



Legal Aid in Texas

*"It was the best the best of times,
it was the worst of times"*

– Dickens, *A Tale of Two Cities* (1859)

So it is with legal aid in Texas. The forces at work that have decimated legal aid funding in Texas are counterbalanced by the extraordinary efforts of the Access to Justice community, the Texas Legislature, and yes, the San Antonio Bar Association, to mine new sources of revenue for the provision of legal services to the poor.

The Structure and Funding of Legal Aid

To appreciate where we are today, a brief overview of how legal aid is administered and funded in Texas may be helpful. There are three primary legal service providers in Texas — Texas Rio Grande Legal Aid (TRLA), which covers Austin and San Antonio, south to the Valley, and west to El Paso; Lone Star Legal Aid (Lone Star), covering the Houston area north through Waco and East Texas; and Legal Aid of Northwest Texas (LANWT), covering the Dallas area, southwest to Midland/Odessa, and north to the Panhandle.

The principal sources of funding for these legal service providers have been the federal Legal Services Corporation (LSC) and the state Interest on Lawyers Trust Account (IOLTA) program. In 1984, the Texas Supreme Court established the

IOLTA program and created the Texas Access to Justice Foundation ("TAJF") to administer it. At first, participation by attorneys in IOLTA was voluntary but in 1989, it was made mandatory. As a result, the interest generated from lawyers' trust accounts jumped from around \$500,000 per year in 1988 to a high of approximately \$20 million in 2007. This increase enabled the legal service providers to expand their programs to better serve the more than 5.7 million Texans who qualify for legal aid.

The Worst of Times

As we all know, 2008 brought significant changes to the financial landscape in this country. The bottom fell out of the stock market and the Federal Reserve pushed interest rates to near zero to stimulate borrowing. As a result, the interest rates on lawyers trust accounts plummeted from around 5.25 percent in 2007 to 0.25 percent in 2008. And there they have remained. Consequently, IOLTA revenues dropped from \$20 million in 2007 to a projected \$3.6 million in 2013.

At the same time, Texas legal aid providers lost \$6.1 million in LSC funding at the beginning of 2012 and an additional \$600,000 in 2013 as a result of the sequester. The fallout from these cuts has been devastating. Early this spring, TRLA faced a \$2.5 million budget deficit. In April, it announced it was laying off 65 of its 294 employees to try to manage its expenses. Fortunately, through reductions in staff pay and other measures, that number was reduced to 36 by the May 17 effective date. Ten of those employees, including 6 attorneys, worked in San Antonio. TRLA, which serves about 25,000 clients per year throughout its 68 county territory, predicts that an estimated 5,000 fewer households will receive legal services this year because of the LSC funding cuts.

The Best of Times

In true Texas fashion, these setbacks have been the rallying point of a concerted effort to find alternate sources of funding for legal aid. The focal point of this effort has been in the Texas Legislature. Until 2009, the Legislature had never

been asked to provide funding for legal aid. IOLTA and LSC revenues had been sufficient. In 2009, though, the story was different, and the Legislature stepped up with a \$20 million shot in the arm to carry the providers to 2011. Facing the same dilemma in 2011, the Legislature provided \$17.6 million to make up for the loss of IOLTA funds. This year, members of the Texas Access to Justice Commission ("TAJC"), TAJF, and the Texas Supreme Court, joined by a delegation from the San Antonio Bar Association, descended on the Capitol in February to meet with representatives, senators and their aides to request that funding for legal aid be included in the State's budget. Our delegation included Justice Rebecca Simmons, Tom Keyser, Marty Truss, Dan Vana, David Evans, and me. We met with a number of legislators, including House Speaker Joe Straus. At the moment, the budget contains an appropriation of \$17.6 million for legal aid, which, if adopted, will go a long way toward maintaining the current level of services.

In addition, the House and Senate passed a bill that updates an existing statute that allows the Attorney General to transfer civil penalties recovered by the state for violations of consumer protection, public health or general welfare law to the Supreme Court for legal aid and pro bono programs. The existing statute contains a \$10 million limit on such transfers. The new legislation increases that cap to \$50 million. Although such penalties are rare, the bill does present a possible long-term solution. On May 20, the bill was sent to the governor for signature. Fittingly, the new statute will be known as the Chief Justice Jack Pope Act in honor of the jurist who signed the Supreme Court order creating IOLTA nearly 30 years ago.

Of course, the San Antonio Bar Association has done its part, too. Through its annual installation gala and golf tournament, the Association raised over \$50,000 in 2012-2013 for the Community Justice Program (CJP), the top pro bono program in the nation.

TAJF and TAJC are also focused on other ways to bridge the funding gap, including:

- **The Champions of Justice Gala** raised \$338,000 in 2013 from leading law firms and companies for the provision of legal services to veterans
- **The Champions of Justice Society** recently formed to provide a vehicle to recognize those who financially support access to justice at a higher level
- **State Bar Dues Statement** provides the opportunity for each lawyer to make a \$150 contribution that goes to programs funded by TAJF and the Texas Bar Foundation
- **Prime Partner Banks** they pay a higher interest rate on IOLTA accounts, ensuring more funds for legal aid. A list can be found at www.teajf.org.

improve the lives of more than 225,000 Texans, including persons with disabilities, the elderly, domestic violence victims, children and veterans. Many of those who received aid were from San Antonio and were served through the combined efforts of TRLA and the Community Justice Program. Take, for example, the case of Steven Sommerville, an unemployed disabled veteran with Stage-4 cancer. His veteran's benefits were his only means of support.



SABA President Andy Kerr, President Elect Hon. Rebecca Simmons, Director Dave Evans and Secretary Marty Truss at the Capitol in February to make the case for legal aid.

The Importance of Legal Aid

In 2011, legal aid programs handled more than 100,000 civil cases, helping to

Shortly after he began receiving them, though, he was notified by the Veterans Administration that his benefits were be-

ing garnished because of a delinquent loan his ex-wife had obtained 20 years earlier but had failed to repay. That was when Mr. Sommerville came to a CJP veterans' clinic and met San Antonio attorney Bill Tran. Mr. Tran immediately took action, petitioning the VA to discharge the debt in light of Mr. Sommerville's medical disability and financial hardship. Six weeks later, Mr. Sommerville's benefits were restored. Now in remission, Mr. Sommerville credits Bill Tran and the veterans' clinic with getting his family and him through a very difficult part of their lives.

The Times Ahead

Without the helping hand of legal aid, many like Steven Sommerville could wind up lost in the bureaucracy or, as in the case of abused women and children, trapped in a never-ending cycle of violence. The Legislature has answered the call to maintain legal aid in Texas and undoubtedly will be asked to do so again unless IOLTA and LSC funding can be restored. In the meantime, we can do our small part by volunteering at the CJP and veterans' clinics, checking off the ATJ contribution on our dues statements and becoming members of the Champions of Justice Society. It all adds up. Even in the worst of times.



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