts to pay a *pro hac vice* admission fee of \$200 per case, the same fee Pennsylvania attorneys pay to practice law. That entire fee is now specifically earmarked for legal service attorneys struggling with educational debt. The *pro hac vice* fee generated more than \$370,000 in revenues in 2012 alone. Those revenues have a singular purpose.
- To help ease the student debt burden and to attract more lawyers to Legal Aid work, the Court in 2010 implemented the "Loan Repayment Assistance Program," known as LRAP. Under this program, lawyers who work for a full year in IOLTA-funded organizations can receive forgivable loans to offset education-related debt.
- To qualify for an LRAP loan, a lawyer is required to work for an IOLTA-funded program for one year, and would have to have income of \$60,000 or less and have debts related to undergraduate or law school education. On completion of one-year's work a \$3,500 LRAP loan to pay down educational debt would be forgiven. An additional loan of \$4,500 could be received and forgiven for a second year while the attorney continued to work in qualified Legal Aid programs, and \$6,000 per year could be forgiven for each of the next eight years while employed in legal services programs. A potential total of \$56,000 could be available for educational loan forgiveness.
- The Loan Repayment Assistance Program is administered by the Pennsylvania Bar Foundation and, as I have said, is funded from the *pro hac vice* fees paid by out-of-state lawyers who appear in Pennsylvania courts. By the end of this year, we estimate that 116 Legal Aid lawyers will be taking advantage of this program and it will have provided \$860,000 in loan repayment assistance to date over the past two years.

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- Furthermore, this Court implemented the *Cy Pres* Rule addressing distribution of class action residual funds. The Rule went into effect in May of 2012. *Cy Pres* funds are excess funds generated after the plaintiff's class and the attorneys are compensated. So far there have been three (3) awards:
 - Two class action payments totaling \$78,000; AND
 - One from Washington State for \$1.7 million.

- **So, our Court is constantly looking for creative ways in these tough economic times to support your important work.**

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- **In closing, I want to say a little bit about public service.** I have spent the majority of my professional life in public service. I was an infantry officer in the U.S. Marine Corps, a prosecutor in the Philadelphia District Attorney's Office, the elected District Attorney in Philadelphia, a Justice of the Pennsylvania Supreme Court, and now Chief Justice of Pennsylvania. To me, there is no higher calling than public service.
- Growing up in the military, my father flying bomber missions in B-17's in WW II and troop transport planes in the Korean War...College at Auburn University...Rifle Platoon Commander in the Marines...Severely wounded on the battlefield in Vietnam...Sgt. Angel Mendez...Recovery at the old Philadelphia Naval Hospital...Then to the University of Virginia Law School - G.I. Bill...Back to Philadelphia to join the DA's Office in 1971...A prosecutor for 20 years...District Attorney of Philadelphia from 1986 to 1991.
- A prosecutor's work is a type of public service very different from public service work in Legal Aid offices. But prosecutors, like Legal Aid lawyers, were also underpaid. But, there is also an overlap in the citizens served by prosecutors and by Legal Aid lawyers. As a prosecutor I came in contact with many crime victims in need of legal assistance. Crime victims often are poor and burdened with civil legal problems. From my office, crime victims often moved on to your Community Legal Services' offices for help with civil problems.

- After my 20 years as a prosecutor, I joined the Third Branch of Government. I was elected to the Pennsylvania Supreme Court in 1993 and was sworn in as a Justice on January 3, 1994. As the senior member of the Court, I became Chief Justice in January 2008. It has now been over four decades that I have spent in public service.
- Looking at the list of tonight's Excellence Award recipients, I see profiles of individuals who have been in public service in all corners of the Commonwealth, some for almost as long as I have been an attorney, and some even longer.
- I see names of individuals from Bedford County, Harrisburg, Montgomery County, Pittsburgh and Philadelphia. Advocates for low-income or **no-income** clients who seek unemployment compensation, or for those on public welfare. I see Advocates who foster internship programs and promote pro bono work within the private bar. Advocates who assist non-English speaking clients and who work to provide housing for the poor.
- I see Advocates who, even in retirement, volunteer to work full time for low-income clients.
- I am sure that the individuals and organizations that are being honored tonight are representative of many, many more toiling selflessly in the Legal Aid field across Pennsylvania. Congratulations to all of tonight's honorees; and
- Congratulations to all of you for your dedication to this important work.
- **In closing, I can assure you that the Supreme Court is acutely aware of the legal profession's responsibility to ensure that legal services are provided to the people most in need and least able to afford those services.**
- The Supreme Court will continue its efforts to restore IOLTA funding and bring Pennsylvania's Legal Aid programs to financial good health, even in these difficult economic times.

- The Supreme Court recognizes that lawyers and support staff who chose careers in legal services have chosen the path of public service, and often at great personal sacrifice. We know that you are undercompensated by standards of the legal profession.
- But, we also know that your work incorporates altruism; it incorporates idealism; and it incorporates devotion to public service that reflects the highest standards of the legal profession.
- I am truly honored to stand with you tonight and to receive this award. Thanks.