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The Commonwealth's Access to Justice Act

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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 released its report in 2011. The most recent amendment to the expiration provision of the act is Act 2012-79, which extended the act to November 1, 2017, and required the LB&FC to conduct a performance audit, to be completed one year prior.

Findings and Conclusions

The AJA established a fund to provide civil legal aid services to the poor in the Commonwealth through the imposition of a fee on various courthouse filings, \$2 of which is dedicated to the AJA Fund. An additional \$1 surcharge on certain state court filings was increased to \$2 in 2014. The fees are often referred to as user fees, in which those utilizing courthouse services 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) administers state-appropriated funds and IOLTA Board grants including an annual grant of AJA funds, for eight independent regional legal aid programs and six specialized legal service programs. Those programs, and one non-PLAN funded program, comprise the PA Legal Aid Network. These programs offer services throughout the Commonwealth. See the map on page 5 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 (\$30,375 for a family of 4 in 2016).²

Our review found the following:

¹ In Pennsylvania, counsel is required by statute or court decision 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.

AJA Funding Has Been Stagnant Since 2011 and Other Civil Legal Aid Funding Has Declined

Funding for civil legal aid in Pennsylvania comes from a variety of federal, state, and local revenue streams. AJA fees and surcharges, collected by county row offices and the courts, represent about 31 percent of federal and state funding and have remained at approximately \$10.4 million annually since FY 2010-11. Funding from all sources decreased 6 percent in current dollars, and the state and state-appropriated funds (not including IOLTA and AJA funds) have not kept up with inflation. Legal Services Corporation (LSC) funding, which accounts for about 35 percent of total federal and state funding for legal aid in Pennsylvania, has decreased 16 percent since FY 2010-11. Interest income from the IOLTA accounts has remained low because of the historically low interest rates being paid by financial institutions resulting in an annual reduction of \$9 million as estimated by the IOLTA Board.

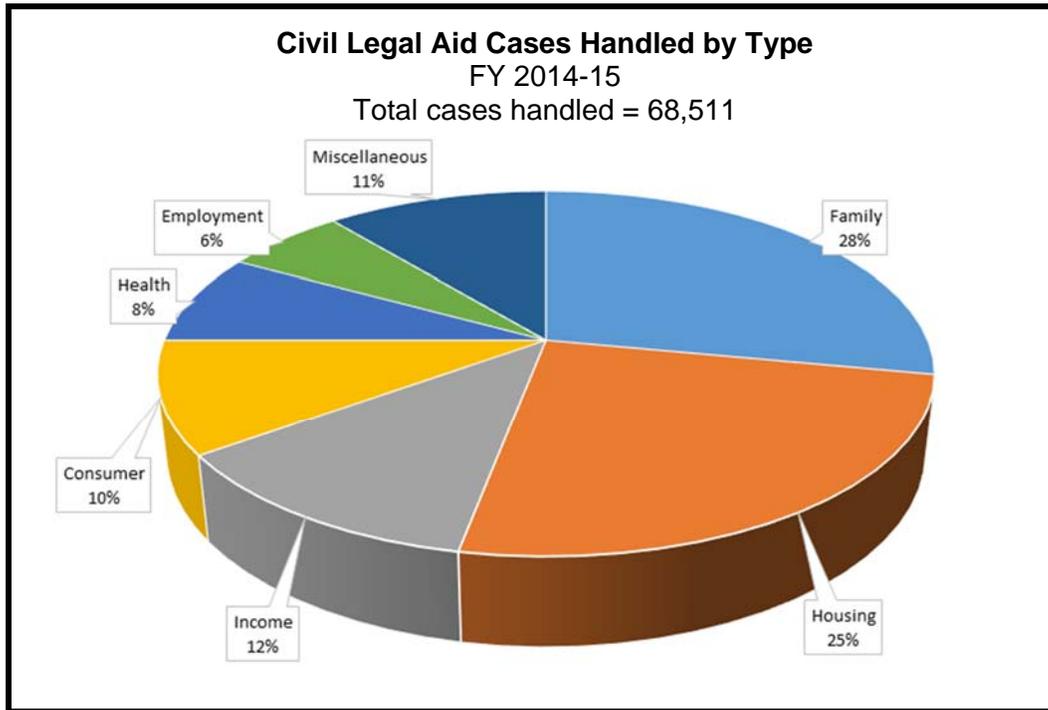
In 2014, the General Assembly replaced a temporary surcharge of \$1 established in 2009 with a separate, permanent \$2 fee. The net effect of this amendment increased the fee dedicated to the Access to Justice Account from court filing fees and surcharges by 33.3 percent, raising it from \$3 to \$4. Estimates provided to the Legislature by Administrative Office of Pennsylvania Courts (AOPC)³ calculated the additional \$1 filing fee surcharge would increase annual revenues to the ATJ account by about \$2.5 million, from \$10.4 million to \$12.9 million. However, revenue collections remained at \$10.4 million. This is due in part to many mortgage assignments being recorded on-line without a filing fee through the Mortgage Electronic Registration System (MERS) instead of on record at the recorders of deeds offices. Several counties and county recorders of deeds have sued MERSCORP, contending that the failure to file mortgage assignments with the recorders of deeds violates Pennsylvania law. This case is currently pending in the Pennsylvania Commonwealth Court with PLAN and two of the Legal Service Programs (LSPs) filing an *amicus curiae* brief. PLAN also notes that the number of court actions have decreased, further affecting the fees and surcharges collected.

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

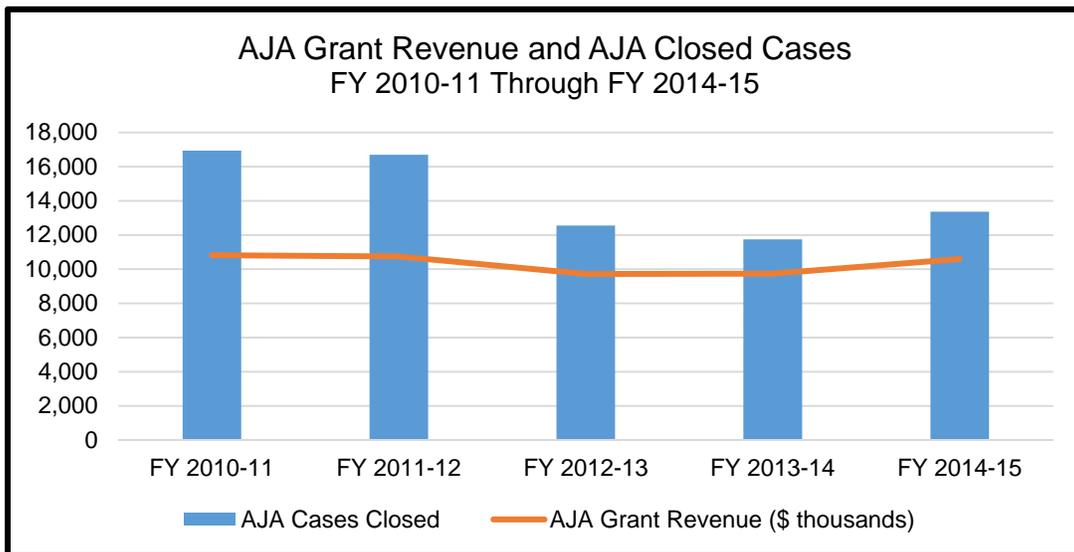
In 2011, we reported that civil legal aid was provided to about 50 percent of the eligible applicants who seek assistance. Since that time, studies have shown that little has changed, although detailed information is not collected regarding the reason for services being denied (e.g., failure to meet income standards). In fact, due to funding issues, the level of services provided to clients of civil legal aid programs may have declined, with more clients being served through brief services rather than extended services.

³ House Appropriations Committee Fiscal Note on HB 1337. Senate Appropriations Committee Fiscal Note on HB 1337.

LSPs handled approximately 70,000 cases in FY 2014-15, with the majority being family matters or housing issues as shown below. Although the poverty rate in Pennsylvania has increased from 13.4 percent in 2011 to 13.6 percent in 2015, this represents a decrease of 34 percent in the number of cases handled in FY 2010-11. The number of cases handled by LSPs using only AJA funding has decreased 25 percent from FY 2010-11 to FY 2014-15.



As shown below, the trend in the number of closed cases generally mirrors the trend in AJA grants to the LSPs.



Clients Are Generally Satisfied With the Services They Receive and Services Have a Positive Economic Impact on Communities

Case resolution continues to be generally positive, as is client satisfaction, with the services provided by the LSPs. The LSPs use surveys to assess the satisfaction of their clients, and those who respond are generally satisfied with the services provided to them by the LSPs. Only a small number of respondents indicated dissatisfaction with the services provided. An evaluation of telephone-based and brief services in 2012 similarly found that the majority of those responding were satisfied with the services received.

Based on closed case resolution statistics where the outcome is known, in FY 2014-15 about 87 percent of AJA-funded cases were resolved successfully by the LSPs, and about 13 percent were considered to be unsuccessfully resolved. However, over half of the closed cases were resolved through advice, and the outcome of those cases cannot be characterized because actions after advice may not be known. Direct dollar benefits reported by the LSPs in FY 2014-15 were approximately \$13 million in back awards and settlements and \$900,000 in monthly benefits. This represents about a \$4 million decrease since FY 2009-10, likely due to the reduction in the number of closed cases and the fact that not all direct benefits are tracked. Not included in these benefits is the cost avoidance that may have occurred. As reported by IOLTA, in FY 2010-11, 1,715 low-income Pennsylvania families were able to avoid the need for emergency shelter due to the assistance of legal aid programs.⁴ This resulted in a reported savings of \$25 million, or \$14,794 per family.

Several recent studies have shown the positive impact that LSPs have on their local communities' economy, income, crime prevention, 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 awards disbursed to clients, but also factoring a spending multiplier into the analysis. A York County Bar Foundation study reported that a total of \$1.1 million invested in the legal services programs in 2013 produced an estimated \$9.9 million in economic benefits and savings to clients and communities, yielding an economic return of \$9 for every \$1 invested. Similarly, the Civil Legal Justice Coalition report cited the IOLTA Board study, finding an \$11 return for every \$1 spent on legal aid.

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

We reviewed PLAN's reports of its monitoring visits to the 14 LSPs for FY 2011-12 through FY 2015-16, the independent financial audits for PLAN and the 14

⁴ PA IOLTA Board, *The Economic Impact of Outcomes Obtained for Legal aid Clients Benefits Everyone in Pennsylvania*, April 11, 2012. Available at <https://www.paiolta.org/wpcontent/uploads/2014/05/Economic-Impactof-Legal-Aid.pdf>.

LSPs for FY 2014-15, and the Legal Service Corporation (LSC) Quality Visit Reports for the 6 LSPs visited since 2010. The most common issues identified in the monitoring reports were the need to review case closing procedures to ensure cases do not remain open without ongoing activity and the failure to document that grievance procedures were communicated to clients, particularly in telephone service cases. These reports, however, also identified significant management issues with Southwestern Pennsylvania Legal Services (SPLS). An LSC review also found significant issues with Laurel Legal Services (LLS). In both cases, new executive directors were hired, and the programs have been taking action to address the issues identified in the reviews.

In general, LSC reported that the LSPs performed well and exceeded the national median for both extended cases closed per 10,000 poor people and all cases closed per 10,000 poor people. A common recommendation was to encourage the LSPs to take more cases with broader impacts on their client communities. 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 found no significant problems with the collection and disbursement of the AJA fees and surcharges by the courts and court officers.

The IOLTA Board Responded to Our Recommendation From Our 2011 Report; and The General Assembly Established a Permanent \$2 Fee⁵

As recommended in our 2011 report, the IOLTA Board undertook a comprehensive evaluation of telephone-based intake and legal assistance systems operated by legal aid programs in Pennsylvania. The study included both a client survey and a best-practices assessment and showed that the telephone services were effective and provided a more convenient access to services. This enabled “more people to get legal help than would have been possible if delivered exclusively through in-person methods with the same amount of resources.” Additionally, the General Assembly enacted Act 2014-113 that established a permanent \$2 fee to be charged, collected, and deposited into the Access to Justice Account.

Recommendations

1. ***The General Assembly should consider eliminating the sunset provision of the AJA.*** Given that the need for civil legal aid has continued to increase since the establishment of the Act, a sunset provision does not seem necessary to determine if there is continuing justification for the services supported by the AJA. Additionally, as revenues from IOLTA interest rates and LSC funding have continued to decline, the AJA funds provide an important consistent funding mechanism. The Legislative Budget

⁵ See Appendix A for additional information on our 2011 report recommendations.

and Finance Committee could still be directed to conduct a performance audit of the AJA in the absence of a statutory sunset review provision.

2. ***The IOLTA Board, working through PLAN, should collect data from the LSPs on clients rejected for services to determine the actual unmet need for civil legal aid in Pennsylvania in order to better inform funding decisions.*** The LSPs may be able to add a screen to LegalServer that could identify whether the rejection was based on the client exceeding the income limits, the subject matter of the legal matter not being one for which the services are available, e.g., criminal matter or matter outside the LSP's priorities, or whether the client appeared to have a reasonable case but that funds were simply not available to pursue the matter.

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 (AJA) 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. The most recent amendment to the expiration provision of the act, Act 2012-79, extended the act to November 1, 2017, and required a performance audit to be completed by November 1, 2016.

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 program 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) 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 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, end-of-year reports, Legal Services Corporation reviews of the LSPs, and annual financial audits, and we 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 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 various studies and reports on unmet civil legal aid needs nationally. To determine the unmet need for civil legal aid services in Pennsylvania we reviewed pertinent studies; spoke with representatives of the PA Bar Association, other stakeholders, and LSPs; and reviewed LSP reports. We reviewed Legal Services Corporation (LSC) and American Bar Association (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 Irwin W. Aronson, Esq., IOLTA Chair; IOLTA Executive Director Stephanie Libhart; and the IOLTA staff for their assistance with this project. We also thank PLAN Executive Director Sam Milkes, Esq. and PLAN staff for their assistance, as well as the staff of the LSPs, Joyce McGee, LSC Program Counsel, the PA Bar Association, and the other stakeholders who assisted with this study.

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 PA Access to Justice Act

A. 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.

Federal funding of civil legal aid services began in 1964 with the creation of the U.S. Office of Economic Opportunity, and the Legal Services Corporation was created in 1974 through the adoption of 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 134 independent nonprofit legal aid programs with more than 800 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) was established.² PLAN, is a Pennsylvania not-for-profit corporation, with a board of directors composed of jurists, attorneys, clients, and a representative of the programs it funds. Attorney representatives are appointed by the Pennsylvania Bar Association, and client representatives are appointed by two organizations representing clients' interests, the Pennsylvania

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, 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.

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 non-profit organization. See Exhibit 1. In general, LSPs represent clients whose gross income is at or below 125 percent of the federal poverty level. In FY 2014-15, these programs directly represented almost 80,000 individuals and their families in areas including, for example, family law, housing, employment, income maintenance, and education. See Appendix B for additional information on LSPs funded with Access to Justice funds.

Interest on Lawyers' Trust Account. To supplement funding for civil legal aid, Act 1988-59 established the Interest on Lawyers' Trust Account (IOLTA) Program 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. For FYs 2011-12 through 2014-15, this fee was increased by \$10 to \$35.

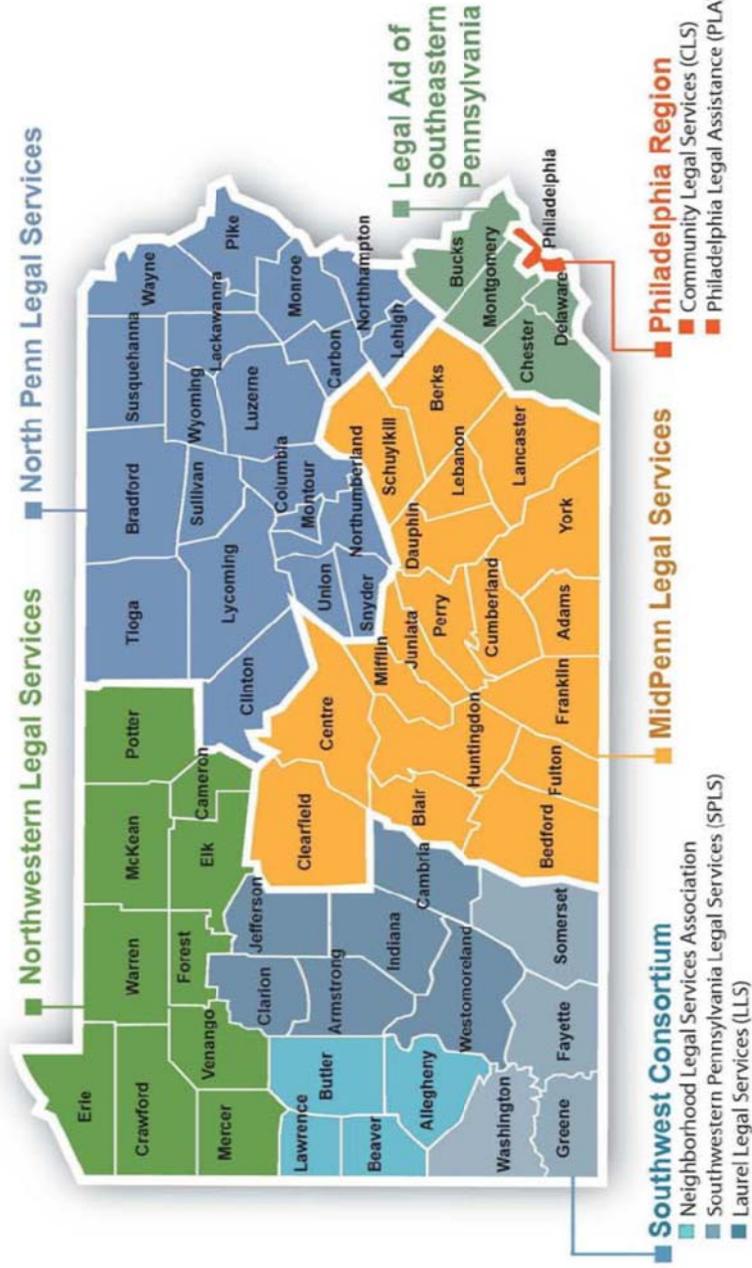
In 2005, the Supreme Court required the Minor Judiciary to establish IOLTA-like accounts. Minor Judiciary officials hold monies from the collection of fees and fines, collateral and cash bonds, and restitution until the funds are transferred to their owner. The interest in these MJ-IOTA accounts is transferred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

In 2007, the PA Supreme Court established a *pro hac vice* 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. Effective September 2010, this fee was increased to \$200, and effective June 2015, the fee increased to \$375. Finally, the IOLTA Board also receives funds from voluntary contributions made by lawyers.

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.

Exhibit 1

Pennsylvania Legal Aid Network (PLAN)



These programs provide statewide legal expertise for addressing specialized legal problems or serving populations with special needs.

^a Non-PLAN Funded Program.
^b The PULP is part of RHLS.

Source: PA PLAN.

The IOLTA Board, which oversees the IOLTA Program, including IOLTA funds, Access to Justice Act funds, *cy pres* funds, and other funds received, consists of nine members appointed by the Pennsylvania Supreme Court, two of whom are selected from a list 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. In the Access to Justice Act, Act 2002-122, 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. In 2002, Act 122 created the Access to Justice Account (ATJ) as a non-lapsing restricted receipt account in the State Treasury to supplement this funding stream. Monies in the AJA 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. A portion of the fee, \$2, was dedicated to the ATJ.

Effective December 2009, Act 2009-49 imposed a temporary surcharge on the court filings identified in Act 122 (except traffic offenses), \$1 of which was to be deposited into the AJT. This act also extended the original fee to defendants accepted into Accelerated Rehabilitation Disposition (ARD) or any other pretrial diversionary program. The surcharge was set to expire in January 2012. In July 2011, the expiration date of the temporary surcharge was extended to December 2014. Effective August 2014, Act 2014-113 replaced the \$1 temporary surcharge on court filing fees with a separate, permanent \$2 fee, which is to be deposited into the Access to Justice Account. The net effect of this amendment increased the fee dedicated to the Access to Justice Account from court filing fees and surcharges by 33 percent, raising it from \$3 to \$4. See Exhibit 2.

Use of IOLTA and AJA Funds. The monies in the ATJ 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.⁴ 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 in this Commonwealth for the primary purpose of providing civil legal services without charge to eligible clients and victims of abuse through a contract or subcontract with the Department of Human Services. The IOLTA Board makes an annual grant of AJA funds to PLAN. PLAN administers sub-grants to the eight LSPs, and six specialized programs.

The IOLTA Board also 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) PLAN; (2) the nine 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.

Program Requirements for AJA-funded Services. The Pennsylvania 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.⁵ In 2016, this was \$30,375 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

⁴ Funds may not be used to make contributions for any political purpose, such as to a specific political party or for lobbying activities.

⁵ Sources of income include: money or wages earned by individuals 14 years and older before tax, health insurance, and other deductions; armed forces pay that includes base pay plus cash housing and/or subsistence allowances but does not include the value of rent-free quarters; 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.

Act. There are other exceptions to the income eligibility criteria.⁶ 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.
- 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.

To receive services, applicants must be residents of Pennsylvania.⁷ 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

⁶ Exceptions include: earnings 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; supplemental food assistance; grants or loans for educational purposes; among others.

⁷ 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 i.e., they do not receive federal LSC funding, 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.

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

In general, 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 case law or statute.⁸ See Appendix C for case examples from the various civil legal aid service providers.

B. Access to Justice Commissions

Access to justice commissions are collaborative entities that bring together courts, the bar, civil legal aid providers, and other stakeholders in an effort to remove barriers to civil justice for low-income and disadvantaged people. Beginning with the first ATJ Commission in 1994 (Washington State), such entities have been developing all over the country, engaging in a full range of activities and strategies to accomplish their goals and objectives. As of September 2016, 34 states (Pennsylvania is not among them) have established such a commission. A major strength of the commission model is its ability to address the state's often-fragmented system for providing access to civil justice as a whole.

Pennsylvania Civil Legal Justice Coalition. The Coalition, which included bar leaders, representatives of the public interest legal community, and other key stakeholders, was formed in 2013 to explore and implement strategies to improve access to justice and address the growing crisis in unmet civil legal services needs of

⁸ 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.

low-income Pennsylvanians. The goals included: (1) generating broader awareness of this crisis; (2) highlighting the significant economic and societal benefits that are provided through legal services; and (3) studying, proposing, and pushing forward strategies and solutions to alleviate this crisis and improve access to justice. The Coalition held three hearings across the state. Members of the Senate Judiciary Committee participated in the hearings, as well as various judges, members of the bar, business leaders, civil legal services and social services program directors and staff, and low-income legal services clients.

In April 2014, the Coalition presented a report to the Senate Judiciary Committee,⁹ which includes four findings and three recommendations, along with several proposed solutions, that respond to the goals that were set for the Coalition to achieve. It concluded that a growing crisis exists in unmet critical legal needs of low-income persons and recommended the General Assembly appropriate an additional \$50 million for civil legal aid services. One of the Coalition's recommendations was to establish an access to justice commission. Please see Exhibit 3 for a summary of the findings, recommendations, and proposed solutions.

Function of an Access to Justice Commission. An access to justice commission can help to create an environment in which meaningful access to civil justice, including through the courts and administrative agencies, is provided to all, particularly to the poor, the disabled, and the vulnerable. As noted by the Coalition, a commission can pursue this priority by focusing on strategies that will significantly increase funding for civil legal services and by promoting legal representation to the maximum extent possible, with special emphasis on representation in adversarial civil proceedings where fundamental needs are at stake, such as shelter, health, child custody, safety, and sustenance. Responsibilities could include, but not be limited to, proposing and promoting strategies and ideas to generate adequate levels of funding from various sources and promoting education and appreciation by the judiciary, lawyers, private industry, civic and government officials, and the general public of the substantial unmet legal needs of Pennsylvania's residents.

An access to justice commission differs from the IOLTA Board in that it would not operate as a funding organization and would not collect on behalf of or distribute funds to entities providing civil legal services. Such a commission would not be intended to replace other entities that support the availability of civil legal services to the poor or disadvantaged, but, instead, would cooperate with all such entities, including the PA IOLTA Board, PLAN, the Civil Legal Justice Coalition, bar associations, civil legal service organizations, and non-governmental and governmental organizations.

⁹ *Toward Equal Justice For All: Report of the Civil Legal Justice Coalition to the Pennsylvania State Judiciary Committee*, April 2014, available at <http://www.palegalaid.net/resources/clients/report-civil-legal-justice-coalition-pennsylvania-state-senate-judiciary-committee>.

Summary of Findings and Recommendations of Coalition Report

Findings:

Finding 1: A longstanding and growing crisis exists in the unmet critical legal needs of low-income litigants who are unable to access legal services in Pennsylvania.

Finding 2: The longstanding and growing civil legal justice crisis throughout the Commonwealth adversely affects the quality of justice for those unable to afford counsel, negatively impacts the Courts' administration of justice, and undermines the rule of law.

Finding 3: Access to civil legal services in basic human needs cases provides significant economic and social benefits to individual litigants and the community, while significant economic and social harm to individuals and the community is inflicted when critical legal needs are not met.

Finding 4: *Pro bono* representation by private attorneys is an enormously valuable supplement to the services of civil legal aid programs and not a replacement for them. Effective *pro bono* services depend upon screening, coordination, mentoring and training by legal aid programs.

Recommendations:

Recommendation 1: The Pennsylvania State Legislature should annually appropriate an additional \$50 million for civil legal services to adequately address the crisis in access to Justice.

Recommendation 2: The Pennsylvania Supreme Court should establish an Access to Justice Commission to study and implement measures, including those identified below, to expand access to justice.

Proposed Solution 1: Study innovative court programs with demonstrated success to identify which measures, if any, should be recommended for development in every suitable judicial district.

Proposed Solution 2: Study whether every judicial district in the Commonwealth should consider adopting minimum standards intended to improve access to justice, and then make recommendations based on this study.

Proposed Solution 3: Study whether all Commonwealth administrative agencies that conduct adversarial hearings and render adjudications should review their procedures and forms and simplify and standardize the public's access to services and benefits.

Proposed Solution 4: Explore how Pennsylvania law schools may help to reduce the gap between the need for legal services and available services and help promote public awareness and understanding.

Proposed Solution 5: Undertake a comprehensive study of the feasibility of and costs of providing counsel at public expense for indigent persons in adversarial civil matters involving basic human needs, such as shelter, child custody, health, sustenance, and safety.

Proposed Solution 6: To increase *pro bono* participation, study initiatives intended to expand the delivery of free legal services, and then make further recommendations based on this study.

Proposed Solution 7: Study the system of legal services programs and delivery to determine whether there are changes that could be made to promote efficiencies in service delivery and to provide easier access across the Commonwealth, including urban and rural areas.

Proposed Solution 8: Study and consider how to increase public awareness of the critical need for expanded access to justice and civil legal assistance to low-income residents and a greater understanding of the rule of law and how individuals may secure access to justice.

Recommendation 3: The Commonwealth of Pennsylvania should work toward establishing a right to counsel in civil legal matters in which basic human needs are at stake.

Source: *Toward Equal Justice for All: Report of the Civil Legal Justice Coalition to the Pennsylvania State Senate Judiciary Committee*, April 2014.

In its April 2014 report, the Civil Legal Justice Coalition to the Pennsylvania State Judiciary Committee recommended that an access to justice commission be established in Pennsylvania to study and implement measures to expand access to justice. In its August 2016 response to the most recent proposal from the Coalition to establish a commission, the Pennsylvania Supreme Court determined not to proceed with the proposal at this time, and it expressed concern that, if such a commission were to be established, there would be no identifiable and available long-term, dedicated, funding stream to support the work of such a commission. The Court invited specific access to justice proposals that the Court Administrator might help address.

Access to Justice Commissions in Other States. States use a variety of administrative structures for their civil legal aid programs. The American Bar Association, in July 2011, established criteria that it used to identify access to justice commissions across the nation. These criteria included:

- A formal entity comprised of leaders representing, at minimum, state courts and organized bar and legal aid providers. Membership might also include representatives of law schools, legal aid funders, the legislature, and the executive branch, as well as stakeholders from outside the legal and government communities.
- A core charge to expand access to civil justice at all levels for low-income and disadvantaged people by assessing their civil legal needs, developing strategies to meet these needs, and evaluating progress.
- Its charge is from and/or recognized by the highest court of the state, and the highest court and the highest levels of the organized bar are engaged with the commission's efforts and the commission reports regularly to them.
- Its primary activities relate to planning, education, resource development, coordination, delivery system enhancement, and oversight; it is not primarily a funder or direct provider of legal assistance.¹⁰
- It meets on a regular basis and has ongoing responsibility for carrying out its charge.

Using these criteria, the ABA has identified 34 states, shown on Exhibit 4, that have access to justice commissions. In general, these commissions have similar goals:

¹⁰ Some states in recent years have established and implemented strategic plans to identify strategic priorities for their civil legal aid programs. As an example, the Arkansas Access to Justice Commission set out its strategic priorities in its 2011-13 Strategic Priorities document. The Commission began the planning process in January 2011. The process began with the Commission members reviewing accomplishments since 2007 and reviewing the Commission's structure.

- 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.

Actions by access to justice commissions in other states have increased legal services funding, for example, through new initiatives to increase *pro bono* services, expanding support for low income people who must represent themselves, promoting better coordination among the various legal services providers, instilling a public service commitment among law students, and educating legislators, the public, and key audiences about the legal needs of low income and disadvantaged people, as well as the social and economic benefits of ensuring that these needs do not go unmet. Another benefit of such a commission is that it brings together varied interests, toward the aim of adopting common sense solutions to the justice gap.

Recently, two states, New York in 2015 and Virginia in 2013, established access to justice commissions that meet the criteria as established by the ABA. Each is described below.

Exhibit 4

Access to Justice Commissions Created by State Supreme Court Order or Rule

- Alabama Access to Justice Commission
- Alaska Fairness and Access Commission
- Arizona Commission on Access to Justice
- Arkansas Access to Justice Commission
- California Commission on Access to Justice
- Colorado Access to Justice Commission
- Connecticut Access to Justice Commission
- Florida Commission on Access to Civil Justice
- Hawaii Access to Justice Commission
- Illinois Supreme Court Commission on Access to Justice
- Indiana Commission to Expand Access to Civil Legal Services
- Kansas Supreme Court Access to Justice Committee
- Kentucky Access to Justice Commission
- Louisiana Access to Justice Commission
- Maine Justice Action Group
- Maryland Access to Justice Commission
- Massachusetts Access to Justice Commission
- Mississippi Access to Justice Commission
- Montana Access to Justice Commission
- Nevada Access to Justice Commission
- New Hampshire Access to Justice Commission
- New Mexico Commission on Access to Justice
- New York Permanent Commission on Access to Justice
- North Carolina Equal Access to Justice Commission
- Oklahoma Access to Justice Commission
- South Carolina Access to Justice Commission
- Tennessee Access to Justice Commission
- Texas Access to Justice Commission
- Vermont Access to Justice Coalition
- Virginia 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

Source: American Bar Association.

New York. The Chief Judge of the State of New York in June 2015, issued an administrative order establishing the Permanent Commission on Access to Justice whose purpose is:

to assess the nature, extent, and consequences of unmet civil legal needs, statewide, involving essential human needs, and to report on those findings and make recommendations to the Chief Judge with the goal of helping to secure equal access to justice in civil legal matters by increasing availability of civil legal services throughout New York State, as well as encouraging increased *pro bono* service by the legal community and helping to improve the efficiency and effectiveness of the delivery of civil legal services.

The administrative order requires that the Permanent Commission on Access to Justice consist of no less than 30 members who serve at the pleasure of the Chief Judge. In general, the Commission is required to (1) assist in conducting hearings related to the Commission's mandate; (2) collect statistics and analyze data; (3) conduct research as necessary to identify the extent of unmet civil legal needs, the types of civil legal matters in which legal services are most lacking, and proposed

standards for eligibility for such services; and (4) make recommendations for addressing unmet civil legal needs, including the provision of adequate funding for civil legal services providers. The Commission is also required to work with civil legal service providers and related stakeholders to foster efficiencies and best practices, and with the courts in support of Court Access to Justice initiatives.¹¹

Virginia. In September 2013, the Supreme Court of Virginia by order established the Virginia Access to Justice Commission, which consists of 17 to 20 individuals representing the various state courts, the Virginia Bar Association, attorneys, legal aid organizations, law schools, the Legal Services Corporation of Virginia, corporate counsel, and social services providers. Up to three at-large members may be appointed at the discretion of the Supreme Court's Chief Justice. Members serve three-year terms. The Commission's mission is to promote equal access to justice, with particular emphasis on the civil legal needs of Virginia residents. The Commission's goals include:

- Coordinate access to justice activities in Virginia.
- Actively engage the Virginia Supreme Court, together with the judiciary, in enhancing equal access to justice.
- Identify barriers to obtaining needed legal services and develop solutions.
- Mobilize legal professionals in closing the justice gap by (1) increasing awareness of the importance of access to justice and the legal community's obligation to help provide it; (2) promoting universal participation in providing *pro bono* services, particularly for low-income individuals and transforming legal culture/expectation about doing so; (3) engaging Virginia's laws schools in access to justice issues to create a culture of *pro bono* services.
- Encourage development of auxiliary resources such as low-literacy legal information, simpler court forms, technological aids, etc., for underserved populations.
- Strengthen delivery of legal services through Virginia's legal aid societies and other *pro bono* initiatives and nonprofit legal services entities.

During the first two years of its existence, the Commission was required to report its progress to the Supreme Court of Virginia on a quarterly basis. Thereafter, such reports are to be made at least annually.

¹¹ The Commission is required to issue annual reports to the Chief Judge containing its findings and recommendations, and may also issue additional reports, hold conferences, and perform such further and additional functions as may be appropriate and necessary to fulfill its mandate to help assure adequate legal assistance in civil legal proceedings.

C. Civil Legal Aid in 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. Please see Exhibit 5. These include using general fund monies, assessing fees on document filings in the court system, assessing *pro hac vice* fees,¹² and imposing fees on attorney license registrations. This section provides a general overview of the other states.

As shown on Exhibit 6, there are many entities other than access to justice commissions that work to increase and improve access to civil legal aid. These entities have been created by the state bar association, formed as a non-profit corporation, and formed when stakeholders, attorneys, judges, legal aid service providers, and others came together. For example, the Maine Justice Action Group (JAG) is a coalition of individuals representing the state and federal judiciary, Maine legislature, executive branch, State Bar, legal service providers, Maine Trial Lawyers Association, and the Civil Legal Services Fund Commission. The JAG provides leadership, coordination, and planning in the provision of civil legal aid to low-income and elderly citizens.

In Louisiana, the State Bar Access to Justice Committee was established by the State Bar, and its membership includes attorney and non-attorney volunteers, legal educators, and *pro bono* directors. In Maryland, the Legal Services Corporation was established in statute to raise funds for civil legal aid programs and services and make grants to service providers using IOLTA monies. Maryland also has a Standing Committee on *Pro Bono* Legal Service that was established by the Court of Appeals through a Court rule. This entity coordinates volunteer legal services, studies long-range issues, serves as a clearinghouse, develops action plans, and annually reports to the Court of Appeals.

¹² Imposed on out-of-state attorneys for occasional appearances in the state's courts, usually assessed on a per-case basis.

Exhibit 5

Statutes, Court Rules, & Attorney Practice Rules Supporting Civil Legal Aid Funding (July, 2016)

STATE	Legislative Appropriation	Court Filing Fees and/or Fines	Pro Hac Vice Fee Proceeds	Cy pres Rule or Statute	Annual Bar Dues and/or Attorney Registration Fees		ATJ Commission State	State Legislative Funding ^a	Civil Legal Aid Funding ^b
					Required	Voluntary Add-on			
Alabama			X				X	N	
Alaska	X				X		X	AO	VAO
Arizona	X		X				X	AO	VOO
Arkansas		X					X	CF/FO	
California	X	X		X	X	X (temp.)	X	B	VOO & VAO
Colorado	X	X		X	X		X	B	VAO
Connecticut	X	X	X	X			X	B	
Delaware	X						X	AO	
D.C.	X						X	AO	
Florida					X		X	N	VAO
Georgia	X	X			X			B	VAO
Hawaii	X	X		X			X	B	VOO
Idaho								N	
Illinois	X	X	X	X	X		X	B	M
Indiana	X	X		X			X	B	M
Iowa	X						X	AO	
Kansas		X					X	CF/FO	
Kentucky	X	X		X			X	B	
Louisiana		X	X	X			X	CF/FO	VAO
Maine	X	X		X			X	B	
Maryland	X	X					X	B	
Massachusetts	X		X	X		X	X	AO	VOO
Michigan		X				X		CF/FO	VAO
Minnesota	X				X			AO	M
Mississippi		X	X				X	CF/FO	VAO
Missouri		X	X		X			CF/FO	M

Exhibit 5 (Continued)

STATE	Legislative Appropriation	Court Filing Fees and/or Fines	Pro Hac Vice Fee Proceeds	Cypress Rule or Statute	Annual Bar Dues and/or Attorney Registration Fees			ATJ Commission State	State Legislative Funding ^a	Civil Legal Aid Funding ^b
					Required	Voluntary Add-on	Opt-out			
Montana		X		X			X	CF/FO		
Nebraska		X		X	X			CF/FO	VAO	
Nevada		X			X		X	CF/FO	VAO	
New Hampshire	X				X		X	AO	VAO	
New Jersey	X							AO		
New Mexico	X	X	X	X	X		X	B	VAO	
New York	X						X	AO		
North Carolina		X		X			X	CF/FO		
North Dakota		X						CF/FO		
Ohio	X	X	X			X		B		
Oklahoma	X				X		X	AO	VAO	
Oregon	X	X	X	X				B		
Pennsylvania	X	X	X	X	X		X	B	M & VAO	
Rhode Island	X	X						B		
South Carolina		X		X			X	CF/FO	VOO	
South Dakota		X		X			X	CF/FO	VOO	
Tennessee		X		X			X	CF/FO		
Texas	X	X	X		X		X	B	M & VOO	
Utah	X				X			AO		
Vermont	X						X	AO		
Virginia	X	X					X	B		
Washington	X			X			X	AO	VOO	
West Virginia	X	X					X	B		
Wisconsin	X		X	X			X	AO	M	
Wyoming		X	X			X	X	CF/FO	VAO	

^aIn the State Legislative Funding Column: AO = Appropriation Only, CF/FO = Court Fees/Fines Only, B = Both, N = None

^bIn the Civil Legal Aid Funding Column: M = Mandatory, VOO = Voluntary; Opt-Out; VAO = Voluntary; Add-On

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Exhibit 6

**Bar-based and Other Committees With Broad Access to Justice
Leadership Charge**

Arizona Foundation for Legal Services and Education	Established by State Bar; non-profit 501(c)(3) corporation.	Promotes access to justice for all; works to prepare youth for civil responsibility; provides technical and financial assistance to probation and resource officers, teachers, administrators, private attorneys, judges, and legal service attorneys and advocates.
California Commission on Access to Justice	Established by State Bar; includes lawyers and judges; and academic, business, labor, and community leaders.	Explores ways to improve access to civil justice for persons living on low and moderate incomes.
Colorado Access to Justice Commission	Independent entity formed with the support of the Colorado Supreme Court, Bar Association, and Statewide Legal Services Group.	Develops, coordinates, and implements policy initiatives to expand access to and enhance the quality of justice in civil legal matters for persons who encounter barriers in gaining access to Colorado's civil justice system.
Delaware State Bar Association Standing Committee on the Provision of Legal Service to Low-income People	Established by State Bar.	Promotes access to justice <i>pro bono</i> participation; gathers information and resources; provides assistance to programs; provides support to expand delivery of services.
Florida Bar Foundation Legal Assistance for the Poor Committee	Created by Florida Bar; non-profit 501(C)(3) corporation.	Makes grants to local legal aid programs; administers IOLTA funds; coordinates programs.
State Bar of Georgia Access to Justice Committee	Established by State Bar.	Makes recommendations to Bar Board of Governor regarding promotion of <i>pro bono</i> services; encourages laws to participate in program; studies administration of justice for low-income persons.
Idaho Pro Bono Commission	Established by joint resolution of Idaho Supreme Court, State Bar, and U.S. District Court for Idaho.	Works to increase attorney participation and toward the adoption of best practices.
Illinois Coalition for Equal Justice	Members include representatives of stakeholders in the equal justice community, bar leaders, service providers, judges, executive branch officials, legislators, court personnel, mediation service providers, law school faculty, local government, funders, and social service providers.	Supports and encourages initiatives that increase access to justice.
Indiana Pro Bono Commission	Established by Bar Foundation and Indiana Supreme Court.	Allocates IOLTA fund and coordinates services.
Kentucky Access to Justice Foundation		Receives funds from government and private sources to provide training to legal services staff and private attorneys in legal issues; coordinates programs; promotes public awareness of the need for public support of legal assistance for the poor.
Louisiana State Bar Access to Justice Committee	Established by State Bar; membership includes attorney and non-attorney volunteers, legal educators, and <i>pro bono</i> directors.	Assures that every Louisiana citizen has access to competent civil legal representation; promotes and supports a broad and effective justice community; encourages collaboration between the State Bar, the Bar Foundation, law schools, private attorneys, local bar associations, <i>pro bono</i> programs, and legal aid providers.
Maine Justice Action Group	Coalition of individuals representing the state and federal judiciary, Maine legislature, executive branch, State Bar, Civil Legal Services Fund Commission, Trial Lawyers Association, and boards of legal service providers.	Provides leadership and coordination in planning for provision of civil legal aid to low-income and elderly citizens.
Maryland Standing Committee Pro Bono Legal Service	Established by Court of Appeals by Court rule.	Coordinates volunteer legal services; studies long-range issues, serves as a clearinghouse; develops action plans; annually reports to Court of Appeals.

Exhibit 6 (Continued)

Maryland Legal Services Corporation	Established in statute; board of directors appointed by governor, approved by Senate.	Raises funds for programs and services and makes grants; funded by IOLTA monies.
State Bar of Michigan Standing Committee on Justice Initiatives	Established by State Bar.	Makes recommendations on effective delivery of high quality legal services; reviews proposed legislation and court rules; develops policies and programs; coordinates programs and services.
Minnesota State Bar Association Legal Assistance to the Disadvantaged Committee	Established by State Bar.	Encourages lawyer participation in programs.
New York State Bar Association President's Committee on Access to Justice	Established by State Bar.	Considers and implements methods for enhancing access to the civil legal system; works to obtain funding.
New York State Courts Access to Justice Program	New York State Court.	Coordinates lawyers, law students, courts, legal aid organizations, administrative agencies, and law making bodies to expand access to justice; analyzes and recommends proposed legislation, court rules, policies, etc., to open greater access to the courts; recruits lawyers; and oversees Help Centers in courthouses; gathers and reviews statewide data on legal services delivery and needs in order to increase and improve civil and criminal legal assistance.
Ohio Legal Assistance Foundation	Established in statute; board of directors appointed by Chief Justice of the Supreme Court and 5 members appointed by Governor; Attorney General; Treasurer, Public Defender, House Speaker; Senate President; and at-large members.	Provides funding to legal aid providers; sponsors recent law school graduates in public service fellowships served at legal aid providers; advocates for and educates attorneys on the value of providing <i>pro bono</i> services and supporting access to justice.
Oregon State Bar Board of Governors Access to Justice Committee	Established by State Bar.	Develops plans and develops programs, works to expand services.
Pennsylvania Bar Association Access to Justice Committee	Established by State Bar.	Works to explore and implement strategies to improve access to justice and to address the unmet civil legal services needs of low-income citizens.
Pennsylvania Legal Aid Network	Corporate board consisting of attorneys, client representatives, at-large members representing other interests that are beneficial to the legal aid network.	Coordinates the legal aid network; provides strategic insights to the programs and agencies; provides funding to direct legal service providers.
Tennessee Bar Association Access to Justice Committee	Established by State Bar; includes attorneys, law school representatives, judges; stakeholders; provider attorneys.	Develops and implements policy and initiatives to assist lawyers, organized bar, law schools, legal services organizations, and <i>pro bono</i> programs in providing access to the justice system for the poor and marginalized.
Tennessee Alliance for Legal Services	Statewide non-profit organization; Board of Directors includes representatives from local bar associations, federally funded legal aid organizations, public interest groups, law schools, legal clinics, and private attorneys.	Provides vision and effective leadership; advocates for justice for those in need; advances collaboration among legal service providers; educates policy-makers, advocates, and public about civil legal issues; connects people with civil legal assistance; expands financial resources for civil legal services.
Legal Services Corporation of Virginia	Created by State Bar, Virginia Department of Social Services, Virginia Legal Aid Association.	Develops, funds, coordinates, and oversees the delivery of civil legal services to the poor in Virginia.

Source: Developed by LB&FC staff from a review of the various organizations' websites.

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 44 other states, has a mandatory program.¹³ There are four states that have an opt-out program, and one state has a voluntary program. See Exhibit 7 for a list of states and types of IOLTA programs.

¹³ Idaho, New Hampshire, and Wyoming recently changed from an opt-out program to a mandatory program.

Exhibit 7

State IOLTA Programs*

Mandatory IOLTA Programs

Alabama
Arizona
Arkansas
California (L)
Colorado
Connecticut (L)
Delaware
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kentucky
Louisiana
Maine
Maryland (L)
Massachusetts
Michigan
Minnesota
Missouri
Mississippi
Montana
Nevada
New Hampshire
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
Wyoming

Opt-Out IOLTA Programs

Alaska
Kansas
Nebraska
Virginia

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.

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III. AJA Funding Has Been Stagnant and Overall Funding for Civil Legal Aid Is Decreasing

Funding for civil legal aid in Pennsylvania comes from a variety of federal, state, and local revenue streams. AJA fees and surcharges, collected by county row offices and the courts, represent about 31 percent of the total federal and state funding for civil legal aid and have remained at approximately \$10.4 million annually since FY 2010-11. From FY 2010-11 through FY 2014-15, funding from all sources for Pennsylvania's civil legal aid programs decreased 6 percent in current dollars, and the state and state-appropriated funds have not kept up with inflation. About 35 percent of total federal and state funding for legal aid in Pennsylvania is from the Legal Services Corporation (LSC), and its federal appropriation has decreased by \$45 million since 2010. Despite a \$10 million bump in LSC overall funding last year, Pennsylvania's allocation increased only \$430,000. Since FY 2010-11, LSC funding for Pennsylvania has decreased 16 percent.

The Department of Human Services provides 17.5 percent of the total federal and state funding for civil 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 at the same level for each of the past 5 fiscal years. Interest income from the IOLTA accounts has remained low because of the historically low interest rates being paid by financial institutions. In FYs 2013-14 and 2014-15, the IOLTA Board changed the manner in which grants made with IOLTA funds are financed from the use of projected revenue to the use of actual revenue collected. The impact of this transition is noticeable in FY 2014-15, as the IOLTA grant revenues reported by the LSPs were 78 percent lower than the same revenues in FY 2010-11. IOLTA staff reports that the transition is now complete and future grant allocations will accommodate the actual amount of IOLTA revenue received.

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. The Pennsylvania Legal Aid Network, Inc. (PLAN) administers state-appropriated funds and IOLTA Board grants to eight regional legal aid programs and six specialized programs. Table 1 lists the funds by source for PLAN-funded organizations and for Philadelphia Legal Assistance.

Table 1

Sources of Funding for Pennsylvania Legal Aid Programs*
Includes PLAN-funded Organizations and Philadelphia Legal Assistance
Annual Revenues From All Sources

Fiscal Years, Beginning July 1, 2010, Through June 30, 2015

	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>
FEDERAL					
Federal Legal Services Corporation	\$13,651,950	\$11,692,304	\$11,146,691	\$10,990,836	\$11,423,355
STATE					
Pennsylvania General Fund	3,094,352	2,550,620	2,550,677	2,550,257	2,550,388
Pennsylvania Social Services Block Grant	4,982,423	4,976,240	4,976,531	4,975,677	4,975,939
Pennsylvania Disability Project Funding	909,001	909,000	909,000	909,000	909,002
Access to Justice Act.....	10,821,282	10,746,490	9,721,813	9,718,307	10,614,604
Statewide IOLTA and MJ-IOTA	1,743,128	1,993,294	3,027,416	1,894,945	391,075
Homeowner Assistance Settlement Act (HASA)	0	0	887,205	586,542	594,390
Other	<u>2,502,258</u>	<u>935,331</u>	<u>0</u>	<u>5,000</u>	<u>5,000</u>
Sub Total PLAN Funds	\$24,052,444	\$22,110,975	\$22,072,642	\$20,639,728	\$20,040,398
LOCALLY RAISED FUNDS					
Local Efforts and Direct IOLTA Grants	<u>15,552,679</u>	<u>16,220,419</u>	<u>19,186,473</u>	<u>17,946,024</u>	<u>18,711,383</u>
Sub Total Funding	\$53,257,073	\$50,023,698	\$52,405,806	\$49,576,588	\$50,175,136
Less: Organizations Not AJA Funded					
Philadelphia Legal Assistance (PLA)	<u>4,677,610</u>	<u>4,257,671</u>	<u>3,847,558</u>	<u>3,926,046</u>	<u>4,303,097</u>
TOTAL PLAN FUNDING^a	<u>\$48,579,463</u>	<u>\$45,766,027</u>	<u>\$48,558,248</u>	<u>\$45,650,542</u>	<u>\$45,872,039</u>
(LEVERAGED BY AJA FUNDING)					

* Includes PLAN funded organizations and Philadelphia Legal Assistance (PLA). PLA does not receive AJA funding.
^a This does not include the value of donated services that low income people receive directly from private lawyers.

Source: Developed by LB&FC staff using PLAN and LSP financial audits for FY 2010-11 through FY 2014-15 and PLA financial audits for CYs 2011-2015.

Federal Funding

Grant monies from LSC represent 35 percent of Pennsylvania's total state and federal funding for the five years shown on Table 1. Pennsylvania's LSC funding ranged from a low of \$11.0 million in FY 2013-14 to a high of \$13.7 million in FY 2010-11 and has averaged just over \$11.8 million annually. Between FY 2010-11 and FY 2014-15, federal appropriations to the LSC grant programs decreased 7 percent, and LSC funds to Pennsylvania decreased 16 percent. LSC funds are competitively awarded grants given directly to legal services providers. 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 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.

State Funding

Access to Justice Act (AJA). Currently, \$4 is assessed on certain court filings and deposited into the AJA Account. See Chapter II for additional information on AJA funding. The IOLTA Board enters into an annual grant agreement with PLAN for the AJA funds collected by the courts and county row offices. PLAN, in turn, sub-grants the monies to the eight regional programs and six specialized programs within its network as prescribed by the IOLTA Board and based on the geographic proportion of people living in poverty throughout the Commonwealth and using a separate formula for funding of specialty programs. 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 31 percent of the total federal and state monies provided to PLAN for civil legal aid from FY 2010-11 through FY 2014-15. AJA grant dollars have decreased 2 percent since FY 2010-11. Averaging just over \$10.4 million a year, these grants are 47 percent of PLAN's total state funding.

A settlement agreement between the Pennsylvania Attorney General and certain mortgage companies provided additional funding for civil legal aid in FY 2012-13. The Homeowner Assistance Settlement Act (HASA), Act 2012-70, allocated \$900,000 for FY 2012-13 and \$600,000 for FYs 2013-14 and 2014-15 for civil legal assistance related to housing issues. Funding through HASA is slightly more than 1 percent of PLAN's federal and state total, and 2 percent of total state funding but this source is ending after the conclusion of the current fiscal year.

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

Social Services Block Grant (SSBG). The Department of Human Services (DHS) uses Title XX monies to fund local legal services programs through a contract with PLAN. The SSBG is 15 percent of total state and federal funding for civil legal aid, and at \$5.0 million annually, has not changed for decades. The funding may be used for legal services related to the following: termination of employment and unemployment compensation; custody and other family law matters; insurance; 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.²

Statewide IOLTA and MJ-IOTA. 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 legal service programs (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 via the same grant process used for IOLTA. MJ-IOTA funds may be used for: educational legal clinical programs and internships administered by law schools, delivery of civil legal assistance to the poor and disadvantaged by non-profit corporations, and administration and development of the MJ-IOTA program.

² The 2016 annual income guidelines are \$14,850 for an individual and \$30,075 for a family of four.

Included in the statewide IOLTA funding are the proceeds of the \$25 annual assessment on Pennsylvania-licensed attorneys that was first awarded for legal services during the fiscal year ending June 30, 2010.³

The statewide IOLTA, MJ-IOTA, and attorney assessments are 5 percent of total state and federal funding, averaging about \$1.8 million annually. Between FY 2010-11 and FY 2014-15, funds from these sources decreased 78 percent. This was primarily due to a three-year transition period necessary to change the grant process from using revenue projections that often required the use of Board net assets to meet grant obligations when collections were less than projections, to one using revenue collections. The Board now maintains net assets at 150 percent of the following year's planned expenses, and this source of revenue to the LSPs is more stable.

PA General Fund. DHS also contracts with PLAN 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 percent of the total state and federal funding, or about \$2.7 million on average annually since FY 2010-11. The state appropriation to legal services has stayed at about the same level for the past four years, \$2.6 million.

Disability Advocacy Project (DAP). DHS contracts with PLAN 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. Financial eligibility is similar to Title XX, but eligibility is income-based only and cannot be based solely on need for protective services or Medical Assistance status. The movement of individuals from the state-funded programs to a federally-funded program is a cost savings for the Commonwealth. DHS has funded the DAP since the early 1980s. This funding is 2.7 percent of PLAN's total state and federal monies and has totaled \$909,000 for each fiscal year we examined.

Other State Government Funds. Other state funds are about 2 percent of PLAN's state and federal funding, and they have ranged from as little as \$5,000 in FY 2013-14 and FY 2014-15, to as much as \$2.5 million in FY 2010-11 with the addition of the American Recovery and Reinvestment Act of 2009 (ARRA) stimulus dollars and DCED's Homelessness Prevention and Rapid Re-housing Program

³ For FY 2011-12 through FY 2014-15 the fee was increased to \$35.

(HPRP).⁴ Legal aid providers received no ARRA funding after FY 2010-11 and no further HPRP after FY 2011-12. The other funds have included, for example, grants from the PA Housing Finance Agency (PHFA) for a mortgage foreclosure project (FY 2010-11 and FY 2011-12), and from the county Offices of Aging to provide a range of services for eligible persons over the age of 60. Additionally, the Pennsylvania Rule of Civil Procedure 1716 requires that at least 50 percent of residual funds in class action lawsuits in Pennsylvania courts be directed to the Pennsylvania IOLTA Board to support activities and programs that promote the delivery of civil legal assistance to the indigent. These funds varied greatly between FY 2010-11 and FY 2014-15, ranging from a low of \$78,010 in FY 2012-13 to a high of \$2,282,191 in FY 2013-14.

Locally-raised Funding

LSPs also get direct IOLTA grants for special initiatives and innovative efforts as well as contributions from foundations, the United Way, local governments, private attorneys, bar associations, and other local sources. Legal aid clients may also receive direct *pro bono* services donated by private attorneys. These services were valued at \$5.2 million in FY 2010-11 but have declined 19 percent by FY 2014-15. These services do not result in any revenues to legal aid programs or even any in-kind benefits to the legal service programs. Locally-raised funding is about \$17.5 million a year and is 34 percent of PLAN's total revenues.

Distribution of Legal Aid Funds

As noted above, PLAN 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 (SPLS), Laurel Legal Services (LLS), Neighborhood Legal Services Association (NLSA), Legal Aid of Southeastern Pennsylvania (LASP), MidPenn Legal Services (MPLS), North Penn Legal Services (NPLS), and Northwestern Legal Service (NWLS).⁵ The specialized programs are the Pennsylvania Institutional Law Project (PILP), Pennsylvania Health Law Project (PHLP), Regional Housing Legal Services (RHLS) (includes the Pennsylvania Utility Law Project (PULP)), Friends of Farmworkers (FOF), and the Community Justice Project (formerly the Commonwealth Advocacy Project) (CJP). See the map on page 5 for the locations of these programs. For more detailed descriptive information regarding each of these programs see Appendix B.

⁴ Homelessness Prevention and Rapid Re-housing Program (HPRP) provided homelessness assistance to households who would otherwise become homeless. The program was authorized as part of the American Recovery and Re-Investment Act (ARRA).

⁵ Also in Philadelphia is the non-PLAN-funded Philadelphia Legal Assistance, which does receive LSC funding.

Allocation of Funds to Sub-grantees

PLAN currently allocates 86 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 proportional 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 new census numbers become available, the poverty populations within each service area are recalculated and future funding distributions adjusted accordingly.

PLAN allocates 11 percent of its funding 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 Pennsylvania Institutional Law Project, unlike the other specialty programs, has a countable census-based population. Table 2 shows the distributions of funds to the regional 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 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 prior year 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. At the completion of program audits, individual program projections for increases to net

Table 2

Funding Distribution for PLAN Programs

FY 2010-11 Through FY 2014-15
(All Sources)

Program	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
Regional Programs					
Community Legal Services	\$11,043,308	\$9,633,148	\$14,313,890	\$11,680,487	\$10,315,927
Laurel Legal Services	2,334,615	2,006,139	1,962,239	1,830,378	1,719,187
Legal Aid of Southeastern PA	4,596,261	4,354,954	4,228,393	4,080,847	4,291,819
MidPenn Legal Services.....	7,877,827	7,266,203	6,972,400	7,163,557	6,938,137
Neighborhood Legal Services Assoc.....	5,518,127	4,548,562	4,745,644	4,391,502	4,982,876
North Penn Legal Services.....	6,106,733	5,513,994	5,509,239	5,599,740	5,568,789
Northwestern Legal Services.....	2,234,562	1,944,646	1,917,779	1,917,785	1,876,251
Southwestern PA Legal Services	2,415,458	2,471,077	2,666,132	2,161,544	2,052,317
Subtotal Regional	\$42,126,891	\$37,738,723	\$42,315,716	\$38,825,840	\$37,745,303
Specialty Programs					
Commonwealth Advocacy Project.....	\$ 737,542	\$1,181,370	\$ 799,434	\$1,117,367	\$ 948,828
Friends of Farmworkers.....	642,750	746,307	618,088	729,584	832,658
PA Health Law Project.....	1,190,871	1,203,617	1,009,804	1,388,362	1,553,245
PA Institutional Law Project.....	1,084,062	889,680	775,683	801,522	764,363
Regional Housing Legal Services.....	1,437,130	2,470,165	1,617,123	1,467,442	2,575,065
Subtotal Specialty.....	\$5,092,355	\$6,491,139	\$4,820,132	\$5,504,277	\$6,674,159
PLAN	\$1,360,217	\$1,536,165	\$1,422,400	\$1,320,425	\$1,452,577
Total PLAN Organizations	\$48,579,463	\$45,766,027	\$48,558,248	\$45,650,542	\$45,872,039

^a Commonwealth Advocacy Project became the Community Justice Project in July 2015.

^b The Pennsylvania Utility Law Project (PULP) provides information, assistance, and advice about residential utility and energy matters affecting low-income consumers. PULP serves all of Pennsylvania. PULP is a specialized component of Regional Housing Legal Services and is based in Harrisburg.

Source: Developed by LB&FC staff using PLAN and LSP financial audits for FY 2010-11 through FY 2014-15.

Table 3

AJA and HASA Funding Distribution for PLAN Programs
FY 2010-11 Through FY 2014-15

	FY 2010-11	FY 2011-12	FY 2012-13	AJA FY 2012-13	HASA FY 2012-13	AJA FY 2013-14	HASA FY 2013-14	AJA FY 2014-15	HASA FY 2014-15
Regional Programs									
Community Legal Services	\$2,375,218	\$2,382,529	\$2,202,051	\$2,202,051	\$181,449	\$2,087,364	\$132,068	\$2,385,810	\$121,570
Laurel Legal Services	576,431	568,652	513,557	513,557	41,009	498,782	32,689	523,105	29,102
Legal Aid of Southeastern PA	812,291	799,497	725,989	725,989	78,646	740,135	57,252	815,029	50,966
MidPenn Legal Services	1,623,793	1,599,191	1,449,466	1,449,466	158,568	1,486,884	115,401	1,627,564	102,874
Neighborhood Legal Services Assoc. ...	1,193,175	1,173,707	1,059,981	1,059,981	91,787	1,027,610	66,868	1,075,644	59,524
North Penn Legal Services	1,333,461	1,311,319	1,187,823	1,187,823	128,374	1,206,106	90,702	1,343,650	83,233
Northwestern Legal Services	555,694	537,208	486,584	486,584	50,680	489,642	36,904	532,969	32,846
Southwestern PA Legal Services	407,105	400,562	363,149	363,149	31,563	352,178	22,980	368,825	20,455
Subtotal Regional	\$8,877,168	\$8,772,665	\$7,988,600	\$7,988,600	\$762,076	\$7,888,701	\$554,864	\$8,672,596	\$500,570
Specialty Programs									
Commonwealth Advocacy Project ^a	\$ 249,171	\$ 367,592	\$ 284,448	\$ 284,448	\$ 0	\$ 340,844	\$ 0	\$ 374,108	\$ 0
Friends of Farmworkers	224,334	219,983	200,394	200,394	0	199,717	0	215,388	0
PA Health Law Project	219,598	204,938	185,428	185,428	0	184,721	0	199,402	0
PA Institutional Law Project	493,260	440,886	346,164	346,164	0	355,922	0	366,898	0
Regional Housing Legal Services	239,536	235,525	212,876	212,876	86,579	212,058	16	229,193	62,184
Subtotal Specialty	\$1,425,899	\$1,468,924	\$1,229,310	\$1,229,310	\$86,579	\$1,293,262	\$16	\$1,384,989	\$62,184
PLAN	\$518,215	\$504,901	\$503,903	\$503,903	\$38,550	\$536,344	\$31,662	\$557,019	\$31,636
Total PLAN Organizations	\$10,821,282	\$10,746,490	\$9,721,813	\$9,721,813	\$887,205	\$9,718,307	\$586,542	\$10,614,604	\$594,390

^a Commonwealth Advocacy Project became the Community Justice Project in July 2015.

Source: Developed by LB&FC staff using PLAN and LSP financial audits for FY 2010-11 through FY 20014-15.

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.

The case requirements for all Commonwealth funding were revised from 19,500 to 16,800 with the adoption of the 2016-17 agreement between PLAN and the Department of Human Services (DHS). Caseloads for the PLAN programs decreased 28 percent between FY 2010-11 and FY 2014-15, which PLAN has attributed to the result of diminished resources for the programs due to cuts in local, state, and federal funds and increasing costs.

System wide, AJA-funded cases handled in FY 2010-11 through FY 2014-15 met overall case goals. However, both regional and specialty individual programs occasionally fell short of the established case goals. PLAN requests an explanation from individual programs whose case counts were less than goals. For example, a 2014 monitoring report of Laurel Legal Services (LLS) notes that the program lost one attorney and three intake workers, and had to close one office. LLS also had a greater number of extended service cases than other regional providers. These factors all contributed to the failure to meet case goals for the year. Similarly, the 2015 monitoring report for North Penn Legal Services states that declining revenues and increasing costs had made achieving the DHS case goals unrealistic. As with LLS, this program emphasized extended service cases rather than brief services and this further impacted the ability to meet case goals. PLAN then explains to IOLTA any shortfall in meeting individual program and statewide goals.

Collection of AJA Fees

As noted earlier, \$4 from specific court filings fees and surcharges is dedicated to the Access to Justice Account. 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)
- Records of Deeds (ROD)
- Appellate Courts⁶

⁶ 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.

All fees are remitted monthly to the Department of Revenue by all county row offices. The Department of Revenue deposits these funds into the Judicial Computer System (JCS) revenue account. The Department then calculates the AJA portion of the combined fees based on its proportional share for the combined total Act 122 and Act 49 fees and transfers this amount to the ATJ (Access to Justice) revenue account by the end of the same month the fees are remitted to the Department. The combined JCS/ATJ fee is currently \$35.50⁷ and the portion of the combined fee deposited into the ATJ revenue account is \$4.

AJA fees collected by the MDJs are remitted weekly to the Department of Revenue. 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, courts 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.

From FY 2010-11 through FY 2014-15, county row offices have accounted for about 57 percent of the AJA collections, with the magisterial district judges contributing 39 percent. Table 4 displays the AJA fee collections over time by source.

AJA collections have averaged \$10.4 million annually from FY 2010-11 through FY 2014-15, ranging from a high of \$10.7 million in FY 2010-11 to a low of \$9.8 million in FY 2013-14. Interest from these revenues, because of the low interest rates, have added less than \$2,000 on average annually to the total over this time period.

Estimates provided to the Legislature by the Administrative Office of Pennsylvania Courts (AOPC),⁸ calculated the additional \$1 filing fee surcharge would increase annual revenues to the ATJ account by about \$2.5 million, from \$10.4 million to \$12.9 million. However, as shown in Table 4, revenue collections remained at \$10.4 million. PLAN officials suggest that many mortgage assignments are now recorded online without a filing fee through the Mortgage Electronic Registration System (MERS) instead of on record at the recorders of deeds offices and further note that litigation and traffic citations are down. Several counties and county recorders of deeds have sued MERSCORP contending that the failure to file mortgage

⁷ Act 2014-113 and Act 2014-126 made several changes to the \$23.50 JCP/ATJ/CJEA fee. Specifically, this fee is temporarily increased from \$23.50 to \$35.50 for all filings except those resulting from a traffic citation charging an offense under Title 75 (relating to vehicles) that is classified a summary under a state statute or local ordinance. Title 75 (Vehicle Code) summary offenses include, for example, speeding, illegal parking, going through a red light, and other offenses that carry a maximum penalty of 90 days in jail and a \$300 fine. Once fully implemented, the fee will remain at the \$35.50 amount until December 31, 2017. Thereafter, the fee will be \$14.25.

⁸ House Committee on Appropriations, Fiscal Note HB 1337. Senate Appropriations Committee Fiscal Note, HB 1337.

Table 4

Access to Justice (AJA) Fund Collections

	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>Total</u>
County Row Offices:						
Recorder of Deeds	\$4,640,046	\$4,467,950	\$4,968,793	\$4,305,260	\$4,817,251	\$23,199,300
Prothonotary	1,223,863	1,054,912	1,047,019	1,051,388	1,195,307	5,572,489
Domestic Relations	28,313	27,935	28,154	20,946	18,713	124,061
Clerk of Orphans Court	148,201	153,597	154,447	153,405	189,212	798,862
Register of Wills	30,661	30,116	29,500	31,959	41,822	164,058
Total County Row Offices	\$6,071,084	\$5,734,510	\$6,227,913	\$5,562,958	\$6,262,305	\$29,858,770
Appellate Courts	\$20,714	\$20,568	\$19,745	\$19,917	\$25,540	\$106,484
Clerk of Courts	\$369,303	\$408,780	\$391,307	\$392,304	\$424,722	\$1,986,416
Magisterial District Judges	\$4,269,954	\$4,187,349	\$3,928,949	\$3,864,507	\$3,868,420	\$20,119,179
Total Collections Before Interest	\$10,731,055	\$10,351,207	\$10,567,914	\$9,839,686	\$10,580,987	\$52,070,849
Interest from the Commonwealth	\$2,247	\$1,875	\$1,883	\$1,430	\$1,690	\$9,125
Total AJA Funds Remitted to the IOLTA Board	\$10,733,302	\$10,353,082	\$10,569,797	\$9,841,116	\$10,582,677	\$52,079,974

Source: Provided by IOLTA and based on AOPC reports.

assignments with the recorders of deeds violates Pennsylvania law. This case is currently pending in the Pennsylvania Commonwealth Court with PLAN and two of the LSPs filing an *amicus curiae* brief. An earlier case in federal court held that using MERS did not violate state law.⁹

Funding Trends and Projections

We examined the level of funding in FY 2010-11 and, had this funding grown at the rate of inflation, funding in FY 2014-15 would have been almost \$1.5 million greater than that in FY 2010-11.¹⁰ When AJA, IOLTA, and other state funding are included, the funds available are \$6.5 million below the expected level had FY 2010-11 funding grown at the rate of inflation. Overall funding for legal aid peaked in FY 2010-11, declined in FY 2011-12, rebounded in FY 2012-13, largely through an increase in locally raised funding, but declined each of the last two fiscal years. With the overall budget difficulties facing the Commonwealth, continued pressure on legal services funding is likely to continue in FY 2016-17 and beyond.¹¹

About 35 percent of total federal and state funding for legal aid in Pennsylvania is from the Legal Services Corporation (LSC). For the last three years, LSC has requested the same budget amount from the U.S. Congress (about \$100 million more than they received last year) recognizing that even this amount will not meet the estimated need for legal aid, but also acknowledging the fiscal pressures on the federal budget.

One program official we spoke with noted that the loss of AJA funding would be a problem, especially when combined with a decreasing level of state funding (down 17 percent since FY 2010-11), and the reduction in IOLTA funds due to low interest rates. The AJA funding has helped this program to retain current staff levels and maintain satellite offices that address client needs in rural locations where the lack of public transportation often prevents clients from seeking services. Without the AJA funding, one or more of these offices would need to close. Another official noted that her program does not apply for LSC funding because of its restriction on class-action suits, so without that funding to fall back on, the loss of AJA funding would severely impact their ability to maintain staffing levels and provide the client services they do.

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

⁹ Montgomery County, Pennsylvania, Recorders of Deeds v. MERSCORP, Inc., 795 F.3d 372 (2015).

¹⁰ Figures based on PA General Fund, SSBG Block Grant, and Disability Advocacy Project grant funding only.

¹¹ FY 2016-17 budget for SSBG Legal Services (\$5,049,000) and General Fund (\$2,661,000) total \$7,700,000, about \$200,000 more than FY 2014-15.

unfamiliar with and apprehensive about providing these services, which may be in areas of the law that the private attorney does not often work.

IOLTA AJA Administrative Expenses

We looked at the IOLTA Board's administrative expenses for the Access to Justice Act. Total AJA administrative expenses have decreased 5 percent since FY 2010-11 from \$152,620 to \$144,352 in FY 2014-15. Personnel expenses, which have decreased 20 percent since FY 2010-11, were about two-thirds of the administrative costs of the program. From FY 2010-11 through FY 2014-15, administrative expenses have averaged 1.6 percent of the AJA grant awards.

In December 2015, the IOLTA Board made a grant of class action residual funds to PLAN for the purchase of LegalServer, a state-of-the-art case management system. The grant agreement gives IOLTA's Executive Director direct access to the statewide database, however, no client identifying information is available in the statewide database. It is expected that all programs will have transitioned to LegalServer by September 2017.¹²

¹² An official with LSC stated that she believed technology is an issue with legal aid programs, particularly with intake and commended Pennsylvania for using a class action residual distribution to purchase a case management system to address this issue. In her opinion, Pennsylvania is ahead of the curve with its adoption of LegalServer.

IV. Although Level of Service Has Declined, Known Case Outcomes Are Generally Positive; Clients Are Satisfied With Their Services; and Services Have a Positive Economic Impact on Communities

Case resolution continues to be generally positive, as is client satisfaction with the services provided by the LSPs. Based on closed case resolution statistics where the outcome is known, in FY 2014-15 about 87 percent of AJA-funded cases were resolved successfully by the LSPs, and about 13 percent were considered to be unsuccessfully resolved. However, over half of the closed cases were resolved through advice, and outcomes for those cases cannot be characterized. Direct dollar benefits reported by the LSPs in FY 2014-15 were approximately \$13 million in back awards and settlements and \$900,000 in monthly benefits. This represents about a \$4 million decrease since FY 2009-10 likely due to the reduction in the number of closed cases. In addition to the benefits to the clients, studies show that civil legal aid results in both direct and indirect economic benefits to the community, including cost avoidance when, e.g., avoiding an eviction saves on emergency shelter costs.

The LSPs use surveys to assess the satisfaction of their clients with the services they provide. The LSPs vary in the approach they use, and the response rates are generally low. However, those who respond are generally satisfied with the services provided to them by the LSPs, and only a small number of respondents indicated dissatisfaction with the services provided. An evaluation of telephone-based and brief services in 2012 similarly found that the majority of those responding were satisfied with the services received. In the last year, 51 grievances were filed with LSPs, with three regional and four specialty programs reporting no grievances.

Case Outcomes

LSPs provide legal services ranging from brief services that include telephone advice only to extended services involving representation in court. For example, in FY 2014-15, over 4,000 AJA-funded cases included representation before a state or federal court. See Appendix C for additional detail on the scope of representation. As reported by PLAN, in FY 2014-15, LSPs closed more than 50,000 cases, approximately 13,000 of which were AJA-funded cases.¹ See Appendix D for civil legal aid case examples. In those cases where the outcome is known, 87 percent of AJA-funded cases, and 82 percent of overall cases were successfully resolved by the LSPs. In contrast, only 13 percent of AJA-funded cases and 18 percent of overall cases had unsuccessful resolutions. See Table 5. Also as shown in the table, about

¹ AJA grant dollars per case closed averaged \$742 and ranged from a low of \$634 in FY 2011-12 to a high of \$840 in FY 2012-13.

60 percent of the overall cases were cases in which clients received advice on how to pursue their legal concern, and the outcome of those actions cannot be characterized because actions taken by a client after advice is provided may not be known. Additionally, settled or withdrawn cases may not easily be characterized as a successful or unsuccessful resolution. In FY 2009-10, about half of the overall cases were advice-only cases where the outcome was unknown.

Table 5

Closed Case Resolution
FY 2014-15

	AJA Cases			Overall		
	<u>Cases</u>	<u>Known</u>	<u>% of Total</u>	<u>Cases</u>	<u>Known</u>	<u>% of Total</u>
Cases Won	2,833	86.8%	21.2%	8,386	82.1%	16.7%
Cases Lost.....	<u>431</u>	13.2	3.2	<u>1,826</u>	17.9	3.6
Subtotal.....	3,264		24.4%	10,212		20.3%
	<u>Cases</u>	<u>Unknown</u>	<u>% of Total</u>	<u>Cases</u>	<u>Unknown</u>	<u>% of Total</u>
Cases Settled	1,829	18.1%	13.7%	7,548	18.8%	15.0%
Cases Withdrawn	715	7.1	5.4	2,305	5.8	4.6
Cases Advised.....	<u>7,553</u>	74.8	56.5	<u>30,242</u>	75.4	60.1
Subtotal ^a	10,097		75.6%	40,095		79.7%
Total.....	<u>13,361</u>			<u>50,307</u>		

^a Cases that cannot be characterized as won or lost.

Source: PLAN.

The LSPs reported approximately \$13 million in back awards and settlements for their clients in FY 2014-15. As shown on Table 6, monthly benefits received were almost \$900,000. This is a decrease from FY 2010-11 when back awards and settlements totaled almost \$16 million and monthly benefits awarded were almost \$2 million. During that time, however, the total number of cases closed declined from 66,700 to 50,300, a decline of 27 percent. Not included in these benefits is the cost avoidance that may have occurred. As reported by IOLTA, in FY 2010-11, 1,715 low-income Pennsylvania families were able to avoid the need for emergency shelter due to the assistance of legal aid programs.² This resulted in a reported savings of \$25 million, or \$14,794 per family.

² PA IOLTA Board, *The Economic Impact of Outcomes Obtained for Legal aid Clients Benefits Everyone in Pennsylvania*, April 11, 2012. Available at <https://www.paiolta.org/wpcontent/uploads/2014/05/Economic-Impactof-Legal-Aid.pdf>.

Table 6

Direct Dollar Benefits		
FY 2014-15		
	<u>Back Awards/ Settlements</u>	<u>Monthly Benefits</u>
Community Justice Project.....	\$ 122,429	\$ 0
Community Legal Services.....	1,831,880	165,309
Friends of Farmworkers, Inc.....	101,118	0
Laurel Legal Services, Inc.	189,606	21,356
Legal Aid of Southeastern Pennsylvania.....	382,884	140,622
MidPenn Legal Services.....	981,355	213,098
Neighborhood Legal Services Association.....	847,896	102,510
North Penn Legal Services.....	669,124	117,787
Northwestern Legal Services.....	961,450	77,025
Pennsylvania Institutional Law Project.....	157,000	0
Pennsylvania Utility Law Project	6,400,000	0
Philadelphia Legal Assistance Center, Inc.	24,634	34,261
Southwestern PA Legal Services, Inc.	<u>253,822</u>	<u>24,938</u>
Totals.....	\$12,923,198	\$896,906

Source: PLAN.

Client Satisfaction

We looked at two measures to assess client satisfaction with the services provided by the LSPs: client surveys and client grievances.

Surveys. The majority of the LSPs use a client satisfaction survey to evaluate the effectiveness of their services and their client's satisfaction with their services. The results of these surveys are reported in the end-of-year reports the programs provide to PLAN. The methodologies used by the programs vary, with one program not using a formal survey; one, PILP, only recently establishing a new grievance process that they report as their measure of client satisfaction; and another, PHLP, relying on PA-IOLTA's evaluation of telephone-based services (discussed below).

In the FY 2014-15 end-of-year reports, the programs that conducted surveys reported that the large majority of those responding were satisfied with the services they received from the LSP. Only a small number of those responding indicated that they were not satisfied with those services. The response rates, however, were relatively low, with seven of the LSPs having response rates of less than 10 percent.

Although most of the surveys focus on the client's satisfaction with the LSP's services, the survey used by MidPenn Legal Services asks broader questions about the client's experience with MidPenn. For example, the survey asks whether the client has enhanced knowledge of their legal situation, whether their situation has improved with the assistance of MidPenn, and whether MidPenn's assistance was important in obtaining a resolution to their problem. MidPenn also continues to measure the effectiveness of telephone advice.

In 2012, the IOLTA Board undertook a comprehensive evaluation of telephone-based intake and legal assistance systems operated by legal aid programs in Pennsylvania.³ This report is the result of a survey of 400 clients whose cases were closed by telephone advice-only or brief services from ten Pennsylvania legal aid programs in 2011. The survey showed that:

- One of three recipients of telephone advice-only or brief services reported positive outcomes that were tangible and measurable.
- A majority of clients achieved their goals.
- Almost half of the cases produced complete or partial solutions to clients' legal problems.
- Six of ten recipients achieved results they deemed favorable.
- Eight out of ten recipients reported that the legal aid program was helpful to them.

The survey also showed that the majority of clients of telephone-based assistance receive follow-up from the program after having been served, and that there were no large differences in results between telephone advice-only cases and brief services cases.

Grievances. To assess client satisfaction and effectiveness of the legal aid programs, we also reviewed the grievance processes,⁴ number of grievances, and type of grievances filed by clients in FY 2015-16. Most of the grievance procedures begin with an informal process that directs the client to contact the attorney or paralegal handling the case to discuss their concerns. If the matter is not resolved at this level, the client may appeal to a manager or supervisor. If the matter is not resolved by the manager or supervisor, it may be appealed to the LSP's executive director either in writing or by telephone. At this point, several of the LSP procedures require a written response to the client. If the grievance is not resolved by the executive director, the client may file a complaint with the Client Grievance Committee of the Board of Directors of the LSP. The decision of the Client Grievance Committee is final for six of the LSPs, five LSPs provide a hearing before the full Board of Directors, and two afford a review by the Chairperson of the Board of Directors.

³ Ken Smith, Ph.D., Kelly Thayer, MA, Kathy Garwold, MBA, *Final Report on the Survey of Clients*, July 2012.

⁴ Each LSP has its own grievance procedure.

In FY 2015-16, three regional programs and four specialty programs reported that no grievances were filed with their programs. A total of 51 grievances were filed; 32 with the regional programs and 19 with PILP. In general, the most frequent basis for the grievance was the program's decision to discontinue representation due to the client's failure to maintain adequate contact, e.g., keeping appointments. Other common reasons for grievances are the client wanting an action taken that the attorney has deemed to be without merit or an applicant seeking services but the LSP has determined there is a conflict of interest in providing representation.

In 44 of the grievances filed, the initial decision was upheld, in six the action was modified, and in one, the matter is pending before the LSP's Board of Directors. The majority of the grievances were resolved by the informal process or by the executive director.

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. 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 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.

Three economic impact studies have been completed relating to Pennsylvania's LSPs. These studies are briefly described below. Additional studies have been completed for programs in other states. These studies are summarized in Exhibit 8.

PA IOLTA Report. A May 2012 report on Pennsylvania's Access to Justice Act,⁵ shows that in FYs 2004 through 2011, Access to Justice funding supported work on 117,632 legal cases across the Commonwealth for more than 230,000 low-income citizens. The total economic impact of civil legal aid assistance supported by AJA funds was reported to be \$530 million in income and savings for residents and communities. The impacts include:

- \$302 million in cost savings to taxpayers and communities. Each dollar of federal benefits for clients circulated 1.86 times through local economies, which increased sales for local businesses and impacted 2,245 jobs for working Pennsylvanians.
- \$162 million in direct federal benefits payments to residents. These funds produced needed financial support and reduced the burden of such assistance on taxpayers.
- \$34 million savings in emergency shelter costs.
- \$32 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.

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; revenue for Pennsylvania hospitals and other health care providers from Medicaid reimbursements for services they would otherwise have to write off; efficiencies in Pennsylvania 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.

Coalition Report. The Civil Legal Justice Coalition presented a report to the Pennsylvania Senate Judiciary Committee that indicates that funding for civil legal aid produces dramatic economic and social benefits to individuals and communities, while significant economic and social harm comes to individuals and the community when critical legal needs are not met. The report also indicates that for each \$1 spent on legal aid, there is an \$11 return to Pennsylvania and its residents.

⁵ *A Report on Pennsylvania's Access to Justice Act, FY 2004-2011*, The Resource for Great Programs, Inc., May 2012.

Other State Economic Impact Studies

Arkansas: The University of Arkansas Clinton School of Public Service in partnership with the Arkansas Access to Justice Commission assessed the economic impact of civil legal aid delivered by Arkansas' two LSC-funded organizations—the Center for Arkansas Legal Services (CALS) and Legal Aid of Arkansas (LAA). The study showed that CALS and LAA have a substantial positive economic impact on their clients and on the state of Arkansas. Together, they served nearly 12,000 clients in 2013 at a cost that was \$2.4 million less than the equivalent cost of such services in the private legal market. In addition, researchers concluded the following: (1) legal aid saved clients an estimated \$3.4 million in costs for non-lawyer legal document services; (2) legal aid put nearly \$2.3 million into the pockets of their clients and helped them avoid liabilities of over \$9.4 million; (3) representation in housing foreclosure cases prevented \$2.2 million in diminished housing values; (4) legal assistance for domestic violence victims likely prevented more than \$3.9 million in costs for emergency shelter, medical expenses, and social services; and (5) revenues that legal aid brings into the state generate an additional \$8.8 million in economic activity in the state by virtue of their multiplier effect in local communities. (Paola Cavallari, Matthew D. Devlin, Rebekah A. Tucci, and Amy Dunn Johnson, *Justice Measured: An Assessment of the Economic Impact of Civil Legal Aid in Arkansas, October 2014*)

Maryland: An Access to Justice Commission study found that in FY 2012, advocacy by Maryland civil legal aid providers: (1) brought \$9.9 million in federal dollars into Maryland, which translated into at least \$12.6 million in economic stimulus for local economies; (2) obtained \$10.7 million in other direct financial benefits for Maryland residents; (3) secured \$161 million as a result of systemic advocacy on behalf of tenants at risk of eviction, vulnerable homeowners, and low-income persons in need of emergency assistance; (4) resulted in at least \$882,096 in tax revenue by keeping Marylanders in the work force; (5) saved at least \$3.7 million in state expenditures on shelter costs alone by preventing homelessness; and (6) saved at least \$1.3 million in health costs and productivity by preventing domestic violence. Taken together, these gains represent economic stimulus, cost savings, and increased productivity for Maryland totaling \$190 million. (Access to Justice Commission, *Economic Impact of Civil Legal Services in Maryland, 2013*)

Massachusetts: A Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts report estimated the market value of the time donated by private attorneys working *pro bono* (without charge) for those who cannot afford a lawyer at \$17.6 million in 2013, some \$5.6 million more than the state appropriation in the same year. Even so, civil legal aid programs turn away 64 percent of all eligible cases because of lack of resources. While 30,802 cases were handled in 2013, including 5,440 involving family matters and 9,246 cases involving housing matters, 54,342 cases were turned away, including 21,197 cases involving family matters and 11,843 involving housing. The financial impact in 2013 included, for example: (1) increased access to federal benefits by direct recipients of those benefits and their families was conservatively estimated as \$25.62 million; (2) an additional \$1.35 million of federal funds were brought into the state as a result of providing civil legal aid through reimbursements to the state as well as legal representation fees; (3) multiplier effects for the in-flow of \$25.62 million in federal benefits to program recipients resulted in estimated economic benefits to the state economy of approximately \$51.3 million; and (4) the economic benefits derived from additional child support payments was estimated at \$11.64 million. (Boston Bar Association Statewide Task Force to Expand Civil Legal Aid in Massachusetts, *Investing In Justice: A Roadmap to Cost-Effective Funding of Civil Legal Aid in Massachusetts, 2014*)

Exhibit 8 (Continued)

Montana: The Montana Legal Services Association (MLSA), with funding from the Montana Justice Foundation and sponsorship by the Montana Supreme Court's Access to Justice Commission, conducted a study of the economic impact of civil legal aid in Montana. The study estimated that civil legal aid provided by MLSA during 2013 resulted in almost \$1.4 million in direct awards to low-income Montanans. The indirect economic impact included an economic boost not only to the state but also to local economies through increases in employment, wages, and business outputs. The impact of new dollars brought into the state totals approximately \$3.3 million. MLSA attorneys and document assembly services provided \$2.9 million in services and cost savings to low-income Montanans. Additionally, legal aid representation of low-income clients generated approximately \$2 million in cost savings, including domestic violence prevention, eviction prevention, foreclosure prevention, and increased court cost-effectiveness. The total economic impact, including direct, indirect, and cost savings, of MLSA's statewide civil legal aid services was approximately \$9.7 million. For every dollar MLSA spent on providing civil legal services in 2013, \$3.15 flowed into the Montana economy. This total economic impact means that for every dollar in-state funders and donors spent on providing legal aid, \$10.61 is put into Montana's economy. The return on investment in legal aid made to MLSA is 215 percent for all money invested in MLSA and 961 percent for in-state money invested in MLSA. (Montana Legal Services Association, *The Economic Impact of Civil Legal Aid to the State of Montana*, 2015)

Tennessee: The Resource for Great Programs, with funding provided by the Tennessee Bar Association, the Corporate Counsel Pro Bono Initiative, and Tennessee's four federally-funded legal aid providers, analyzed the economic impacts of civil legal aid on Tennessee's economy. This analysis showed that for every dollar of program funding in 2013, there was an impact on the economy of \$11.21, with an overall impact of \$188.6 million in benefits and savings. The report shows that, for example, there were 2,069 child and spousal support cases handled, which produced a net value of \$2.7 million for clients; there were 1,223 Social Security Disability and Supplemental Security Income cases closed, which resulted in projected benefits of \$26 million; and there were 1,252 Medicaid cases that resulted in approximately \$11.4 million in federal Medicaid benefits. In housing-related cases, the report shows that there were 1,105 cases closed, which resulted in approximately 2,928 people who avoided eviction, obtained additional time, or avoided foreclosure. Additionally, there were approximately 909 people who avoided emergency shelter as a result of civil legal aid provided. Finally, the report shows that there were 1,911 domestic violence cases that resulted in 680 cases in which the client received protection from domestic violence, at a total cost savings of \$7.5 million. (Kenneth A. Smith, Ph.D. and Kelly Thayer, MA, *Economic Impact of Civil Legal Aid Organizations in Tennessee: Civil Justice for Low-Income People Produces Ripple Effects That Benefit Every Segment of the Community*, 2015)

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

Additionally, the analysis shows that civil legal aid representation saves costs associated with domestic violence, foster care and child custody, housing, health care, and crime and imprisonment.⁶

York County Bar Foundation Economic and Societal Impacts Report.⁷ This assessment sought to ascertain the economic and societal impacts of the civil legal services provided by two nonprofit organizations funded by the York County Bar Foundation (YCBF)—MidPenn Legal Services and the Pennsylvania Immigration Resource Center—and by three additional initiatives funded by the Foundation—the Truancy Prevention Initiative; the adult treatment courts, consisting of the Drug, Mental Health, and Veterans Courts; and the York County Court Self-Help Center. This study showed that the legal services programs funded by YCBF provide legal services that help approximately 1,500 low-income residents of York County annually that directly affect families, homes, incomes, jobs, and access to vital services. Specifically, this study found:

- During the one-year period of the study, legal assistance was provided to 1,469 residents, and legal orientation and assistance was provided to 2,780 immigrants detained at the York County Prison.
- In York County, almost 50,000 individuals qualify for civil legal services, but only 4 full-time lawyers are employed to provide such assistance, resulting in a ratio of 1 lawyer for every 12,500 low-income residents.
- A total of \$1.1 million for all sources invested in the legal services programs in 2013 produced an estimated \$9.9 million in economic benefits and savings to clients and communities, yielding an economic return of \$9 for every \$1 invested.
- Legal services programs collaborate with the York County Bar to recruit law firms and private attorneys to provide *pro bono* services. As a result of these efforts, in 2013, volunteer attorneys completed 320 cases for legal services clients, donating \$336,000 worth of their time.

⁶ Civil Legal Justice Coalition, *Toward Equal Justice for All*, 2014.

⁷ Ken Smith, Ph.D., Kelly Thayer, MA, The Resources for Great Programs, Inc., *An Assessment of the Economic and Societal Impacts of Civil Legal Services Programs Funded by the York County Bar Foundation*, October 2014. Available at www.yorkbar.com.

V. Civil Legal Aid Providers Continue to Serve Less Than 50 Percent of Eligible Low-income People Seeking Services

In 2011, we reported that civil legal aid was provided to about 50 percent of the eligible applicants who seek assistance. Since that time, studies have shown that little has changed. In fact, due to funding issues, the level of services provided to clients of civil legal aid programs may have declined, with more clients being served through brief services rather than extended services.

The poverty rate in Pennsylvania has increased from 13.4 percent in 2011 to 13.6 percent in 2015. In 2015, Pennsylvania had one attorney for every 261 residents, contrasted with one legal aid attorney nationally for every 6,415 people living in poverty. With stagnant funding, the total number of cases handled by LSPs since FY 2010-11 has decreased 34 percent. The number of cases handled by LSPs using only AJA funding has decreased 25 percent from FY 2010-11 to FY 2014-15.

Unmet Client Need Nationwide

According to the National Coalition for a Civil Right to Counsel, every year, millions of low-income people throughout the United States struggle through serious, complex civil legal disputes without the help of a lawyer. Most low-income households find that private counsel is unaffordable and free legal aid is unavailable due to the high demand and legal aid programs' limited time and resources. More than 45 million individuals have incomes low enough to qualify for federally funded legal aid, but equal access to justice funding is often hard to find.¹

In 2016, the American Bar Association Commission on the Future of Legal Services issued a report on the future of legal services in the United States.² Using data from 2014 to 2016, the Commission examined various reasons why meaningful access to legal services remains out of reach for too many Americans.³ The study found that most people living in poverty, and the majority of moderate-income individuals, do not receive the legal help they need, and *pro bono* services alone cannot provide the poor with adequate legal services to address their unmet legal needs. The report further notes that the public often does not obtain effective assistance with legal problems, either because of insufficient financial resources or a lack of knowledge about when legal problems exist that require resolution through legal representation. As indicated in the report, only 15 percent of people with civil legal justice issues sought formal help, and only 16 percent even considered consulting a lawyer.

¹ http://www.civilrighttocounsel.org/about/the_justice_gap.

² American Bar Association Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States*, 2016.

³ This report contains several recommendations for action aimed at improving civil legal aid services for the poor.

The Legal Services Corporation (LSC)—the largest federal source of funding for free legal representation in civil cases—undertook a comprehensive study that documented the existence of this “justice gap.” In a report published in 2005 and updated in 2009,⁴ LSC found that:

- LSC-funded programs turn away nearly one million cases annually due to lack of resources; untold additional clients never find their way to the programs.
- Each year fewer than 20 percent of low-income people with civil legal problems obtain the legal assistance they need.
- Counting all attorneys working for legal aid programs (not just LSC), the U.S. has one lawyer for every 6,415 low-income people but one lawyer for every 429 people in the general population.

In comparing the two reports—one from 2009 and one from 2016—it appears that the unmet need has not declined. In general, for every client served by civil legal aid, another person who seeks help and is eligible for services is turned away. Additionally, several states analyzed the justice gap in their particular state. These studies show similar trends. Some examples include:

- Maine (2007): of those able to receive some help, 85 percent only received brief service or consultation. At one state legal services provider 83 percent of low-income individuals seeking assistance were turned away.
- New Jersey (2009): only 21.7 percent of low-income people seeking assistance obtained legal help.
- New York (2013): only 20 percent of low-income individuals have access to legal assistance.
- Wisconsin (2007): 80 percent of low-income people with legal needs are unable to obtain help.

Unmet Client Need in Pennsylvania

Several recent reports have addressed the need for civil legal aid in Pennsylvania.

Civil Legal Justice Coalition Report. The Pennsylvania Civil Legal Justice Coalition Report, issued in April 2014, shows a longstanding and growing crisis exists in the unmet critical legal needs of low-income litigants who are unable to access legal services in Pennsylvania.⁵ Specifically, poverty has been increasing in Pennsylvania, funding for civil legal services has been declining, civil legal services

⁴ Legal Services Corporation, *Documenting the Justice Gap in America*, 2009.

⁵ *Toward Equal Justice For All: Report of the Civil Legal Justice Coalition to the Pennsylvania State Judiciary Committee*, April 2014, <https://www.palegalaid.net/sites/default/files/Report%20of%20the%20Civil%20Legal%20Justice%20Coalition.pdf>.

programs cannot meet the growing need for legal assistance, the unmet need for legal assistance for low-income people has been growing, and the growing justice gap in Pennsylvania reflects a national trend.

The Coalition's report indicates that the incidence and growth of poverty in Pennsylvania is increasing. Poverty pervades both the rural and urban communities. Out of Pennsylvania's population of about 12.8 million people, 1.8 million live in poverty, up from 1.6 million just a couple of years ago. Two million Pennsylvanians are eligible for free legal services. Despite the growth in poverty and greater need for legal assistance, funding for civil legal services from all levels of government and all sources has been significantly diminished during the great recession. Specific examples of unmet need include:

- In 2012, in Dauphin County there were 1,145 custody orders entered. Of those, in 325 cases there was one self-represented party and in 471 cases there was more than one self-represented party; the result is that in 69 percent of the cases, at least one party was without an attorney.
- In Lackawanna County, in protection from abuse and custody cases, in excess of 50 percent of the litigants were unrepresented.
- In Monroe County mortgage foreclosure cases, there were 236 scheduled cases in a four-month period; in these cases, 183 individuals represented themselves against the banks.
- In Philadelphia, there are approximately 30,000 eviction cases filed annually. Of these, 85 percent of the landlords hire an attorney; however, only 3 percent to 5 percent of the tenants have legal representation.

The Coalition's report notes the negative impacts that unrepresented persons experience in the civil court system. The Coalition recommended increasing legal services funding and establishing an access to justice commission and charging it with evaluating and proposing additional measures to further access to justice and to move, in the long run, toward a right to counsel in civil legal matters affecting fundamental human needs. See Chapter II for additional findings and recommendations of this report.

Access to Justice FY 2004-2011 Report. According to a 2012 report in Pennsylvania, half the people who seek Legal Aid must be turned away for lack of resources, and many others do not even apply. The report noted that only one in five low-income Pennsylvanians having a critical legal problem receives legal help from any source. The remaining 80 percent face a "justice gap" in which they must face legal problems and navigate the court system on their own.⁶

⁶ *A Report on Pennsylvania's Access to Justice Act, FY 2004-2011*, The Resource for Great Programs, Inc., May 2012.

York County Report. A recent study⁷ conducted for the York County Bar Foundation assessed the unmet need in York County. This study found that in York County, 11.1 percent of residents—about one in nine—are very low income. Approximately 19,000 “general” civil legal problems in areas such as family law, housing, employment, wills and estates, and public benefits, are experienced every year by this population. When the need for legal services is compared with the capacity to provide individuals with legal help, the disparity between the two factors is 92 percent. In other words, it is estimated that there are 19,000 civil legal problems that need to be addressed; however, there is only capacity to address 1,439 of these issues, resulting in 17,561 problems not addressed. The report states the principal cause of the justice gap is lack of adequate funding for civil legal assistance.

Southwestern Pennsylvania Report. In October 2015, a survey of client eligible residents in Southwestern Pennsylvania was conducted to determine whether in the past three years anyone in their households had experienced any of a list of 35 legal problems deemed most compelling by the Neighborhood Legal Services Association, Southwestern Pennsylvania Legal Services, and Laurel Legal Services.⁸ In southwestern Pennsylvania, 17 percent of residents—about one in six—are living on “extremely low” incomes, i.e., at or below 125 percent of the federal poverty level.⁹ Approximately 108,200 general civil legal problems are experienced every year by this population, with Social Security Disability, eviction from private rental housing, and cases related to domestic violence (e.g., divorce) being the most common issues.

This study found that approximately three out of every ten respondents were unaware they could get free help from Southwestern Pennsylvania Legal Services for a legal problem. This finding is consistent with findings in other studies. Even those who know about legal assistance programs face significant hurdles in obtaining help. For example, for every 100 households with a legal problem, 60 households sought legal help. Ultimately, 54 households received legal assistance; they comprised 54 percent of all those with legal problems and 90 percent of the 60 households with legal problems that sought help. Of the 28 people seeking assistance from the Commonwealth, 12, or 42 percent, were turned away.¹⁰ Of the 12 people who were refused service, 6 went on to seek help from other sources while another 6 people, or 21 percent of those with legal problems who requested help from legal services, did not receive assistance, likely because they did not meet income or other eligibility requirements or because legal services lacked the resources to provide the type of help needed.

⁷ Ken Smith, Ph.D., Kelly Thayer, MA, The Resources for Great Programs, Inc., *An Assessment of the Economic and Societal Impacts of Civil Legal Services Programs Funded by the York County Bar Foundation*, October 2014.

⁸ Ken Smith, Ph.D., Kelly Thayer, MA, The Resources for Great Programs, Inc., *The “Justice Gap” in Southwestern Pennsylvania*, October 2015.

⁹ This equates to 472,350 southwestern Pennsylvania residents living in 157,450 households.

¹⁰ The 32 remaining households sought legal assistance from other sources.

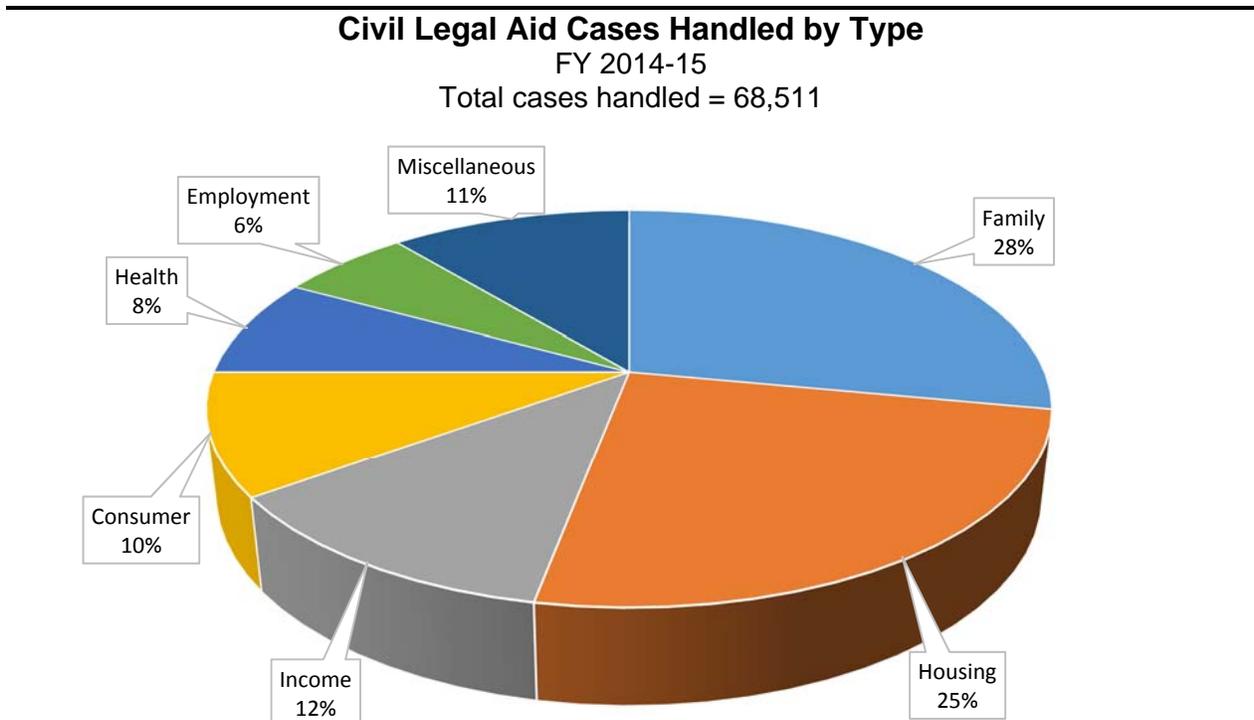
The gap between need and capacity of Consortium programs ranges from 71 percent in the “housing and utilities” category to 98 percent in the “health and elder” category. In this situation, people who fall outside the priorities of Legal Services, or who do not know they are eligible for legal services, must seek help elsewhere or go without.

The cause of this justice gap is believed to be lack of adequate funding for civil legal assistance. The report cites that in 2011, despite a burgeoning demand for legal services, PLAN employed 266 lawyers, providing free legal services to people in poverty, down from 358 attorneys employed 22 years earlier. To help address this problem, southwestern Pennsylvania’s legal services programs have taken steps to mitigate the justice gap. For example, each provider strategically focuses its services on certain types of legal problems; providers closely coordinate their efforts to avoid duplication of services; and providers have used innovative service delivery methods as a strategy for maximizing services within the limits of available resources.

Legal Aid Cases

As can be seen in Exhibit 9, in FY 2014-15 the majority of cases handled by LSPs were either family matters (28 percent of the total) or housing issues (25 percent of the total).

Exhibit 9



Source: Developed by LB&FC staff using data from PLAN.

Program Priorities

LSPs do not accept every case brought to their attention and may reject a case, for example, if the applicant does not meet financial eligibility requirements. However, about 87 percent of rejected applicants are financially eligible for legal services, so most rejections are due to other causes.¹¹

Legal services programs set priorities to determine which types of cases they will accept as a method of rationing limited services. Each program is expected to conduct a needs assessment cyclically, to identify those legal issues most important to their population. The assessment involves surveys of clients, social service agencies, community organizations, judges, bar associations, private lawyers and other stakeholders. Some LSPs also use focus group meetings. All but one of the LSPs has conducted a needs assessment within the last two years. The remaining LSP is currently conducting a needs assessment for their service area.

In general, the regional programs tend to prioritize cases related to housing, family issues and stability, public benefits, and employment issues. In addition to the types of cases the LSP will accept, the LSPs also set priorities within those categories. For example, LASP identifies divorce for a domestic violence victim as a first priority case and a simple divorce as a second priority case. In the last few years, the need for expungement of criminal history reportedly has become a more frequent employment issue being addressed by the LSPs. LASP considers expungement of criminal and child abuse matters in order to eliminate barriers to employment or economic stability to be a first priority in employment cases.

The specialty programs also establish priorities related to their particular area of practice, e.g., the PHLP has expanded from a focus on Medicaid benefits to include children with special health care needs who are enrolled in commercial or employer based health insurance plans and at high risk for inadequate access to needed health services.

Handled and Closed Cases by the LSPs

AJA grant funding was 31 percent of all state and federal revenues to LSPs and accounted for 23 percent of all cases handled by the legal service programs of PLAN between FY 2010-11 and FY 2014-15. See Table 7 for the number of AJA-funded cases handled by each LSP from FY 2010-11 through FY 2014-15. The total number of handled legal aid cases (all funding sources) decreased 34 percent, from 104,329 in FY 2010-11 to 68,511 cases in FY 2014-15. Similarly, the number of AJA cases handled declined 25 percent, from a high of 22,945 in FY 2010-11 to a low of

¹¹ Based on information from six regional programs for FY 2011-12. This data is not routinely collected by the legal aid programs.

Table 7

AJA-funded Cases Handled by PLAN

	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>Total</u>
PLAN Sub Contracted Regional Programs						
Community Legal Services	5,439	5,426	3,856	3,946	4,574	23,241
Laurel Legal Services.....	1,348	1,054	726	491	846	4,465
Legal Aid of Southeastern PA	1,945	2,028	1,353	1,838	1,735	8,899
MidPenn Legal Services	4,029	3,250	2,791	2,610	2,915	15,595
Neighborhood Legal Services Assoc.	2,830	2,534	1,953	1,839	1,774	10,930
North Penn Legal Services	3,351	3,063	1,992	2,000	2,264	12,670
Northwestern Legal Services	1,600	1,645	1,266	1,158	1,151	6,820
Southwestern PA Legal Aid Society	<u>983</u>	<u>1,033</u>	<u>635</u>	<u>660</u>	<u>806</u>	<u>4,117</u>
Subtotal Regional	21,525	20,033	14,572	14,542	16,065	86,737
PLAN Sub Contracted Specialty Programs						
Commonwealth Advocacy Project/ Community Justice Project ^a	210	284	354	282	221	1,351
Friends of Farmworkers	191	112	115	81	88	587
PA Health Law Project	315	371	380	471	420	1,957
PA Institutional Law Project	671	796	534	440	445	2,886
Regional Housing Legal Services	<u>33</u>	<u>44</u>	<u>35</u>	<u>38</u>	<u>26</u>	<u>176</u>
Subtotal Specialty	1,420	1,607	1,418	1,312	1,200	6,957
Total All Programs	22,945	21,640	15,990	15,854	17,265	93,694

^a Commonwealth Advocacy Project became the Community Justice Project in July 2015.

Source: Developed by LB&FC staff from information provided by PLAN.

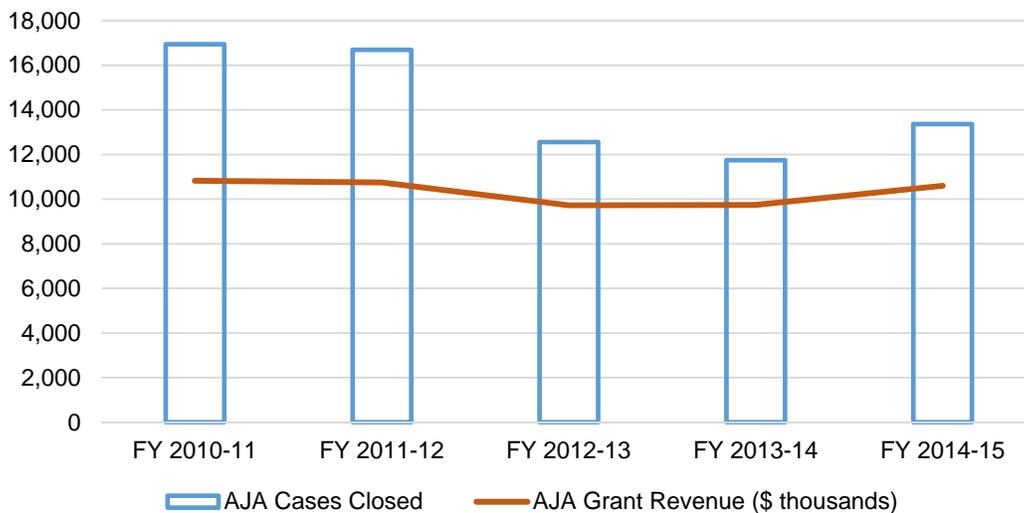
15,854 in FY 2013-14. The number of AJA cases handled in FY 2014-15 increased by 1,411.

As can be seen in Table 8, the number of AJA cases closed shows a parallel decline of 21 percent between FY 2010-11 and FY 2014-15. Over the five years examined, LSPs closed 76 percent of all AJA cases handled. A case, however, may be “handled” in a given fiscal year but not necessarily completed and closed in that same year. See Appendix E for the case goals, cases handled, and cases closed for FY 2010-11 through FY 2014-15 by each LSP.

Exhibit 10 below shows that the number of closed cases mirrors the trend in AJA funding. As funding decreased in FY 2012-13, closed cases also dropped, increasing slightly in FY 2014-15 along with AJA revenues.

Exhibit 10

AJA Grant Revenue and AJA Closed Cases
FY 2010-11 Through FY 2014-15



Source: Developed by LB&FC staff using information provided by PLAN.

Table 8

AJA-funded Cases Closed by PLAN

	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>Total</u>
PLAN Sub Contracted Regional Programs						
Community Legal Services	3,648	3,956	3,057	2,724	3,459	16,844
Laurel Legal Services.....	1,067	869	635	446	732	3,749
Legal Aid of Southeastern PA	1,459	1,479	995	1,158	1,170	6,261
MidPenn Legal Services	3,177	2,563	2,190	2,004	2,249	12,183
Neighborhood Legal Services Assoc.	2,314	1,915	1,537	1,488	1,439	8,693
North Penn Legal Services	2,091	2,466	1,487	1,436	1,760	9,240
Northwestern Legal Services	1,304	1,347	1,048	957	946	5,602
Southwestern PA Legal Aid Society	<u>729</u>	<u>728</u>	<u>425</u>	<u>470</u>	<u>630</u>	<u>2,982</u>
Subtotal Regional	15,789	15,323	11,374	10,683	12,385	65,554
PLAN Sub Contracted Specialty Programs						
Commonwealth Advocacy Project/Community Justice Project ^a	133	186	296	184	160	959
Friends of Farmworkers	139	86	73	35	29	362
PA Health Law Project	310	368	367	468	414	1,927
PA Institutional Law Project	572	699	443	358	368	2,440
Regional Housing Legal Services	<u>0</u>	<u>34</u>	<u>5</u>	<u>15</u>	<u>5</u>	<u>59</u>
Subtotal Specialty	<u>1,154</u>	<u>1,373</u>	<u>1,184</u>	<u>1,060</u>	<u>976</u>	<u>5,747</u>
Total All Programs	<u>16,943</u>	<u>16,696</u>	<u>12,558</u>	<u>11,743</u>	<u>13,361</u>	<u>71,301</u>

^a Commonwealth Advocacy Project became the Community Justice Project in July 2015.

Source: Developed by LB&FC staff from information provided by PLAN.

VI. Monitoring and Auditing Activities Provide Needed Oversight and Corrections for Identified Issues

Each LSP receiving AJA funds has case goals and financial audit and program monitoring requirements. In addition, the program administrator, PLAN, is subject to 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 LSPs receiving LSC funding are also subject to LSC review.

We reviewed PLAN's reports of its monitoring visits to the 14 LSPs for FY 2011-12 through FY 2015-16,² the independent financial audits for PLAN and the 14 LSPs for FY 2014-15, 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. We also reviewed the LSC Quality Visit Reports for the 6 LSPs visited since 2010. Although significant management issues were identified with two of the LSPs, client services did not appear to be affected. Additionally, for those two programs, as well as the other programs that were reviewed where concerns with program administration were identified, actions were required to address the identified problems. These oversight efforts ensure that LSPs are in compliance with their funding requirements and continue to provide appropriate legal services.

IOLTA Oversight of PLAN

IOLTA's primary measure of services provided by PLAN and the LSPs involves the case goals methodology used to determine the level of program activity expected for the funding provided. See Chapter III. PLAN reports to IOLTA on LSP activities through the quarterly service narrative, financial reports, final annual reports, and audits. IOLTA's Executive Director also accompanies PLAN on select monitoring visits to LSPs. As stated by IOLTA staff, the objective in attending these visits is to "monitor the monitor." In addition, IOLTA's Grants Manager, hired in 2013, attends PLAN-sponsored training to ensure quality programming and participation by the LSP advocates. His attendance also provides an

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.

opportunity for him to have a better understanding of the problems legal aid clients are struggling with and how the LSPs deliver services to their clients.

In 2012 and 2013, the IOLTA board discussed requiring LSPs to have an annual, independent assessment of their operations and case files to determine whether the LSPs were in compliance with the terms of the IOLTA grant. This assessment would supplement the PLAN monitoring visits and the LSC Quality Reviews, as well as the annual financial audit requirement. The Board decided not to move forward with such a requirement. The Board made this decision after concluding PLAN's monitoring of the programs was comprehensive and sufficient. A monitoring instrument agreed upon between the IOLTA Board and PLAN is used and follow-up visits to programs are scheduled when justified.

PLAN Oversight of the LSPs

PLAN conducts monitoring site visits of the LSPs every three years, and may conduct a follow-up visit depending on the issue identified in the visit. 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. PLAN maintains a quarterly compliance chart to ensure that LSPs comply with the recommended corrective actions. This chart is also provided to IOLTA.

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 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 Few Significant Ongoing Problems With LSPs. Monitoring activities include a review of a random sampling of actual cases and a review with staff of checklists covering general procedures; eligibility and reporting requirements; contract, regulatory, and administrative compliance; financial compliance; and internal controls. We have reviewed all monitoring reports, including follow-up reports, completed since FY 2011-12.

The reviews conducted by PLAN included:

- A review of the most recent EOY report.
- A review of the program mission statement.
- A review of audited financial statements for the three-year period under review.
- The most recent legal needs assessment and priorities statement.
- A review of the plan to finance fluctuations in IOLTA revenues.
- A review of the most recent monitoring report issued by PLAN.
- A review of the current and prior year budget and reimbursement requests.
- 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 reviewer.
- Analysis of open cases to determine adequacy of case closing procedure.

The most common issues identified in the 22 monitoring reports (we had two reports for 9 of the LSPs) reviewed were:

- Need to review case closing procedures to ensure cases do not remain open without ongoing activity (11 reports). In our 2011 report, 7 monitoring reports cited this concern.
- Failure to document that grievance procedures have been communicated to the client, in particular in telephone service cases (6 reports). In our 2011 report, 5 monitoring reports cited this concern.
- Failure to appropriately label cases as brief or extended services (6 reports). This was not a common concern in our 2011 report.

As noted above, case closing and notice of grievance procedures continue to be an on-going issue with the LSPs. When a problem is identified in the review, corrective action is required and a deadline is established for that action. For example, in the 2015 monitoring report of Legal Aid of Southeastern Pennsylvania (LASP), the corrective action required LASP to submit a plan on how it will implement procedures for a closer review of timekeeping data to PLAN, within 30 days of the final monitoring report. According to the PLAN compliance chart, LASP submitted a plan that addressed this issue in a timely manner. However, in other cases, the chart may indicate that additional follow-up is needed.

The monitoring visits also provide the opportunity for the LSPs to discuss concerns they may have or have identified. For example, the PILP had implemented corrective actions as required from the previous audit, but, due to other concerns, a follow-up visit was scheduled approximately six months after the initial monitoring visit.³ 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.

PLAN identified numerous management issues in its 2014 monitoring visit of SPLS. The grievance notice and the staff timekeeping processes, initially identified and thought to be corrected in the previous review, were found to be a continuing problem. Additionally, there were issues concerning staff oversight and expense reimbursement. A follow-up review was conducted in 2015 after a new executive director was appointed.

LSP Financial Audits Did Not Identify Significant Issues. 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.

LSC Oversight of the LSPs

The seven LSPs that receive funding from LSC are subject to regular quality reviews by LSC and additional reviews by LSC's Inspector General. These reviews focus on:

- needs assessment, priority setting, and strategic planning;
- engagement of the low income community;
- legal work management and the legal work produced; and
- program management including board governance, leadership, resource development, and coordination within the delivery system.

Programs are required to respond to LSC recommendations for the next two grant cycles. Six LSPs underwent LSC quality reviews since 2010. In general, the programs were found to have performed well and have exceeded the national median for both extended cases closed per 10,000 poor people and cases closed per 10,000

³ One of the issues discussed at this review involved criminal activity by a PILP employee uncovered by PILP that included the misuse of the company credit card and client escrow accounts as well as the interception of a check that represented a donation by a third party that was converted to the employee's personal funds. PILP provided PLAN with a detailed account and reconciliation of the issues found. The employee was terminated immediately upon the discovery of the criminal conduct and criminal charges were pursued. All funds were recovered.

poor people. A common recommendation was to encourage the LSPs to take more cases with broader impacts on their client communities.

Laurel Legal Services, however, was found to have significant management issues in its 2014 review, and the LSC reduced its grant cycle to two years rather than three. The LSP has made significant changes since that review, including employing a new executive director, and the LSC conducted a follow-up review in August 2016. LSC also placed SPLS on a year to year grant cycle due to concerns about management and the board.

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, Court Officers, and Magisterial District Courts. The Fiscal Code, 72 P.S. §401, 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 reconcile its accounts.⁴ 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, as well as the most recent audit report for each magisterial district court in order to determine if there were any findings relating to the assessment and collection of Access to Justice fees.⁵

Of the 663 reports reviewed, we identified 16 reports with findings or comments relating to fee collection and remittance, which are summarized in Exhibit 11. It is important to note that the audit reports show the Judicial Computer

⁴ Copies of the audit reports are also submitted to the auditee, the Court Administrator of AOPC, the county commissioners, and others including the county controller, the president judge, and local police departments as appropriate.

⁵ 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.

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

Allegheny County (January 2008 to December 2012): The audit of the Department of Court Records – Criminal Division showed that, in the audit period ending January 2008, there were inadequate assessment of fines, costs, fees, and surcharges. This current audit disclosed that the Office did not correct the issue. Of 90 cases tested, the auditors found there were 9 cases in which the JCS/AJT fees were assessed in error on Accelerated Rehabilitative Disposition cases. The auditors noted that the incorrect assessments occurred because the Office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth fines, costs, fees, and surcharges. The auditors recommended that the Office review the applicable laws to ensure that such fines, costs, fees, and surcharges are assessed as mandated by law. The County Officer responded by disagreeing and objecting to the finding by stating that the Criminal Division follows procedures and guidelines from the Administrative Offices of the Pennsylvania Courts and is mandated to use the system developed and administered by the AOPC. The County Officer noted that the AOPC has provided training to staff and has provided periodic evaluations to ensure compliance with AOPC procedures and guidelines.

Blair County (January 2009 to December 2013): The audit of the Prothonotary/Clerk of Orphans' Court disclosed that 57 of 120 payments made to the Department of Revenue, and 23 of 60 payments made to the AOPC for the Commonwealth's portion of fines and costs collected were not transmitted within the time period required. This issue was also noted in the three prior audit reports. This condition resulted in the Department of Revenue and the AOPC not receiving state monies in a timely manner. The auditors recommended that the Office transmit the monies in a timely manner. Office management did not offer a formal response to the finding. Further, the auditors noted that their examination disclosed that of 95 cases tested, there were 2 cases in which the JCS/ATJ fees were improperly assessed; these fees should not be assessed on ARD cases prior to December 2009. The improper assessment of these fees resulted in the defendant not being assessed the prior amount of fees association with the violation. The auditors stated that the incorrect assessments occurred because the Office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth fines, costs, fees, and surcharges and recommended that the Office review applicable laws. Management offered no formal response to the finding.

Bucks County (January 2009 to December 2014): In this current examination, the auditors noted that there was an adjustment in writ taxes and JCS/ATJ fees that were required that represented interest earned on Commonwealth funds that was not remitted to the Department of Revenue by the Recorder of Deeds. The auditors also noted that there was a prior examination balance due to the Commonwealth of \$4,594 that was not paid as of the end of the current examination period; such monies included writ taxes and JCS/ATJ fees.

Chester County (January 2012 to December 2014): This audit examination of the Recorder of Deeds noted that an adjustment was necessary to reflect \$1,077 in interest earned on Commonwealth funds generated by writ taxes and JCS/ATJ fees that were not remitted to the Department of Revenue.

Clearfield County (January 2008 to December 2011): The auditors found that the Office of the Clerk of the Court of Common Pleas did not assess certain fines, costs, fees, and surcharges as mandated by law. Of 55 cases tested, there was 1 case in which the ATJ fee was assessed twice in error. The auditors recommended that the Office review the applicable laws to ensure that fines, costs, fees, and surcharges are assessed as mandated by law. The County Officer indicated that the audit results were brought to his attention and has taken the necessary steps to correct the issue.

Exhibit 11 (Continued)

Delaware County (January 2009 to December 2012): The audit report notes that the Delaware County District Attorney's Criminal Investigation Division conducted an investigation of the Delaware County Register of Wills' office and found that the Chief Deputy Director misappropriated JCS/ATJ fees totaling at least \$10,842. The auditors noted that this condition existed because the Office failed to develop and implement an adequate system of internal controls and recommended that such a system be established and implemented. The report noted that this was a condition noted in the prior audit period ending December 2008. The County Officer indicated that the Office recovered the misappropriated funds without cost to the taxpayers and reimbursed the Department of Revenue for the state funds owed. The auditors also noted that the Orphans' Court underreported JCS/ATJ funds in the amount of \$7,129 that were owed to the Commonwealth. Management indicated that this underreporting occurred because the Commonwealth provided the wrong forms to the Register of Wills that requested an inadequate amount of funds due (\$10 instead of \$23.50).

Juniata County (January 2007 to December 2011): This current audit noted that of 57 cases examined in the Clerk of the Court of Common Pleas office, there was 1 case in which the JCS/ATJ fees were not assessed and 4 cases in which the JCS/ATJ fees were assessed in error. The improper assessing of these costs and fees resulted in the defendant not being assessed the proper amount of costs and fees association with the respective violation and/or a loss of revenue to the Commonwealth and county. The auditors noted that these incorrect assessments occurred because the Office was not aware or up-to-date on laws and regulations regarding the proper assessment of Commonwealth fines, costs, fees, and surcharges and recommended that the Office review the applicable laws. The County Officer indicated that this finding was discussed with the auditor and was corrected.

Lancaster County (January 2007 to December 2013): The auditors recommended in the prior examination of the Clerk of the Court of Common Pleas that the Office review the laws to ensure that costs, fees, and surcharges are assessed as mandated by law. The auditors noted in this current audit examination, the Office substantially complied with this recommendation and insignificant instances of noncompliance were verbally communicated to the Office.

Luzerne County (January 2010 to December 2011): The auditors found that the Prothonotary's computer system was improperly programmed and incorrectly reported the JCS/ATJ fees that were assessed on each count of a divorce complaint. There were no fees due the Commonwealth; however, the auditors recommended that the Office ensure that the computer is programmed to properly classify and report Commonwealth funds. Management offered no formal response to the recommendation.

Perry County (April 2005 to December 2012): This audit revealed that of 109 cases tested in the Clerk of Courts office, there were 46 cases in which the JCS/ATJ fees were not properly assessed. The auditors noted that the improper assessing of these costs and fees resulted in the defendant not being assessed the proper amount of costs and fees associated with the violation and/or a loss of revenue to the Commonwealth and county. These incorrect assessments occurred because the Office was not aware or up-to-date on laws and regulations regarding the proper assessment of such fines, costs, fees, and surcharges. The auditors recommended that the Office review the applicable laws to ensure that proper assessments are made as mandated by law. Management offered no formal response to the finding.

Philadelphia County (January 2008 to May 2014): The audit of the Prothonotary's Office indicates that the auditors found that the JCS/ATJ fees were improperly assessed on divorce complaints. This is the third audit of this office where this finding was made. The auditors noted that a separate statutory fee is required to be assessed on each count in a divorce 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 District Court Administrator responded that the Family Court Division will implement procedures to begin collecting the JCP/ATJ/CJEA fee for each count included in a divorce complaint.

Exhibit 11 (Continued)

Philadelphia County (May 2014 to December 2014): The auditors cited the issue of JCS/ATJ fees not properly assessed on divorce complaints in the three prior examination periods, with the most recent period ending May 2014. This current audit found that this condition continued. The AOPC has issued regulations to implement the statutory requirement that a separate fee shall be imposed on each count in the divorce complaint in addition to the count requesting divorce. The auditors noted that without the proper assessment and collection of the JCS/ATJ fees, the Commonwealth will not receive all funds due. The auditors recommended that the Prothonotary notify Family Court and Court Administration to begin assessing the JCS/ATJ fees on each count in a divorce complaint. The District Court Administrator responded that the Family Court Division will implement procedures to begin collecting the JCP/ATJ fee for each count included in a divorce complaint.

Somerset County (January 2010 to December 2011): This examination disclosed that the Office of the Clerk of the Court of Common Pleas did not assess certain fines, costs, fees, and surcharges as mandated by law. Of 40 cases tested, there was one case in which the JCS/ATJ fees were not properly assessed. These incorrect assessments occurred because the Office was not aware or up-to-date on laws and regulations regarding the proper assessment of such fines, costs, fees, and surcharges. The auditors recommended that the Office review the applicable laws to ensure that proper assessments are made as mandated by law. The Clerk of Court responded that she will make sure all fees are imposed on cases including JCS/ATJ fees.

Westmoreland County (January 2010 to December 2011): The current examination report included a comment on a recommendation from the prior audit, that the Prothonotary's Office review applicable laws to ensure that taxes, fees, and surcharges are assessed as mandated by law. The auditors noted that during the current examination, the Office complied with that recommendation.

Westmoreland County (January 2011 to December 2011): This audit disclosed that in 13 of the 26 cases tested, the Office of the Recorder of Deeds did not properly assess the JCS/ATJ fees. The improper assessing of these fees resulted in the payee not being assessed the proper amount of fees associated with the recording of an instrument and resulted in a loss of revenue to the Commonwealth. The incorrect assessments occurred because the Office's pre-printed receipts did not itemize all state recording fees that are to be collected. The auditors recommended that the Office review the applicable law to ensure that all JCS/ATJ fees are properly assessed as mandated by law. The County Officer responded that the fees collected will be reviewed with the software vendor to make sure that all fees are collected accurately and distributed properly.

Westmoreland County (January 2012 to December 2013): This examination disclosed that the Office of the Recorder of Deeds did not assess JCS/ATJ fees as mandated by law in 29 of 54 cases tested. The improper assessing of fees resulted in the payee not being assessed the proper amount of fees associated with the recording of an instrument and resulted in a loss of revenue to the Commonwealth. These incorrect assessments occurred because the Office's pre-printed receipts did not itemize all state recording fees that are to be collected. The auditors recommended that the Office review the applicable law to ensure that all JCS/ATJ fees are assessed as mandated by law. The County Officer responded that the fees collected will be reviewed with the software vendor to make sure that all fees are collected accurately and distributed properly.

System/Access to Justice (JCS/ATJ) fees in one combined category. Of the 16 reports, 10 indicated improper assessment of fees in the most recent audit, and 2 indicated improper assessment of fees in a prior audit. 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 11, three reports indicated that the fee was not assessed on each count of a divorce complaint as required. In two reports, ATJ fees were assessed on Accelerated Rehabilitative Disposition (ARD) cases even though these types of cases prior to 2009 were not to be assessed this fee.⁶ Two reports noted that the fees were not appropriately assessed on documents filed in the recorders of deeds offices as required. In three reports, the Auditor General found that the fees collected were not transmitted to the Department of Revenue within the time period required. Four audit reports note that fees were assessed improperly as a result of the office computer not being programmed correctly or printed forms being printed incorrectly.

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, 2013, and 2014, to determine whether there were any findings relating to the Access to Justice Account. Included in this audit, which was conducted by Mitchell & Titus, LLP, were the Supreme Court, Superior Court, Commonwealth Court, Courts of Common Pleas, Magisterial District Judges, Philadelphia Municipal Court, Statewide Judicial Computer System Augmentation Account, and the Access to Justice Account, among other judicial entities and various grants.⁷ The audit report did not include any findings relating to the collection or disbursement of these monies.

⁶ Act 2009-49 imposed the fee on defendants accepted into ARD or any other pretrial diversionary program.

⁷ The other judicial entities include: Rules Committee, PA Board of Law Examiners, 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, County Court Reimbursements, Federal Court Improvement Project, Federal Veterans Court Process Education Grant, Federal State Justice Institute Weighted Case Lead Project Grant, Federal ARRA Specialty Courts IT Project Grant, Judicial Conduct Board, and Court of Judicial Discipline.

VII. Appendices

APPENDIX A

Status of LB&FC 2011 Report 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.

Status: The General Assembly enacted Act 2014-113 which established a permanent \$2 fee to be charged and collected and deposited into the Access to Justice Account.

- 2. The IOLTA Board and PLAN 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.

Status: In response to this recommendation, in 2012 the Pennsylvania IOLTA Board undertook a comprehensive evaluation of telephone-based intake and legal assistance systems operated by legal aid programs in Pennsylvania. The study had two major elements: a client survey and a best-practices assessment. The evaluation showed that the telephone services were effective and provided a more convenient access to services. This enabled "more people to get legal help that would have been possible if delivered exclusively through in-person methods with the same amount of resources."

APPENDIX B

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. In general, cases handled include family, consumer and housing law, and public benefits.

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, and empowers 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 B (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 eight 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, 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 counties, 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 nine of these counties.

Northwestern Legal Services

Northwestern Legal Services (NWLS) assists low-income individuals and families by representing clients and 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, and a program website.

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 B (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, and Pittsburgh. The main administrative office is located in Glenside.

COMMONWEALTH ADVOCACY PROJECT^a

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.

^a In July 2015, CAP became the Community Justice Project (CJP).

Appendix B (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 DHS 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. FOF has offices in Philadelphia and Pittsburgh.

Service Area: Statewide.

Source: PLAN monitoring reports of the legal services programs.

APPENDIX C

Scope of Representation for Cases Closed in FY 2014-15

	AJA Cases			Overall	
	Total	Brief by Phone		Total	Brief by Phone
Total Closed Cases	13,361	3,372	25.2%	50,307	15,576 31.0%
 By Major Reason Closed					
Counsel and Advice	5,469	2,613		22,272	12,568
Limited Service.....	<u>2,529</u>	<u>759</u>		<u>9,046</u>	<u>3,008</u>
Brief Service	7,998	3,372		31,318	15,576
Negotiated Settlement (without Litigation)	246			763	
Negotiated Settlement (with Litigation)	1,792			5,665	
Administrative Agency Decision.....	774			2,694	
Uncontested Court Case.....	1,027			4,323	
Contested Court Case	611			2,196	
Appeals	10			26	
Extensive Services.....	768			2,955	
Other	<u>135</u>			<u>367</u>	
Extended Representation	5,363	0		18,989	0
TOTALS	<u>13,361</u>	<u>3,372</u>		<u>50,307</u>	<u>15,576</u>
 By Tribunal Level					
Administrative Hearing.....	796			3,110	
District Justice/Municipal Court.....	602			1,658	
Common Pleas.....	3,587			13,209	
Commonwealth Court	9			41	
Pennsylvania Superior Court	2			15	
Pennsylvania Supreme Court	4			11	
Other State Court.....	7			22	
Federal District Court.....	23			106	
Federal Court of Appeals	2			3	
U.S. Supreme Court.....	0			5	
Other Federal Court	115			426	
None.....	<u>8,214</u>	<u>3,372</u>		<u>31,701</u>	<u>15,576</u>
TOTALS	<u>13,361</u>	<u>3,372</u>		<u>50,307</u>	<u>15,576</u>

Source: PLAN.

APPENDIX D

Civil Legal Aid Case Examples

- Steve D., age 62, lived alone with his dog Dempsey. He came to MidPenn when his home went into foreclosure. Not afraid of hard work, he'd worked since he was 15 years old. After returning from Vietnam he became a millwright and for over 16 years worked with a sledgehammer, doing heavy lifting and welding. His back and shoulder pain eventually made that impossible so he trained to be a registered nurse but male nurses are asked to lift a lot and deal with combative patients as well. After eight years his doctor said he needed to quit. He applied for Social Security Disability but was denied. MidPenn attorneys appealed his disability case; in time he prevailed due to a long work history and his documented physical problems. Steve also suffers from PTSD as a result of his Vietnam tour. "The judge told me that I'd worked all my life and I just couldn't do it anymore." Another MidPenn attorney applied to the bank for a mortgage loan modification. Initially it had looked bleak, as Steve had no source of income. Now with money again coming in, his application for a loan modification program was approved and Steve and his dog are safe and secure.
- Donna, a disabled woman in her early 50s, contacted NPLS after she was denied surgery. She was terminated from the Medical Assistance Benefits for Workers With Disabilities (MAWD) program for nonpayment. However, Donna mailed her payment on time to MAWD. Our advocate discovered that during this time period MAWD was experiencing problems throughout the state of Pennsylvania with payments not being recorded properly. The Pennsylvania Health Law Project became involved to resolve the nonpayment issue on a statewide level, so that Donna and many other low-income Pennsylvanians could get the health care they needed.
- Deborah was denied Supplemental Security Income after a series of strokes left her unable to continue her career as a hair stylist. The denial was based on the court's expectation that her condition would improve enough for her to go back to work. Deborah attempted to return to her workplace in some capacity; however, she was unable to stand or sit for any length of time and she could no longer write or even recall phone messages. She tried unsuccessfully to appeal the SSI decision on her own, then turned to NLSA. While Deborah survived for 18 months on public assistance and help from friends and family, NLSA gathered medical evidence establishing her right to benefits designed for low-income people who cannot work due to disability. At the appeal hearing, the judge agreed that Deborah qualified for SSI and ordered benefits to be paid retroactively. That modest income enabled her to shift some of the financial responsibility from her family to herself.
- Jacqueline took her two-year-old son to the doctor because of a lump on his back; it was a single rib fracture in the healing stages. Jacqueline was unsure exactly how the injury occurred; Mason had had a few accidents typical of any energetic toddler, however, the doctor reported it to the Department of Human Services (DHS) for investigation. A month after the doctor's visit, Mason was placed in foster care, even though he had not suffered any other injuries. Jacqueline was distraught and scared, but she would stop at nothing to get her son back. A Family Advocacy Unit attorney represented Jacqueline in court, and after ten days in foster care, Mason was reunited with his mother. Jacqueline was elated, but she was also dealing with other legal issues. She had inherited a house from her late aunt, but her relatives were trying to prevent her from living there. Jacqueline's CLS attorney Beth, with support from CLS's Homeownership and Consumer Rights Unit, successfully represented her to enforce the terms of her aunt's will, and she and Mason now have a safe home to call their own. Jacqueline is in a training program for a job in housekeeping, and she and Mason have a fresh start and a bright future.
- When Mr. and Mrs. C.'s medical expenses rose sharply, they had less income for basic necessities of life, like food. Their monthly Supplemental Nutrition Assistance Program (SNAP) benefits were not enough to ensure a nourishing diet for the two senior citizens. Their LASP attorney appealed the SNAP grant decision and showed that the County Assistance Office (CAO) failed to deduct certain medical expenses from their income. They were in fact eligible for a larger benefit. The CAO recalculated their grant, more than doubling it, enabling Mr. and Mrs. C. to meet their nutrition needs.
- In April 2015, Ms. W. came to Darby, PA for an expungement clinic organized by LASP, a State Senator, and the Widener University Delaware Law School. A clean slate is what Ms. W. wanted, but the process would have been difficult without the expungement clinic and the legal guidance she found there. Through the cooperation, dedication, and skill of LASP and its partners, expungement petitions were started that day for Ms. W. and 53 other clients.

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

APPENDIX E

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

	<u>Fiscal Year 2010-11</u>			<u>Fiscal Year 2011-12</u>		
	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Cases Closed</u>	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Cases Closed</u>
<u>PLAN. Sub Contracted Regional Programs</u>						
Community Legal Services	5,303	5,439	3,648	5,247	5,426	3,956
Laurel Legal Services	1,340	1,348	1,067	1,325	1,054	869
Legal Aid of Southeastern PA.....	1,891	1,945	1,459	2,016	2,028	1,479
MidPenn Legal Services	3,959	4,029	3,177	3,553	3,250	2,563
Neighborhood Legal Services Assoc.....	2,968	2,830	2,314	2,734	2,534	1,915
North Penn Legal Services	3,073	3,351	2,091	3,061	3,063	2,466
Northwestern Legal Services	1,266	1,600	1,304	1,251	1,645	1,347
Southwestern PA Legal Aid Society	<u>936</u>	<u>983</u>	<u>729</u>	<u>1,023</u>	<u>1,033</u>	<u>728</u>
Subtotal Field	20,736	21,525	15,789	20,210	20,033	15,323
<u>PLAN Sub Contracted Specialty Programs</u>						
Commonwealth Advocacy Project ^a	155	210	133	106	284	186
Friends of Farmworkers	185	191	139	112	112	86
PA Health Law Project	345	315	310	365	371	368
PA Institutional Law Project	416	671	572	564	796	699
Regional Housing Legal Services.....	23	33	0	<u>19</u>	<u>44</u>	<u>34</u>
Subtotal Specialty	<u>1,124</u>	<u>1,420</u>	<u>1,154</u>	<u>1,166</u>	<u>1,607</u>	<u>1,373</u>
 Total PLAN-funded Programs.....	 <u>21,860</u>	 <u>22,945</u>	 <u>16,943</u>	 <u>21,376</u>	 <u>21,640</u>	 <u>16,696</u>
	<u>Fiscal Year 2012-13</u>			<u>Fiscal Year 2013-14</u>		
	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Cases Closed</u>	<u>Case Goals</u>	<u>Cases Handled</u>	<u>Cases Closed</u>
<u>PLAN Sub Contracted Regional Programs</u>						
Community Legal Services	3,946	3,856	3,057	3,591	3,946	2,724
Laurel Legal Services	853	726	635	771	491	446
Legal Aid of Southeastern PA.....	1,340	1,353	995	1,291	1,838	1,158
MidPenn Legal Services	2,850	2,791	2,190	2,616	2,610	2,004
Neighborhood Legal Services Assoc.....	1,956	1,953	1,537	1,822	1,839	1,488
North Penn Legal Services	1,886	1,992	1,487	2,160	2,000	1,436
Northwestern Legal Services	898	1,266	1,048	867	1,158	957
Southwestern PA Legal Aid Society	<u>576</u>	<u>635</u>	<u>425</u>	<u>630</u>	<u>660</u>	<u>470</u>
Subtotal Field	14,305	14,572	11,374	13,748	14,542	10,683
<u>PLAN Sub Contracted Specialty Programs</u>						
Commonwealth Advocacy Project ^a	285	354	296	264	282	184
Friends of Farmworkers	111	115	73	78	81	35
PA Health Law Project	343	380	367	442	471	468
PA Institutional Law Project	550	534	443	371	440	358
Regional Housing Legal Services.....	<u>34</u>	<u>35</u>	<u>5</u>	<u>34</u>	<u>38</u>	<u>15</u>
Subtotal Specialty	<u>1,323</u>	<u>1,418</u>	<u>1,184</u>	<u>1,189</u>	<u>1,312</u>	<u>1,060</u>
 Total PLAN-funded Programs.....	 <u>15,628</u>	 <u>15,990</u>	 <u>12,558</u>	 <u>14,937</u>	 <u>15,854</u>	 <u>11,743</u>

Appendix E (Continued)

	<u>Fiscal Year 2014-15</u>		
	<u>Case</u>	<u>Cases</u>	<u>Cases</u>
	<u>Goals</u>	<u>Handled</u>	<u>Closed</u>
<u>PLAN Sub Contracted Regional Programs</u>			
Community Legal Services	3,809	4,574	3,459
Laurel Legal Services	963	846	732
Legal Aid of Southeastern PA.....	1,437	1,735	1,170
MidPenn Legal Services	2,766	2,915	2,249
Neighborhood Legal Services Assoc.....	1,767	1,774	1,439
North Penn Legal Services	2,460	2,264	1,760
Northwestern Legal Services	861	1,151	946
Southwestern PA Legal Aid Society	<u>606</u>	<u>806</u>	<u>630</u>
Subtotal Field	14,669	16,065	12,385
<u>PLAN Sub Contracted Specialty Programs</u>			
Commonwealth Advocacy Project ^a	436	221	160
Friends of Farmworkers	98	88	29
PA Health Law Project	420	420	414
PA Institutional Law Project	366	445	368
Regional Housing Legal Services	<u>26</u>	<u>26</u>	<u>5</u>
Subtotal Specialty	<u>1,346</u>	<u>1,200</u>	<u>976</u>
 Total PLAN-funded Programs.....	 <u>16,015</u>	 <u>17,265</u>	 <u>13,361</u>

^a Commonwealth Advocacy Project became the Community Justice Project in July 2015.

Source: Developed by LB&FC staff from data provided by PLAN.

APPENDIX F

Response to This Report

Response of the Pennsylvania IOLTA Board and the Pennsylvania Legal Aid Network, Inc. to the
Performance Audit required by the Access to Justice Act, Act 2006-81

December 2016

We are grateful for the opportunity to respond to the findings and recommendations that resulted from the recent Performance Audit by the Pennsylvania Legislative Budget and Finance Committee of the Pennsylvania General Assembly. From our perspective, the Audit was appropriately thorough and conducted with utmost professionalism. We do not dispute any of the findings and we believe they confirm that the Access to Justice Act funding supports high quality legal representation; that the funds themselves are being wisely used and aptly accounted for; and that there remains a justice gap.

Since 2002, when the Access to Justice Act became law, the Pennsylvania IOLTA Board has administered the Access to Justice Act funding and has contracted with the Pennsylvania Legal Aid Network (PLAN) for the direct provision of legal services. Today, fourteen years later, the availability of civil legal services continues to be a lifeline for low-income Pennsylvanians facing a civil legal crisis where a basic human need is at stake. Legal services programs across the Commonwealth advocate for the rights of individuals and families facing life altering situations such as the loss of shelter, denial of public benefits or a threat of physical abuse.

In Pennsylvania, there is one private lawyer available for every 260 people in the general population as compared to one legal aid lawyer for every 6,415 people living in poverty. As a result, many people who are eligible for services and seeking help from a legal services program are turned away due to a lack of resources. Since 2007, the number of Pennsylvanians living in poverty and eligible for legal services increased by 21.14% to 1.7 million. However, the number of legal aid attorneys at PLAN programs decreased from 251 to 229 during this same time, while paralegals were reduced from 110 to 73 and the number of offices declined from 73 to 64. These staff were laid off or could not be replaced, due to a decline in funding.

The 2009 report of the Legal Services Corporation, titled “Documenting the Justice Gap,”¹ found that for every person represented by a civil legal aid program, another person asked for help, qualified for services, but had to be turned away due to lack of sufficient resources. Since this finding, staffing at legal aid programs has declined.

¹ <http://www.lsc.gov/media-center/press-releases/2011/lsc-releases-updated-report-justice-gap-america>

The provision of civil legal services to low income individuals is often directly related to their ability to obtain credit, maintain housing, access federal safety net programs, and sustain employment – all of which are critical to the economic stability of Pennsylvania’s communities. For example, legal assistance during eviction or foreclosure proceedings helps families avoid the use of emergency shelters and has been shown to save families an average of \$14,794². Saving a family from homelessness also makes a tremendous difference in the success of the children in school and the ability of parents to get and keep jobs. Similarly, nearly two-thirds of protection from abuse cases handled by legal aid programs are successful in enabling clients to avoid domestic violence, with the average savings of \$3,462 per individual that would otherwise be spent on medical care and counseling.³

The funding available for legal services through the Access to Justice Act has been paramount to the continuation of the statewide delivery of legal services. In 2007, the interest income on attorney IOLTA accounts generated \$12 million. When interest rates fell to near zero in 2008, interest income quickly declined to \$3 million, resulting in a \$9 million loss annually.⁴ But for Access to Justice Act funding, the PLAN statewide system of legal aid delivery would have become crippled. Access to Justice Act funding provides a stable source of revenue and is a necessary companion to IOLTA revenue which fluctuates with the health of the economy.

Access to Justice Act revenue generates an average of about \$10 million annually. Although the amount of the fee increased from \$2 to \$3 in 2009 and from \$3 to \$4 in 2012, the amount of revenue generated by the \$4 fee has not increased and is not much more than it was 10 years ago, when the fee was \$2. Due to fewer court filings and the number of mortgages being recorded in the MERS system, which does not require the payment of filing fees, the increase to the Access to the Justice Act fee is simply maintaining the annual level of funding. While the revenues have not increased with the \$4 fee, as had been intended, the increase of the fee from \$2 to \$4 has kept a stable funding source in place. Without the increase, this source of support would have been cut by about half.

We agree with the recommendations outlined in the Legislative Budget and Finance Committee’s Performance Audit Report. The need for civil legal services continues to grow. The justice gap is present

² Pennsylvania IOLTA Board, *The Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania* (April 11, 2012), <https://www.paiolta.org/wp-content/uploads/2014/05/Economic-Impact-of-Legal-Aid.pdf>.

³ *Id.*

⁴ Even the modest interest rate increases one year ago and in December 2016 have not resulted in any IOLTA revenue increases.

every day in every courtroom across the Commonwealth. The number of litigants having to navigate a complicated legal system alone has increased, due to the increases in poverty in Pennsylvania and the decrease in the number of PLAN lawyers. Judges testified before the Pennsylvania Senate Judiciary Committee in 2013, when the Committee convened hearings across the state to test the question: “Civil Legal Representation of the Indigent: Have We Achieved Equal Access to Justice?” The hearings confirmed there is widespread lack of counsel at the trial court level, especially in the family law area, where judges commonly estimate that up to 80% of parents are unrepresented, often with one side represented and one side unrepresented.⁵ We have not achieved equal access to justice.

Pro se litigants present a significant challenge to the court’s ability to provide prompt and equal access to all citizens of the Commonwealth. The first recommendation in the Audit Report, to make the Access to Justice fee permanent, is a strong step in the right direction. It is currently scheduled to sunset in October 2017. We would go so far as to request an increase in the fee in order to say “yes” to more people who are eligible and asking for help.

We are pleased to report that the federal Legal Services Corporation has announced a plan to update its 2009 report “Documenting the Justice Gap” in 2017. The PA IOLTA Board and PLAN, Inc. will partner with LSC on this initiative, which will provide a cost-effective way to address the Audit Report’s second recommendation.

We extend our appreciation to the staff of the Legislative Budget and Finance Committee for their keen interest and thorough review of our administration of the funding generated by the Access to Justice Act.

⁵ A report on these hearings, with recommendations, is titled, “Toward Equal Justice for All: Report of the Civil Legal Justice Coalition to the Pennsylvania State Senate Judiciary Committee. April 2014.” The report and testimony from judges and others who testified can be found at: <http://www.palegalaid.net/resources/clients/report-civil-legal-justice-coalition-pennsylvania-state-senate-judiciary-committee>.