

## Report Highlights

### A Performance Audit of Pennsylvania's Access to Justice Act

Act 2006-81 directs the Legislative Budget and Finance Committee (LB&FC) to conduct a performance audit of Pennsylvania's Access to Justice Act (AJA) to determine if there is continuing justification for the activities and level of financial support provided for in the act. We found:

- **The AJA established a fund to provide civil legal aid to low income people through a fee on filings in state courts** – Act 2002-122 imposed a \$10 fee, with \$2 dedicated to funding civil legal aid. The funds are administered by Interest On Lawyers Trust Account Board (IOLTA) through a grant agreement with PLAN, Inc. Services are provided by 8 regional and 5 specialty legal services programs (LSPs) located throughout the state that handle cases involving, e.g., family law, housing, employment and economic benefits for individuals whose family income does not exceed 125% of poverty guidelines (\$27,938 for a family of 4 in 2011). LSPs are prohibited from using AJA funds for political activity, fee-generating cases, defense of criminal prosecutions, or where counsel is otherwise statutorily provided.
- **AJA grants have averaged just over \$8.0 M a year and represent about 24% of the state and federal funding for civil legal aid** – Federal Legal Services Corporation (LSC) funding represents 36% of the total state and federal funding provided from FY 2003 - FY 2009. Funding for the LSPs totaled \$58.2 M in FY 2009-10, and AJA funded 20,000 of the approximately 100,000 cases handled by the LSPs. Since FY 2003-04, overall funding has increased 38 percent in current dollars, in part due to federal stimulus funds, but state and state-appropriated funds have declined in real dollars when inflation is factored in.
- **IOLTA funds awarded through PLAN, Inc. have decreased from a high of \$9.2 M in FY 2007-08 to \$1.7 M in FY 2009-10 due to a decline in interest rates** – This reduction in revenues for LSPs was the impetus for a temporary surcharge imposed by Act 2009-49 that also extended the original fee to ARD and other diversionary programs. The surcharge, to expire in January 2012, provides an additional \$1 for each court filing (except traffic offenses) to AJA.
- **Approximately 50% of eligible clients seeking services do not receive services due to resource constraints** – Over a two-month period in 2009, for every applicant receiving services, one applicant was turned away. This mirrors LSC's nationwide study results. IOLTA reports that only one in 5 low-income Pennsylvanians is likely to get legal help from any source.
- **Effectiveness measures for LSP services are generally positive** – Case resolution statistics where the outcome is known for FY 2009-10 show about 74% of the AJA-funded cases were successfully resolved and 26% were considered unsuccessfully resolved. Case resolution was unknown for the 50% of cases that were resolved through advice to clients. Total direct dollar benefits reported for FY 2009-10 were \$18 M. Client satisfaction surveys responses showed satisfaction rates of 80% to 100%.
- **Auditor General (AG) audits and program oversight mechanisms have found few problems with the collection and use of AJA funds** – We reviewed the most recent AG audits of the fee collection function performed by the courts, court officers, and magisterial district judges (MDJ). Although some problems were found with the collection and timely remittance of the fees, the responses generally indicated a correction of the problem identified. Monitoring reports of the 13 LSPs similarly found few ongoing problems and included required actions to address the issues identified.

#### Recommendations:

- **The General Assembly should consider making the AJA fee and surcharge permanent to provide a more stable funding stream for civil legal aid.** Although funding is available from several sources, one of the more significant, IOLTA funds, is dependent on interest rates which vary significantly. An unexpected reduction can affect needed services. Federal and other state funding sources also face an uncertain future.
- **The IOLTA Board and PLAN, Inc. should develop a follow-up process, possibly using a university or law school program, to determine whether telephone services have been effective.** Confidentiality issues would need to be addressed, but such a survey could provide useful feedback.