



Many Helped, More to Be Done

PLAN programs help 74,000 clients per year

By Samuel W. Milkes

The unmet need for legal aid has doubled since 2009.

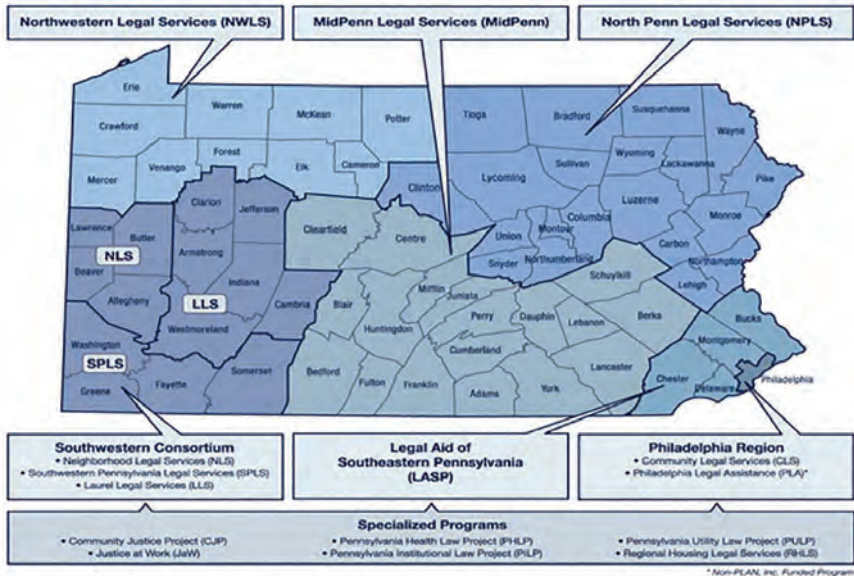
While making my plans to step down as executive director of Pennsylvania Legal Aid Network (PLAN) on March 31, 2020, I'm grateful for the opportunity to share some observations about access to justice. I started this position in 2001 and I've spent my career in civil legal aid.

Civil legal aid programs are vital to preserving the legal rights and livelihoods of low-income individuals. Civil legal aid lawyers provide help in critical matters such as housing, domestic violence and employment, as well as in protecting the rights of vulnerable seniors, children and veterans.

In 2002, I wrote an article for *The Pennsylvania Lawyer* about the state of legal aid for low-income Pennsylvania residents. Going on 20 years later, there is good news to report. While challenges remain to achieve access to justice for low-income Pennsylvanians, PLAN programs help ensure that many clients who face court are treated fairly. Over the years, they've helped to promote fairness and justice for millions of clients whose basic human needs are at stake.

Unfortunately, total funding for PLAN today is about one-half what it was over 40 years ago — taking inflation into account but including important added supports from the Legislature and the Pennsylvania Interest on Lawyers' Trust Accounts (IOLTA) Board. Even without taking inflation into account, state funding today is the same as it was over 40 years ago. People living in poverty are counting on us to improve that.

PENNSYLVANIA LEGAL AID NETWORK



PLAN is made up of eight regional programs that provide direct services in every county of the commonwealth and six specialized programs that provide statewide specialized services. While PLAN is the single system of legal aid with on-the-ground services across the state and 65 program offices, we recognize and appreciate the many other legal aid programs across Pennsylvania, mostly providing certain kinds of important specialized services, and the much-appreciated pro bono services provided by lawyers through county bar associations and some stand-alone programs. I began the 2002 article by referencing the curse, “May you live in interesting times.” Those were interesting times, not long after the Sept. 11 attack on our nation and the economic hard times that followed. Survival for our clients was difficult, with a tight job market and pullbacks in economic benefits for low-income Pennsylvanians. Legal aid was vital toward getting many clients through that time.

Today, we still live in “interesting times,” but as I write this article, the economy is strong, albeit with great fluctuations in the market and nervousness about a recession around the corner. It’s not a particularly

strong economy for our clients, though, who struggle to find decent family-sustaining jobs with benefits, safe and affordable housing, access to transportation and other basic necessities.

There is good news to report about civil legal aid in Pennsylvania. According to a study of the IOLTA Board, for every dollar spent on legal aid in Pennsylvania, there is an \$11 return. Also, in connection with PLAN’s receipt of filing fees, in 2016 the General Assembly’s Legislative Budget and Finance Committee was required to study the Access to Justice Act. That independent body reported that funds were well-administered and that clients were satisfied with services. However, it also found that the unmet need for legal aid has doubled since 2009.

In the fiscal year that ended June 30, 2019, PLAN programs represented approximately 74,000 clients. Of those, over 15,000 clients — one in five — were people experiencing domestic violence, who needed help obtaining a protection from abuse (PFA) order or help in a custody dispute. Overall, 30% of our clients need help with family law concerns. Nearly 10%

face foreclosure. Just under 6,000 of these cases are pro bono cases handled by local attorneys.

Recent studies show the need for legal aid. Voices for Civil Justice commissioned an independent national communications initiative for the civil legal aid sector, in partnership with Lake Research Partners, a prominent public opinion research firm, to study public opinion about views on civil legal aid and access to justice. Many of the findings are very encouraging to us:

- Eighty-four percent of voters believe it is important for our democracy to ensure everyone has access to the civil justice system — an enormous level of support.
- Eighty-two percent of voters agree that “equal justice under the law is a right, not a privilege.”
- Strong majorities of voters support increasing state funding to build a more accessible civil justice system and, surprisingly, that support remains robust even when tied to the notion of raising taxes to do so.

Total Cases Handled 2018-2019



- Consumer-8.80%
- Family-29.60%
- Housing-28.95%
- Miscellaneous-3.76%
- Education-0.20%
- Juvenile-2.42%
- Income Supports-9.99%
- Employment-6.47%
- Health-5.68%
- Individual Rights-4.13%



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- Voters overwhelmingly support the most traditional and familiar form of service to ensure access to the civil justice system — namely, having a lawyer.

- But voters believe that low-income individuals — especially those living in rural areas — and people struggling to make ends meet, face the most difficulty in obtaining legal help.

To tell the story of civil legal aid in Pennsylvania, it is important to share some of the data, as I've done here. But legal aid is all about stories of changed lives. Children who are able to remain in stable housing due to PLAN representation; families able to survive threats of foreclosure, eviction and utility shutoff; people with disabilities who are able to receive life-sustaining benefits from the Social Security Administration; survivors of domestic violence who are able to secure PFA orders and have firearms removed from abusers; elder clients needing protection from those who seek to financially exploit them; children who can reside in nourishing homes through PLAN representation in custody cases; and the list goes on.

Some readers of this article have probably experienced the same thing I have. In ca-

sual conversations, I've learned anecdotally that a large portion of our population believes there is a right to counsel, even where one does not yet exist. They know well the right to counsel in the criminal context, but many believe it crosses over to key areas of the civil law.

There should be a right to counsel in civil legal cases where basic human needs are at stake. In fact, the American Bar Association, the Pennsylvania Bar Association and many other bar associations in Pennsylvania and nationally have formally endorsed this principle. But we aren't there yet. I find that many people think there is a right to counsel for someone who has experienced domestic violence and is seeking a PFA order. They think that before a bank can take a family's home in foreclosure, when there is a valid defense, they would have a right to a lawyer. PLAN programs handle thousands of these kinds of cases every year for people who cannot afford counsel. Unfortunately, we cannot cover all of them.

The federal Legal Services Corporation (LSC) conducted two national studies, one in 2009 and one in 2017, looking at what happened when a person contacted a civil

legal aid program. We also collected data for all the PLAN programs, not all of which receive LSC funding. The studies examined what happens to a person who is eligible for services when he or she contacts a legal aid program and asks for help. The 2009 study found that for each person who could be helped, another person who had reached out for help had to be turned away due to lack of resources. By 2017, the news had gotten worse. The updated study revealed that for each person represented by a legal aid program, there were two people who were turned away or simply provided with referrals or brief information.

We know from other professional studies that have previously been conducted in Pennsylvania and elsewhere that legal aid meets less than 20% of the actual need; a different question than what happens to a person who reaches out for legal aid.

I believe it is wrong that the lack of funding for civil legal aid forces legal aid organizations to turn away two out of every three people who need help and ask for help.

We are proud of the important legal services that PLAN programs provide to Pennsylvanians who have nowhere else to turn.

We hope that in the future there can be an increase in state funding for legal aid; that we can work with the private bar to increase pro bono services; and that we can continue to work with the courts, where legal aid programs help in the operation of court systems and help to assure fairness of our justice system.

My call to action is twofold. First, please work with your county bar association or

local PLAN or pro bono program to volunteer your pro bono services for low-income members of your community. You'll be referred a case you are equipped to handle. The needs described above can only be met through the combined efforts of legal aid and private lawyers. Second, let your federal and state legislators know about the importance of fully funding legal aid. Together we can achieve justice for all. ☞



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If you would like to comment on this article for publication in the next issue, please email us at editor@pabar.org.

Real stories about PLAN programs representing clients:



Anthony had lived in the same housing since the 1950s. Eighty-three-years old and a military veteran, Anthony became homeless. Although his housing was family-owned for

decades, a corporation bought the building and cleared out the residents, ultimately locking Anthony out of his unit and leaving him literally out in the cold. With nowhere to go, he began sleeping at 30th Street Station in Philadelphia.

Anthony came to Community Legal Services (CLS) for help. His legal aid attorney quickly discovered that there was a court order for the eviction, but Anthony was never properly notified of the hearing, so he wasn't able to present his case in court. CLS filed a petition to vacate the judgment and allow Anthony to go back to his home. Because of CLS' expert legal representation, an attorney was able to successfully negotiate for Anthony to be let back into his home of 60 years, enabling him to be safe and secure.



When Charlotte married a man who had already hurt her, she didn't think of him as an abuser. Jay's anger could lead to cruel words and bruises from grabbing

her too hard, but he hadn't hit her — yet. That started within a year of their wedding day, and his rage-filled outbursts escalated after they had a child. Pregnant for a second time, Charlotte felt forced to move with Jay to live with his parents overseas. Isolated, barred from access to even her own money, Charlotte endured threats to herself and her children with a knife, a heavy mallet and the words, "Some people just need hit."

Eventually, back in the United States and more frightened than ever, Charlotte tried to file for a temporary protection from abuse (PFA) order — but, overwhelmed and afraid, she did it incorrectly. Soon after, she learned about Neighborhood Legal Services (NLS) in Pittsburgh.

An NLS attorney stood by Charlotte and she was granted a PFA. NLS also opened many more doors for Charlotte than the one to a courtroom. "My NLS lawyer spent time talking to me about what abuse is. I hadn't recognized a lot of what Jay had done as abuse, because most of the people in my family exhibited those behaviors," she said.

"One thing became crystal clear: Something I thought I had no choice in was actually abuse, and I didn't have to go back to it."



In retaliation for PFA and support cases, Angela's abusive husband canceled their joint credit cards, drained their shared accounts and threatened to terminate

utility services to the home — giving her just 30 days to transfer service into her name. When Angela contacted the utility to switch service to her name, the utility demanded two forms of photo identification and a \$250 security deposit before they would do so. Angela had none of those.

Immediately upon hearing about her trouble with the utility, the domestic violence program working with Angela suggested she contact the Pennsylvania Utility Law Project (PULP) for assistance. PULP was successful in removing both barriers and, within 24 hours of contacting PULP, Angela's utility service was established in her name without any upfront payment of a security deposit, allowing her to remain in stable housing.