



# PUBLIC INTEREST LAW CENTER OF PHILADELPHIA

## 2011 Annual Report



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## PUBLIC INTEREST LAW CENTER OF PHILADELPHIA

OUR MISSION is to use high-impact legal strategies to improve the well-being and life prospects of the Philadelphia region's most vulnerable populations by assuring that they have access to the resources and services that all of us need to lead our lives.



“ You stand in the gap every time, all the time. We are so thankful for you and your willingness to

help us at every turn inform “the community” about the meaning of special education, disabilities, quality education, access, disability rights, and on and on and on. You have made an unparalleled difference in our lives...

Thank you! ”

— Loraine Carter,  
Concerned Black Parents  
Law Center Client

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## Letter from the Executive Director

“ I have always thought the actions of men to be the best interpreters of their thoughts. ”  
— John Locke.

Thousands of writers have expressed this over the millennia, and the latest, powerful example was the *New York Times'* fascinating analysis of the nation's spending on government programs over the last 50 years. The percentage of government spending going to poorest 1/5th people **plummeted** during this period, while government spending for the rest is increasing. Most people think that programs for the poor, like Medicaid or food stamps, are the ones that will increase our country's deficit the most; but in fact it is Medicare, which provides health insurance for all senior citizens, rich and poor, that is expected to rise faster. We do seem to really mean it when we say we value education: spending has steadily increased throughout the period.

Here at the Public Interest Law Center of Philadelphia, the nation's actions are stark, tangible presences in what we see and what we do: the low spending on the Florida Medicaid program resulting in nonexistent or inadequate medical care for the state's poorest children at the heart of our class action lawsuit — just winding up after a two year trial; the gross inequalities in spending on public education in Pennsylvania; the programs and practices which push children out of schools; and the fear and discrimination that prevent people who have been incarcerated from obtaining employment, even decades later; proposals that will suppress voting by the nation's most vulnerable citizens.

But the actions of a determined, and, I hope growing, minority interpret a different kind of thought — a thought that respects and values and nurtures our fellow citizens. Hundreds of you over the last year have joined us to change these realities: lawyers, paralegals, students, retirees spent thousands of hours working on cases with us, doing research, working with clients, reviewing documents, helping to clear land and plant a garden, analyzing or entering data, answering the phones and even scanning and filing documents. You are not just paying lip service; you mean it. And the generosity of spirit is reflected by many others in your financial contributions which are so absolutely necessary for us to continue our work.

On behalf of all of our clients we thank you so much!

Jennifer R. Clarke,  
*Executive Director*

*Former Chief Counsel, Thomas Gilhool and  
Disability Rights Director, Sonja Kerr trade stories.*



## Special Education

Today there are 270,000 students with disabilities in Pennsylvania – 25,000 in Philadelphia alone. These students, like all, need an education that will allow them to reach their potential and lead productive, independent lives. But too often, schools fail to identify disabilities, provide services, train faculty, include students with their peers, or involve parents in decision-making, resulting in low academic achievement and high drop-out and suspension rates. Our goal is to improve this malfunctioning system for all children with disabilities.

2011 Activities & Impact : 17 cases – impacting 3,016 people  
16 consultations & 187 people educated about their rights

### The Philadelphia Project

Working with a team of lawyers at Dechert LLP, we launched The Philadelphia Project to improve special education in Philadelphia. Together we are informing parents about their rights, representing families in administrative hearings, and filing class action suits to address systemic issues.

The Project has already made an impact: we have educated and empowered nearly 200 families and advocates; increased our capacity to represent families by training 30 pro bono attorneys and 19 law students; represented 11 children, obtaining compensatory education, assistive technology, and new placements that will help them thrive; and filed the Project's first class action lawsuit on behalf of 3,000 students with autism (*see sidebar*).

### Impact & Advocacy

The Law Center continues to be a national leader in special education with precedent-setting cases and advocacy that will improve education for children with disabilities across the country.

- **Ninth Circuit Decision Rejects the “Blame the Parents” Defense.** The Ninth Circuit Court of Appeals overturned the District Court's ruling that the Anchorage School District had not denied our client a free and appropriate public education (FAPE) “because M.P.'s parents failed to cooperate with the ASD.” The ruling is a powerful response to an attitude that blames parents for problems and sets precedent that it is the responsibility of the schools – not the parents – to provide students with a FAPE.
- **Coalition of Advocates for Special Education Formed.** The community of non-profit advocates for children with disabilities in the School District of Philadelphia, once fragmented and limited in capacity, has banded together to speak with a more powerful voice on issues of common concern, with the Law Center taking a leading role. The coalition provided testimony at meetings of the School Reform Commission, and has commenced a series of regular meetings with school district officials which provides a first-time-ever forum for exchange of ideas and information.



The Law Center's client, M.P., whose case will improve special education by ending the “blame the parents” defense.

## Client Impact

Janelle<sup>1</sup> is a fourteen year-old with multiple disabilities, including partial hearing loss. Although law requires schools to identify children with disabilities, no one at her district had tried to identify her, even after she did not pass a hearing test. Instead, she was sent to disciplinary school. After the Law Center and Dechert filed a complaint, the district agreed to an independent evaluation that identified her disabilities and sent her back to her home school, where, with the assistance of technology, she is now able to hear her teachers and benefit from her education.

### Autism Class Action Case

There are 3,000 students with autism in Philadelphia, most of who spend part of their school day in an Autism Support (AS) classroom. However, because AS rooms are scattered around the District, students with autism are shuffled between schools while their non-disabled peers are not.

Malik and Pedro, both third-graders, are just two students affected by this policy; after being segregated in an over-crowded AS room, the District proposed to transfer them without any plan or notification. Through an administrative hearing, the Law Center was able to obtain compensatory education and halt their transfers. When the hearing officer said he did not have the power to fix the problem for all children in Philadelphia, we filed a federal class action lawsuit. Trial is scheduled for summer 2012.



The four plaintiff students, ages 8 and 9.

<sup>1</sup> Names have been changed to protect privacy.

## Housing

In Pennsylvania alone there are 1,000 people with disabilities still confined to state-run institutions despite having the right — established over decades of Law Center cases — to live in the community with needed services. Fear and discrimination also lead to zoning laws that would restrict the location of housing for the elderly, those struggling with addiction, and people with disabilities to secluded areas. The Law Center's goal is to end housing practices that unnecessarily segregate and to advocate for the full inclusion of all members in society.

2011 Activities & Impact : 6 cases – impacting 9,651 people

### An End to Institutionalization for People with Disabilities in Illinois

In January 2011, a settlement was reached in the case of *Ligas v. Maram* that will greatly expand community living options for people with disabilities in Illinois. People with disabilities currently living in Intermediate Care Facilities will have the choice to move into community living arrangements with necessary supports. In addition, 3,000 people already living in the community will now be able to receive supports they currently lack.

### Advocating for Change

Michael Churchill testified before Philadelphia City Council in opposition to zoning changes that would ban group homes for people with disabilities from residential areas and methadone clinics from areas in which other medical treatment facilities are allowed to operate. Both changes, which seek to segregate, are in clear violation of state and federal law and blatantly discriminate against already-vulnerable populations.

## Environmental Justice / Public Health

Low income and minority communities are often faced with polluting facilities and lack the green space, economic development and public services enjoyed by other neighborhoods. This burdens communities with health and environmental risks while creating little economic benefit. The Law Center's goal is to work with communities to build more sustainable, healthier and safer neighborhoods through advocacy, technical service, education, innovative land use, and litigation.

2011 Activities & Impact

6 cases – impacting 40,742 people  
 3 consultations – benefitting 5,200 people  
 128 people educated & 100 stakeholders convened

### Garden Justice Legal Initiative

For generations, low income and minority residents have created urban farms, generating food and financial resources while reclaiming land from blight. However, their survival is tenuous because most lack clean title to the land and do not have the resources to navigate the accompanying legal issues. To address this need, we launched the Garden Justice Legal Initiative, led by Amy Laura Cahn, to provide pro bono legal support, technical assistance and advocacy to these urban farmers and community groups and to advance a city-wide agenda for a vacant land policy that recognizes and protects the needs of urban farmers.

In just 5 months, Amy Laura has provided direct representation to five community-based farms and gardens and has advised city officials on a new vacant land policy. We are excited to announce partnerships with Blank Rome, Duane Morris and Pepper Hamilton that will expand our capacity to support even more groups.



Grey's Ferry community members at the Central Club for Boys & Girls.

#### Client Impact:

The Central Club for Boys & Girls has stewarded two community gardens in Grey's Ferry since the 1940s, using the land as a community resource for thousands of children. Still, it was faced with losing its land to a sheriff's sale, even though the nonprofit organization had only recently acquired title to the land through adverse possession. Thanks to Amy Laura Cahn, the sheriff's sale was postponed, giving the club time to file for the necessary tax exemptions.

### Hunting Park Community Garden Transformation

With the support of a grant from the EPA, we have been working with residents in the Hunting Park neighborhood of North Philadelphia, which has been disproportionately burdened with industrial pollution, to achieve their vision of a more sustainable environment by transforming a vacant lot into a community garden, providing educational programming, and monitoring air quality. This beautiful garden will serve as a resource for years to come.



Before and after photos of a Hunting Park vacant lot transformed to a community garden.



### Advocating for Change

To drive systemic reform, in 2011 we advocated for policies that will improve the health and well-being of all communities:

- Testified before the EPA in support of the Mercury and Air Toxics Rule, which would, for the first time, impose national limits on emissions of mercury, arsenic, lead, and other hazardous pollutants from coal-and oil-burning power plants.
- Submitted an *amicus* brief in the case *MFS v DiLazaro* arguing that to maintain public health protection, state employees who are enforcing environmental regulations should be subject to personal liability only in extreme and clear circumstances.

## 4th Annual Symposium on Equality

### Working Together to Sustain Healthy Communities:

On October 6th, we held our 4th Annual Symposium, this year focused on crafting solutions to the environmental justice challenges faced by low-income and minority communities. With over a dozen panelists and 115 in attendance from diverse backgrounds, we enjoyed a productive conversation about practical strategies for lawyers working in communities. We were honored to present Jerry Balter, the Law Center's founding Environmental Justice attorney, with the Thaddeus Stevens Award for his contributions to the field. Thank you to all who attended!

“Probably the best CLE I've attended as a lawyer!”  
 — Gary Tennis



## Employment

One third of Philadelphia residents have a conviction on their record- a disproportionate number of whom are people of color. Employers often refuse to hire based solely on these convictions, perpetuating a system that discriminates based on race and poverty. Similarly, people who use methadone as treatment for opioid addiction experience discrimination in hiring even though methadone is a safe and effective form of treatment. Our goal is to increase employment opportunities through education, advocacy and litigation.

2011 Activities & Impact | 3 cases – directly impacting 8 people

### Class Action Suit Ends Large Company's Use of Discriminatory Hiring Practices

Thirty years ago, Albert Dunn shot a man who had threatened his family. He has since maintained an exemplary record, including holding employment with GE/Lockhead Martin for 23 years where he was praised as a "role model" employee, and obtaining two government security clearances for his job. After being laid off during downsizing, Mr. Dunn applied for a job through Integrity Staffing Solutions (ISS). Despite his impressive record and qualifications, he was turned down solely because of his decades-old, irrelevant conviction.

The Law Center and co-counsel from Berger & Montague, P.C. filed a class action complaint against ISS that ended in settlement. ISS reaffirmed its policy of providing equal employment opportunity for people with criminal convictions, agreed to change its advertisements and job applications to comply with its policy, and will train HR personnel on the appropriate review of applicants with convictions. We applaud ISS for adopting more equitable policies, and hope other employers will be encouraged to follow their example.

Mr. Albert Dunn, who was denied employment based solely on a 30-year old irrelevant conviction.



### Ban the Box Ordinance

On March 31, 2011, Jennifer Clarke spoke to Philadelphia's City Council in favor of the 'Ban the Box' Ordinance, which bans employers from asking about an applicant's history of convictions during the initial phase of the hiring process and requires that any subsequent decision not to hire be based on the actual requirements of the job. The ordinance offers formerly incarcerated people a window in which employers can assess them on their own merits. Minutes after her testimony, City Council adopted the ordinance.

“ We know that the number of people who are charged and convicted of crimes is skyrocketing—and we know that they are disproportionately men and they are people of color. If this discrimination prevents large numbers of our fellow citizens from getting a job, how can we ever climb out of the poverty and despair that infests so many of our neighborhoods? ”  
— Jennifer Clarke, in her testimony to Philadelphia's City Council



## Healthcare Access

Federal law promises health and dental care to millions of low income children, a promise that, if only met, would improve their life chances and avoid more serious complications of untreated conditions. Unfortunately, that federal promise—Medicaid—is too often not met as a result of state policies or payment practices. As a result, millions of children face long delays to care or cannot access care at all. Our goal is to secure for all children access to the care they need with lawsuits and advocacy to change the way in which states administer and pay for their Medicaid programs.

2011 Activities & Impact | 3 cases – impacting 3,000,000 people

### Florida Class Action Medicaid Case

On February 2, 2012, after 94 days of trial over more than two years, both sides rested their cases in *Florida Pediatric Society et al v. Dudek*. The Law Center and a team of pro bono attorneys from Boies, Schiller & Flexner brought the case on behalf of the 2,000,000 low-income children enrolled in or eligible for Medicaid in Florida who are not receiving medical or dental care they need. The decision is expected later this year, along with a decision on our motion for an injunction which points out that only one in five children enrolled in Medicaid in Florida today receives even minimal dental care. The motion asks the court to enjoin Florida officials from setting rates paid to providers solely on the basis of budgetary reasons and not based on what is needed to provide care.

With the Supreme Court's decision in *Douglas v. Independent Living Center* (see below), now resolved without deciding the basic legal questions, this case is one of the high stakes legal battles that will establish whether or not states can be held accountable for actually delivering healthcare to children through their Medicaid programs.

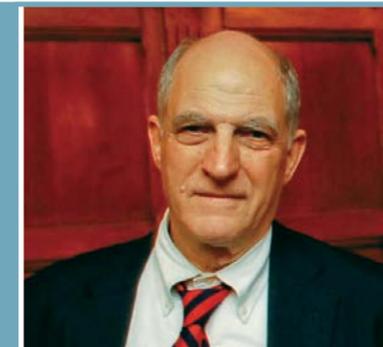


The Gorenflo family, whose two sons — Thomas and Nathaniel — are named plaintiffs in the Florida Medicaid Case.

### Law Center briefs Supreme Court on obstacles to Medicaid Access

The Law Center was honored to be called upon by the American Medical Association, American Dental Association, American Academy of Pediatricians and others to submit an amicus brief to the Supreme Court in the case of *Douglas v. Independent Living Center of Southern California*. The brief, written by James Eiseman and our partners at Bullock, Bullock & Blakemore, powerfully documents for the Court the devastating - and sometimes fatal - effects on Medicaid recipients when States set payment rates at insufficient levels. The brief encourages the Court to protect the right of private citizens to bring lawsuits against States that set rates too low, as it is the only method of keeping states accountable and ensuring access to care.

“ Too often lost in technical legal discourse are the flesh-and-blood consequences cases such as this one have on real people. The consequences of inadequate access to healthcare have been dire for millions of people – largely children and people with disabilities – and the situation will get much worse if the Court refuses to enforce the law. ”  
— James Eiseman, Jr., Law Center Senior Attorney



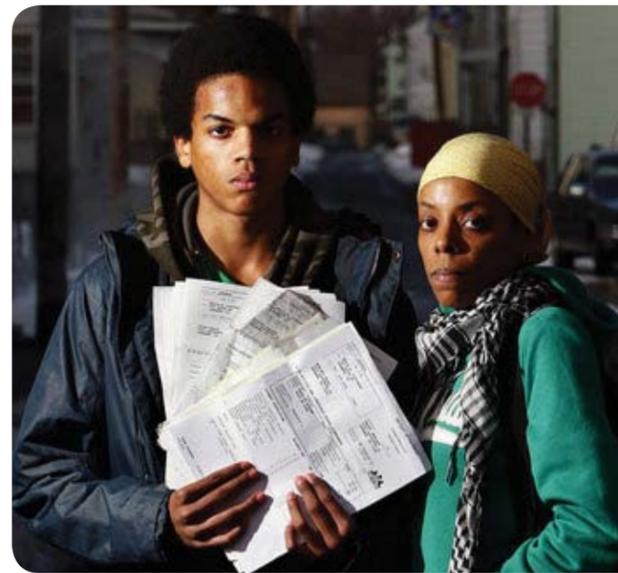
## Education Adequacy & Equity

Increasingly, children in predominantly low-income, minority school districts are not receiving the education that will allow them to graduate high school, receive a higher degree, or obtain employment. Public spending is lower, districts have difficulty retaining experienced teachers, and children are subjected to punitive truancy and zero tolerance policies that effectively push them out of school. Our advocacy and litigation aims to change this.

2011 Activities & Impact : 9 cases – impacting 4,507 people

Plaintiff Monique Groce, right, and her son, Irvin Groce. The 16-year-old junior at Lebanon High School holds about 30 fines for himself and his sister, Xochait Durdeen, 17.

Image © 2011 The Patriot-News. All rights reserved. Reprinted with permission.



### Truancy Fines Drastically Reduced in Lebanon School District

In 2011, the Law Center and Pepper Hamilton's Tom Schmidt filed a class action law suit on behalf of the 450 families charged exorbitant truancy fines by the Lebanon School District. Over the past six years, the District has taken parents and students to court over 8,000 times and they have been fined \$1.3 million — even jailing some who were unable to pay. This policy not only violates state law, but has proven to be ineffective in reducing truancy. As a result of our intervention, **91% of the unpaid fines have been reduced, saving the community over \$450,000.** We are pressing forward with the lawsuit to compel the school district to refund the excessive fines that parents already paid.

### Advocating for Change

In 2011, the Law Center's Michael Churchill continued to serve as the invaluable counselor to the public education advocacy community and testified before numerous bodies, including:

- The School Reform Commission on Renaissance Schools and closing the achievement gap
- Equity & Excellence Commission of the U.S. Department of Education on the effects of unequal school funding
- Public Education Subcommittee of the Pennsylvania Bar Association's Constitutional Review Commission

“...this Commonwealth will be healthier and more prosperous if every child, no matter where in this Commonwealth they happen to reside, receives ‘an equal chance for a good and proper education.’ Adequacy and Equity: they were the right values then, and they are the right values now.”

— Michael Churchill  
in testimony before the  
Constitutional Review  
Commission

## Voting Rights

Social justice advocates have long fought for the unimpeded right to vote as the most fundamental tool for empowerment of marginalized communities. Believing that protecting that right is a critical component of making equality a reality, the Law Center works to ensure a meaningful vote for every citizen.

2011 Activities & Impact : 1 case – impacting 580,000 people

### Ending the Use of Electronic Voting Machines

In 2011 the Commonwealth Court heard argument on cross-motions for summary judgment in the *Banfield v. Cortes* case. The case, filed by Michael Churchill, Drinker Biddle & Reath LLP's Mary Kohart, and Marian K. Schneider, argues that the use of Direct Recording Electronic voting systems (DREs) violates the state election law and the state constitutional right of citizens to have their votes counted. DREs do not create an independent record of the original votes, meaning there is no way of knowing that votes were accurately recorded. Reports show that DREs are vulnerable to manipulation and can lose votes, register votes for the wrong candidate, cause high “undervote” rates, fail to register votes, or count votes twice. We await a decision from the Commonwealth Court in the coming year.

### Law Center Joins Coalition to Stop Voter ID Legislation

Across the country, politicians are pushing to pass voter identification laws that will create new barriers to voting for students, senior citizens, people with disabilities, and minorities who are less likely to have ID or able to obtain it. While proponents of the law claim it is meant to stop voter impersonation, this type of fraud almost never occurs. After the Pennsylvania State House of Representatives passed a voter suppression law in June, we joined the Protect Our Vote coalition in an effort to persuade the state Senate that such a law has no place in a democracy.

Jeffrey Garis, Field Director of Pennsylvania Voice, speaks on behalf of the Protect Our Vote Coalition, of which the Law Center is a member, in Harrisburg.”



## Thank you to our 2011 Volunteers, Interns and Pro Bono Partners!

In 2011, 60 volunteers and interns contributed 3,795 hours of work to the Law Center, and 53 pro bono attorneys assisted on over a dozen cases. Their hard work greatly increased our capacity to continue securing and advancing equality for Philadelphia's most vulnerable populations while providing them with a personally and professionally rewarding experience. On behalf of all of our clients, thank you!

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“Berger & Montague, P.C. and PILCOP successfully represented an African-American job applicant who alleged that he was unlawfully denied a job with Integrity Staffing Solutions at its Allentown facility due to a 30-year old criminal conviction for involuntary manslaughter. Employer policies that provide for blanket exclusion of applicants with criminal records can constitute unlawful discrimination under state and federal law due to the disparate impact those policies have on racial minorities. Recently, PILCOP and other organizations around the country have taken the lead in stepping up to confront this growing problem. We were proud to work hand in hand with PILCOP on this issue, which severely impacts the economic livelihood of so many Americans. This case demonstrates the important role that partnerships between private law firms and public interest organizations serve in enforcing civil rights laws and we look forward to building on that relationship in the future.”

— Sarah R. Schalman-Bergen,  
*Associate, Berger & Montague P.C.*

*Ashley Hopkins, 2011 Law Center Intern,  
Yale School of Public Health, Class of 2012.*



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*(continued on next page)*

## Statement of Activities and Change in Net Assets

January 1, 2011 – December 31, 2011

### Revenue

|                                 |                  |
|---------------------------------|------------------|
| Foundations & IOLTA             | \$162,782        |
| Legal Community & Other Support | 309,695          |
| Fee & Out of Pocket Awards      | 168,009          |
| Contracts & Honorarium          | 40,935           |
| Cy Pres Award                   | 20,000           |
| Interest & Other Income         | 13,702           |
| <b>Total Revenue</b>            | <b>\$715,123</b> |

### Expenses

|                       |                  |
|-----------------------|------------------|
| Program Expenses      | \$827,746        |
| Fundraising Expenses  | 154,510          |
| General Expenses      | 102,642          |
| <b>Total Expenses</b> | <b>1,084,898</b> |

**Change in Net Assets** **\$(369,775)**

## Statement of Financial Position

December 31, 2011

|                                    |           |
|------------------------------------|-----------|
| Current Assets                     | \$359,908 |
| Fixed Assets (net of depreciation) | 60,192    |

**Total Assets** **\$420,100**

Current Liabilities \$586,827

Net Assets:

|                                   |                  |
|-----------------------------------|------------------|
| Unrestricted Net Assets           | (395,175)        |
| Temporarily Restricted Net Assets | 127,437          |
| Permanently Restricted Net Assets | 101,011          |
| <b>Total Net Assets</b>           | <b>(166,727)</b> |

**Total Liabilities and Net Assets** **\$420,100**

These statements are unaudited and have been prepared on a total funds basis. In-kind revenue and related expense has not been included. Audited financial reports will be available on our website after April 30, 2012.

*The losses experienced in 2011 were due to unexpected delays in court-award fees; we expect to receive some of those fees in 2012.*

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