

SENATE JUDICIARY COMMITTEE
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The Honorable Ronald D. Castille
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Remarks of The Honorable Ronald D. Castille, Chief Justice, Supreme Court of Pennsylvania

I would like to commend this initial effort by the Philadelphia Bar Association, the Pennsylvania Bar Association, the Allegheny County Bar Association and the Senate Judiciary Committee, for beginning this effort to address the often critical need for civil legal representation in important situations affecting the personal well-being of many Pennsylvania's citizens and their families. The unfortunate (and often tragic) fact is that many Pennsylvanians face formidable legal situations in our civil courts where those citizens may face dire consequences as the result of a civil legal matter that can greatly impact their lives or their futures. The vast majority of those citizens are left to fend for themselves in an unfamiliar courtroom without legal representation simply because they cannot afford to hire an attorney to represent them. Our Constitution guarantees the right of a citizen to represent himself or herself before the Courts of Pennsylvania if

they so desire. But at what cost? Realistically, how can a person effectively defend himself or herself in the face of often complicated legal challenges in the usually unfamiliar and daunting environment of a courtroom before a sitting judge? How can that person effectively assert his or her legal rights without a skilled advocate, learned in the law, who will assert those rights for them in the court system? And what consequences can flow from self-representation? This combined effort by the Legislature and organized attorney associations will explore what has often been referred to as "Civil Gideon," a reference to the U.S. Supreme Court case that mandated court-appointed attorneys to represent the indigent facing criminal charges and possible incarceration by the State.

Of course the greatest obstacle to securing the promise of justice in our civil legal courts is funding. One important source of funding is Pennsylvania's Access to Justice Act which provides for civil legal representation for indigent persons through a fee levied on certain court filings. But the needs for legal representation far outstrip available funding from all sources. A recent report on Pennsylvania's Access to Justice Act estimates one of every two indigent persons who apply for legal aid in Pennsylvania is turned away for lack of resources to handle their matter.

- Access to Justice fees for Fiscal year 2011-12 totaled \$9.0 million dedicated to legal services.
- Pennsylvania's attorneys, through the interest earned on their trust accounts ("IOLTA"), contributed \$3.2 million for indigent legal services in 2012, but that was a decline of 74% from 2007 because of near zero interest rates paid by qualified banks on these accounts. By comparison in 2007 these IOLTA fund revenues totaled \$12.2 million.
- Pennsylvania attorneys also contribute to legal services programs through a reallocation of \$35 from the \$200 attorney registration fee mandated for the practice of law in Pennsylvania. That alone totals approximately \$2.2 million for indigent legal services.
- The Pennsylvania budget allocates \$2.5 million for legal services state-wide.
- The Federal Legal Services Corp. allocates federal funding directly to the state legal aid programs, but the economic situation is putting downward pressure on Congress to reduce, or even to eliminate, that source of funding and LSC grant funding has been cut about 15% over the past two years.

Even with these revenue streams, state funding today is about one-half

the funding level from when Pennsylvania first started to support legal services, adjusted for inflation. It is estimated in the Access to Justice Report that “only one in five low-income Pennsylvanians having a critical [civil] legal problem is likely to get legal help from any source.” This is so despite the fact that Pennsylvania attorneys in 2011 performed approximately 116,000 hours of *pro bono* representation.

Another issue with these revenue streams is that, because they are assembled from a patchwork of different sources, they are unpredictable, often unavailable and vary from county to county. Some funding sources have to be reauthorized by State or Federal legislation. Some, like IOLTA, are subject to external forces affecting interest rates payable by financial institutions, and some are dependent on federal funding. Some counties have wonderful *pro bono* programs directed towards legal representation in certain types of cases, while others do not have programs at all. As a Commonwealth, we should be treating civil legal services for indigent individuals and families as an important government service, like roads and police service and courts—there should be a dedicated, certain line item with equal application in every county for citizens facing serious civil legal situations.

The situation described above applies to those individuals who qualify

for indigent legal services today. But what about those persons who are one accident or one illness away from qualifying? Or those who simply cannot afford the services of an attorney? In today's economy, there are most likely a great number of non-indigent persons and families who are just as in need of legal representation in critical civil legal situations. How do those individuals realize the promise of justice in our Courts as they self-represent?

As Chief Justice, I hope that this joint legislative/legal effort will explore these questions and provide recommended solutions. The need is clearly not insignificant. The question of achieving civil justice for those unable to afford the services of an attorney in our Courts is timely. And, it is critical to many Pennsylvanians who find themselves in a crisis where achieving justice in our legal system cannot, and should not, be compromised.

I look forward to your findings.