

2005-2006

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Dear Friends:

The Public Justice Center continues to be a leader among Maryland legal services organizations. We use a wide range of strategies to bring systemic impact cases that will change or enforce laws and policies as they apply to Maryland's poor.

During the fiscal year 2006, the PJC had **113 active impact cases**, including 23 at the trial level, 26 appellate cases, 7 group cases or coalitions, 9 administrative advocacy projects, and legislative lobbying on 48 bills in Maryland's General Assembly. Our client constituencies include tenants, inmates at the Baltimore City Detention Center, homeless and foster children, Medicaid applicants, and low-income workers and immigrants. Our appellate and legislative advocacy expands our attention beyond these "focus" areas to include a wide range of civil rights and poverty law issues.

Of particular note is the success of the **National Coalition for a Civil Right to Counsel (NCCRC)**. The NCCRC was founded by the PJC two years ago to lead and stimulate a national movement to establish a right to counsel in civil cases. In this last year, tremendous effort around the country, but most notably by PJC staff and Marylanders Stephen Sachs, Wilhelm Joseph, and the Honorable Robert Bell, resulted in **American Bar Association Resolution 112A**, passed unanimously on August 7, 2006. This historic resolution calls on state governments and courts to establish a right to counsel in civil cases.

Also of note in this last year was the initial success of the **Rental Housing Coalition**. Founded by the PJC two years ago, the group has effectively unified the voice of tenants, and now is acting as a group in administrative and legislative advocacy to reform Maryland's antiquated landlord-tenant laws. This year they partnered with Megaphone Project to produce an advocacy DVD: "**Cleaning Up Maryland's Eviction Mess**." This short film calls for an end to the practice of dumping tenants' belongings in the street at an eviction. The RHC led the fight for two bills in the General Assembly, one to reform the chattel eviction practices depicted in the DVD, and the other to reform anti-tenant retaliation laws. Both bills resulted in summer studies and will be re-introduced in the 2007 Session.

Finally, in past years the PJC led the country in bringing lawsuits to **enforce homeless children's rights to enroll in public schools** with actions against Prince George's and Montgomery County school systems, both of which resulted in consent decrees. This year we **expanded the investigation to new counties**, and filed a new class action lawsuit against Baltimore County public schools.

The following report will highlight a sampling of the PJC's work over the past year. We encourage you to learn more about our work with frequent visits to the News section on our website: www.publicjustice.com.

We are reminded each day how much your support matters. It is because of your unwavering generosity and contributions of money, time, and talent that we are building a more just society. We are in this together. Together we are strong. From the bottom of our hearts, thank you



Taro Adachi
President, Board of Directors, 2006-07



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FOCUS ON IMPACT: TENANTS RIGHTS

TENANTS RIGHTS IN CONTEXT:

Baltimore City, a city evenly split between renters and homeowners, is the sixth poorest metro region in the nation. Income is not so evenly split: the 2005 median annual income for Baltimore for all households is \$72,150, whereas for renters, it is only \$24,092. An affordable house for the average Baltimore renter would be no more than 30% of his or her income, which works out to \$741 fair market rent per month for a 2 bedroom unit. Unfortunately, the fair market value for a two bedroom unit in Baltimore City averages \$1,020, and 71% of Baltimore renters cannot afford that¹. The national economy is showing an increase in the split between the haves and the have-nots that is reflected in Baltimore's housing market: while the quality and quantity of housing at the upper ends of the market is increasing in Baltimore, housing that is affordable to lower income people and that meets minimal housing and health codes is becoming less available.



FOCUS ON IMPACT: Tenant Advocacy

The Public Justice Center's tenant advocacy practice seeks to protect and expand tenants' rights to safe, habitable, affordable, and non-discriminatory housing, and to fair and equal treatment of tenants by Maryland's laws, courts, and agencies.

The PJC provides individual legal services to tenants at Baltimore City's "rent court," including advice, *pro se* training, and representation in court. Through this work, PJC has and continues to identify impact issues and, in addition, hopes to recruit tenant leadership for the Rental Housing Coalition. The PJC also provides tenants' rights education to tenants and their advocates, represents tenant organizations and groups of tenants who have common problems with their landlord, and advocates with the courts, judicial administration, legislature, and government agencies to ensure that tenants' rights to due process and other legal protections are honored.

ACTION IN FY06

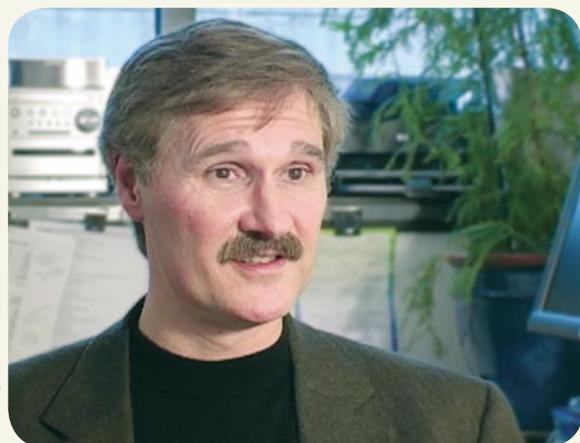
- **Campaign to Enforce Lead Paint Laws in Rent Court.** Maryland law requires that landlords are in compliance with lead poisoning laws in order to use the district court for evictions. The PJC and the Coalition to End Childhood Lead Poisoning are jointly representing tenants to ensure compliance; educating judges, tenants, and landlords; and seeking appellate cases and referring landlords who violate the law to State's Attorneys when appropriate. To date approximately 257 cases have been dismissed when the landlord has failed to comply with the law. Administrative advocacy efforts are also ongoing through the Rent Court Workgroup to convince the Judges that they have the authority and should dismiss cases *sua sponte*.
- **Mallard Lakes Tenants.** The PJC represented a group of seven immigrant families who lived in an Eastern Shore mobile home that had, among other problems, a non-functional septic system. When the health department ordered the park closed, the landlord sought to evict the tenants, even though the conditions were not the tenants' fault, and many families could not afford to leave the park without severe economic hardship. The PJC successfully stopped the eviction process in its tracks through court intervention, then negotiated a settlement with the landlord that resulted in compensatory payments to the tenants that gave them the money and time to move.

- The PJC represented two tenants in an appeal of an eviction action in **Solberg v. Majerle Management**. The tenants have serious physical disabilities that require that they live in a low toxic environment and avoid all exposure to pesticides and other respiratory irritants. The tenants argued that the landlord failed to make reasonable accommodations required by Fair Housing Act (FHA). On July 18, 2005, the Court of Appeals decided that the tenants were individuals with disabilities and thus were entitled to reasonable accommodations under the federal Fair Housing Act, but held that the requested accommodations were not reasonable.
- Sometimes we seek to achieve impact for our clients in cases beyond our geographic borders. In a case before the US Court of Appeals, 5th Circuit, **Johnson v. Housing Authority of Jefferson Parish**, the PJC filed an amicus brief with Texas Rio Grande Legal Aid, the Legal Aid Society of D.C., the National Housing Law Project, and the AARP Foundation on behalf of AARP and the Texas Tenants' Union. The issue in this appeal was whether participants in the federal Section 8 Voucher Program may seek relief under 42 U.S.C. § 1983 when a public housing agency improperly calculates the utility allowance provided to voucher holders as part of their monthly assistance payment, resulting in inadequate subsidies and therefore higher rents. The court issued a fully favorable decision for the plaintiffs this spring and the U.S. Supreme Court has denied further review.
- **In the summer of 2004, the PJC founded the Rental Housing Coalition (RHC).** This group of tenants, tenant advocates, and community organizations seeks a fair and balanced process in Maryland's landlord-tenant laws and procedures. After a year of self-education, legal research, social data research, prioritizing, and strategizing, the RHC decided to propose two substantial reforms of Maryland's landlord-tenant law in the 2006 Session of the Maryland General Assembly. **The Clean Streets Bill (SB 597 / HB 1481)**, which deals with the disposal of tenant's personal possessions after eviction, proposed three significant changes to current law: the sheriff will notify the tenant of the scheduled date and time of eviction; the landlord would hold the tenant's possessions for a period after the eviction and give the tenant reasonable opportunity to get their goods back; and the goods would then be taken to a public dump, but would not be disposed of in the public right of way. **The Stop Retaliation Bill (SB 599 / HB 1483)** focused on that set of laws in Maryland that supposedly protect tenants from unlawful retaliation by their landlords. Remarkably, because of an impossible-to-prove standard as well as time and other bars, Maryland's anti-retaliation law is the least protective of tenants in the entire nation. The RHC recruited sponsors for the bills, organized panels of witnesses at both the House and Senate hearings, and lobbied the legislative committees. Our first year efforts were not enough to get the bills passed, but were strong enough to convince the committees in both houses that they needed to review the bills further — they voted to conduct an "interim study" of the bills. In addition to the RHC bills, the PJC provided written and/or oral testimony on 12 other housing-related legislative bills in the 2006 Session.

¹) Out of Reach 2005: America's Housing Wage Climbs, National Low Income Housing Coalition, publication and statistics analysis available online at www.nlihc.org/00r2005.

"We understand the problems of being poor and marginalized in our society, and we are angry that it happens."

—John Nethercut, Executive Director, PJC



“I congratulate you on a powerful argument presented in a compelling manner. Well done.”

—Erik Guenther, Esq. regarding an amicus brief submitted by the National Coalition for the Civil Right to Counsel. Guenther is Chairperson for the Individual Rights and Responsibilities section of the State Bar of Wisconsin.



Marshall Clarke

FOCUS ON IMPACT: A Right to Counsel in Civil Cases

In the fall of 2003, the PJC organized a national coalition of advocates from legal services, academia, the private bar, state bar associations, IOLTA programs and others who are interested in beginning or furthering Civil Gideon in their own states. Today, 117 individuals, representing 29 states, the District of Columbia, Puerto Rico, and London, England participate in monthly calls and communicate on an email listserv facilitated by the PJC. During FY06, the coalition adopted a formal name, the National Coalition for a Civil Right to Counsel (NCCRC) and a mission statement:

The National Coalition for a Civil Right to Counsel is an association of individuals and organizations committed to ensuring meaningful access to the courts for all.

Our mission is to encourage, support and coordinate advocacy to expand recognition and implementation of a right to counsel in civil cases.

The major focus of the year has been to publicize and draw out support for a civil Gideon right, and specifically to urge the American Bar Association speak on the subject. To that end, PJC Legal Director, Debra Gardner and other members of the NCCRC presented at a number of national conferences and published articles. Highlights include:

- “A Civil Right to Counsel for the Poor.” Debra Gardner and Paul Marvy, co-authors, published in **American Bar Association’s Human Rights (Summer 2005)** magazine
- **NLADA Annual Conference, November 2005**, Orlando, Florida. NCCRC presented a workshop and a mock oral argument of a civil right to counsel appeal in the Supreme Court of the State of the Magic Kingdom, then facilitated a discussion after the argument.
- **Sparer Symposium, March 28, 2006, in Philadelphia, Pennsylvania:** The NCCRC contributed significantly to this academic symposium on a civil right to counsel, held on March 28, 2006, in connection with the ABA/NLADA Equal Justice Conference in Philadelphia. NPR’s *Justice Talking* with Margot Adler recorded a debate at The Constitution Center between Daniel Greenberg, former head of the Legal Aid Society of New York City and a representative of the Atlantic Legal Foundation. Legal Aid Bureau’s Wilhelm Joseph and ABA President Michael Greco appeared on *It’s Your Call with Lynn Doyle* and debated a local Federalist Society chapter president and a spokesperson from an organization called Citizens for Common Sense.

○ **Equal Justice Conference, March 30, 2006, in Philadelphia, Pennsylvania.** This 3-day conference, jointly sponsored by the ABA and the National Legal Aid and Defender Association, focused largely on increasing access to justice and in particular on pro bono contributions to that effort, and the civil right to counsel continued to gain ground. President Greco delivered a keynote address to the entire assembly on Friday, March 31. His passion and vision for the civil right to counsel stirred the crowd. Later that afternoon, a well-attended workshop session was hosted by the National Coalition for a Civil Right to Counsel, which PJC’s Debra Gardner coordinated.

Members of the NCCRC worked diligently through the procedures and ranks of the American Bar Association to achieve a historic policy resolution at the ABA’s annual meeting in August 2006. Members of the Standing Committee on Legal Aid and Indigent Defenders (SCLAID) approved the NCCRC drafted proposal at its meeting on August 6, 2005 and then presented its recommendation to the ABA’s Presidential Task Force on Access to Justice. Marylanders Stephen Sachs and Chief Judge Robert Bell were members of the Presidential Task Force. The Task Force issued its proposed resolution to all ABA state delegations at its meeting on March 29, 2006. On August 7, 2006, in just one (said to be a record for the ABA!) the ABA’s House of Delegates unanimously passed Resolution 112A. The final version of the resolution is as follows:

RESOLVED, That the American Bar Association urges federal, state, and territorial governments to provide legal counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction.

The NCCRC will now redouble its efforts to encourage civil Gideon movements in each state and to continue to encourage this idea whose time has come.

Back at home, PJC continues to look for a second test case to bring the question of right to counsel to the judiciary.

FOCUS ON IMPACT: Children’s Rights Project

The PJC Children’s Rights project focuses on the problems confronting Maryland’s homeless children and foster children. We are known nationally for our efforts to keep homeless children in school through enforcement of the federal McKinney Vento Act. This year we continued to work closely with homeless families and school officials in several counties, including Montgomery and Prince George’s. We also represent three mothers and their four children in a new class action lawsuit against the **Board of Education of Baltimore County**. Each of these named plaintiffs has been homeless and has suffered as the result of the County’s failure to properly identify them and provide essential educational services.

The project continues to serve as a resource for advocates around the country. This year, we shared our **McKinney-Vento Temporary Restraining Order** pleadings with a Connecticut family and their legal advocates. In this case, an administrative law judge found that a family of five who was living in one motel room was not homeless because the motel room was “adequate.” Both parents were working but could not find affordable housing in the school district. The attorneys planned to appeal to the state court.

We stepped up our efforts as advocates for foster children this year when we signed on as co-counsel with private law firms Venable and Whiteford, Taylor & Preston. Together, we represent all foster children in Baltimore City (more than 6,500 children) in a class action to enforce a 1988 consent decree. Rhonda Lipkin joined the PJC on a special fellowship to litigate the decades-old case, known as **L.J. v. Massinga**. Among other activities, our advocacy has included responding publicly to numerous reports of continued noncompliance with the consent decree which mandates appropriate care for the children, supporting legislation to improve that care, (including legislation to raise foster parents’ rate for the first time in 15 years,) and legislation to ensure accountability of child welfare provision statewide, and vigorous negotiations with the state to strengthen the consent decree and its enforceability. In late 2005, the legal team had to seek a temporary restraining order to allow them to enter and inspect a state office building in Baltimore in an effort to see if children are spending the night there and, if so, whether they are getting proper meals, hygiene, and medical attention. The inspections were a follow up on reports that more than 100 foster children have been housed illegally overnight in the building in the past year. State officials barred the inspection on December 21st, but under the threat of litigation, the State quickly reached an agreement on December 23rd, and allowed the attorneys to make a visit to the office regularly thereafter.

Legislative advocacy efforts kept the PJC’s children’s rights teams and our partners busy during the 2006 session. We weighed in on 9 major efforts including the successful **HB 453** which ensures that the best interest of the child would be properly accounted for in decisions regarding child support. Prior to this bill, the policy and practice allowed other interests, such as the state’s interest in getting debts owed to it repaid, to control and produce outcomes that were actually detrimental to the children for whom support was sought. We also supported the creation and funding for a pilot residential boarding school for at-risk youth.



FOCUS ON IMPACT: Prisoners' Rights Project

The purpose of the Prisoners' Rights project is to effect long-term, systemic improvements to prisoner health care and conditions of confinement in Maryland. This year, the team continued to focus on the class action lawsuit, **Duval v. Ehrlich** which seeks to address systemic failures of the Baltimore City Detention Center (operated by the State of Maryland) to provide constitutionally-adequate health care and conditions of confinement. Of particular note, on November 22, 2005, PJC successfully compelled the court to deny the State's motion to judge the constitutionality of care by reference to the "social context," a move calculated to insert a new standard into the proceedings. Relying heavily on a study it commissioned demonstrating that "racial/ethnic minorities, persons of lower socioeconomic status, and the uninsured have less access to health care, lower quality of health care, and worse health status than other Americans," the State basically argued that because African-Americans and poor people have inadequate medical care both before and after incarceration, therefore the State should not be expected to do more when they are incarcerated. The court ruled that the Defendants' "social context" theory had no validity and is "legally and philosophically wrong." The case is now in the discovery phase and is preparing for trial in late 2006.

This year, the Prisoners' Rights team also filed an amicus brief in support of the Office of Public Defender's class action *habeas corpus* motion to **release prisoners who were held at Central Booking for more than 24 hours** without being taken before a judicial officer and given a medical assessment. The court granted the motion to certify the class, and shortly thereafter, the Office of Public Defender and state officials for the jail announced that they had reached an agreement that would provide for automatic release of any inmate held for 24 hours without a hearing.

The team also secured a significant **legislative victory** this year by compelling the General Assembly's Joint Committee on Legislative Audits to direct the Office of Legislative Audits (OLA) to conduct an investigation of the various contractors that currently provide health care services to prisoners across the state. The audit is currently underway and a report is due to the Committee during next year's legislative session, which will provide advocates and decision-makers alike with the information necessary to push for needed reforms.

Additional team efforts secured the prompt release, under threat of litigation, of individuals detained at Baltimore's Central Booking after charges against them are dropped, and invoked the **Public Information Act** in successful attempts to gather public documents about health conditions in 23 jails around Maryland. **Appellate cases** focused on prisoners' issues including whether the State may administer psychoactive drugs to a patient without the patient's consent without proving that the patient is presently dangerous to himself or others; supported an appellant father in his appeal from the termination of his fundamental parental right to parent his son when he was denied reunification services while incarcerated and upon release from prison; and challenged the

extremely high costs charged to prisoners and their families for telephone calls.

In a case that illustrates the PJC's commitment to the long run up to positive decisions, we were pleased to receive a favorable decision in **Massey v. Galley**. Two years ago, Mr. Massey, a Maryland prisoner, submitted four Public Information Act requests to the warden of his facility seeking information about prison management, including the contract for the provision of health services at the facility. After the warden failed to respond, Massey filed suit *pro se*. Both the Circuit Court and the Court of Special Appeals, where Mr. Massey was also *pro se*, held that, under the Prisoner Litigation Act, Mr. Massey was required to exhaust administrative remedies before he could seek to enforce his right to public information about prison management. The PJC and American Civil Liberties Union of Maryland petitioned the Court of Appeals on Mr. Massey's behalf, seeking reversal of the lower court decisions on grounds that the MPIA provides prompt access to information for *all* Marylanders. In May 2004, the Court granted review of Massey's appeal and the case was argued by Joshua Auerbach, former PJC Murnaghan fellow, in October 2004. In a victory for open government, the Maryland Court of Appeals ruled in May 2006 that inmates do not have to endure excessive hurdles set by the Prisoner Litigation Act in order to obtain information under the Maryland Public Information Act, emphasizing the importance of the right of all citizens to have access to public information.

FOCUS ON IMPACT: Health Rights

The aim of the PJC Health Rights project is to protect and expand poor people's eligibility for adequate health care coverage and access to appropriate, affordable, effective and culturally competent health care. Wearing our "watchdog" hats, the PJC monitors the regulatory process involving health and benefit programs. Administrative regulations can drastically affect a poor person's right or practical ability to obtain health care. Much of this regulation is not easily accessible to the public, and unintelligible to a lay person. PJC lawyers regularly review agency proposals and actions, and intervene when necessary to call attention to and change policies that reduce or frustrate poor people's access to health care. We also successfully **challenged proposed regulations** that would allow untrained and unqualified case workers to make decisions that applicants for Medicaid are not disabled without following the disability determination process mandated by federal and state law.

Under current threat of litigation, the PJC pursues **administrative advocacy to address the State's failure to properly determine disability for Medical Assistance applicants**; the signal achievement of which during this year was to force the State to provide medical evaluation for applicants who, because they do not have Medical Assistance, also does not have a doctor who

Medicaid Matters to Me!

Drs. Scott Wolpin and Cristina Alarcon now care for Medicaid-insured children in the operating rooms of Maryland's Eastern Shore.

Working in a community health center, I am saddened with the number of young children I see each day who have extensive dental disease. Many are toddlers just learning to say their first words. I imagine that folks simply do not realize that good oral health begins at age 0. And although there is a direct connection between oral health and one's overall health, many young, high risk children are still not being seen because dentists either do not feel comfortable treating them or do not participate in Medicaid. As a result, children are losing baby teeth years ahead of schedule and this affects their ability to eat, speak and smile. How can we expect these same children to perform well in school if they are suffering with chronic pain or have poor self-esteem because of missing and/or broken teeth? These problems are easily preventable if children are connected with care early.

At Choptank Community Health System we have created oral prevention programs for our local public schools, Judy and Head Start Centers. Here dental hygienists provide cleanings, dental sealants and fluoride treatments, and connect children with untreated dental disease to a dental home. Grant funds were used for the start-up of these programs which are now found in 15 public schools of the three counties of our service area because of Medicaid reimbursement. Additionally, we have been successful in partnering with our local hospitals and State Medicaid insurers to provide hospital-based dental services closer to home for our youngest children with extensive needs. Before we had this program, children requiring sedation had to travel more than 100 miles away from their homes for treatment.



Unfortunately, **adults experience dental access problems as well but Medicaid no longer covers dental care for adults.** Many visit the ERs of our local hospitals with acute oral health problems. There they may get some relief for the pain but there's no treatment of the cause. Things have changed greatly since I first started practicing on the Shore 15 years ago. Luckily, dental benefits have been spared for pregnant women. This is critical because recent studies have revealed that pregnant women with periodontal disease are more likely to have low-birth-weight babies. Additionally, this is a valuable opportunity to work with these future mothers in preventing dental disease for the new baby. And by sharing our knowledge and skills with non-dental providers, for example training pediatricians to perform dental screenings, determining dental disease risk and sharing anticipatory guidance with the child's caregivers we can even further reduce health costs related to dental disease.

One reason Medicaid costs are so high is that people simply are not accessing care until they have serious problems.

Keep Medicaid whole and strong.

Medicaid Matters!
Medicaid Matters! Maryland Matters

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can evaluate their condition and determine whether its disabling. Through appellate advocacy, followed by continued administrative advocacy, we also put an end to the common practice in which Administrative Law Judges in Maryland charged with resolving disputes over an applicant's eligibility for public benefits routinely remanded cases back to the administrative agency in question, rather than issuing a timely final decision on the beneficiary's eligibility. We also sought to protect the Maryland's Fair Share Health Care Fund Act ("the Fair Share Act"), which requires large employers to pay a payroll tax to support Medicaid if they do not spend the equivalent of a minimum percentage of their payroll on employee health care or insurance.

The PJC continues to be an active member of the **Medicaid Matters! Maryland** coalition. The coalition's ranks have swelled to include 70 advocacy and consumer organizations from across the state. The coalition sponsored its first conference "The Truth About Medicaid" in the fall. The event was a resounding success. More than 125 attendees gained tools to debunk myths about Medicaid, counteract hysteria about "costs spiraling out of control" and understand the bigger picture of health care in Maryland. The coalition also pressured legislative committees to hold hearings on Department of Health and Mental Hygiene cuts to Medicaid coverage for legal immigrant children and pregnant women and pushed the Department to smooth the difficult transition to Medicare Part D (The Prescription Drug Program) by extending funds to pay premiums and co-payments for a three-month period until the systemic issues were resolved.

The PJC and Medicaid Matters! Maryland were busy during the 2006 Maryland legislative session. Successful efforts included the addition of **\$3 million in the FY08 budget** for the provision of health care for low-income legal permanent resident children and pregnant women. We were also pleased by the results of **HB 1330/SB771**: a major and successful initiative of MM!MD which increases consumer oversight of the state's Medicaid program through greater participation on the Medicaid Advisory Committee. Other successful efforts include **HB98** which directs a study of the costs of children's psychiatric rehabilitation services and **HB771** which studied the adequacy of rates paid to therapeutic behavioral services providers. In total, PJC worked on 10 major legislative efforts in the area of health care this year.

“Congratulations for a job so very well done.
I have often witnessed the suffering of patients with
true disabilities as they navigate the maze of
state bureaucracy. The damage done is sometimes irreversible.
Bravo for a major moral and socially just victory”

—Dr. Patrick I. Okolo III, PJC board member, upon learning of the
victory in *Albert S. v. DHMH* which determined that
Administrative Law Judges must rule in disability hearings.

FOCUS ON IMPACT: Appellate Advocacy Expands the Reach of the PJC

The PJC's niche is to advocate for the interests of poor people in ways that other legal organizations in Maryland cannot. The Appellate Advocacy project exemplifies this mission. The purpose of the project is to influence the development of civil rights and poverty law before state and federal appellate courts. Through this project, the **PJC serves as a critical resource** for the private bar, legal services organizations, community organizations, and a national network of poverty and civil rights advocates. With these partners, the PJC can identify cases that have the potential for accomplishing systemic change of the legal and social systems that create or permit injustice. The PJC also identifies emerging appellate issues by regularly reviewing the Maryland appellate court dockets. We assume different roles in appellate matters ranging from that of counsel or co-counsel, or an *amicus curiae* explaining to the court the implications of the case on poor people or victims of injustice that are not being adequately expressed by the parties. We also refer meritorious cases to private law firms, and work with other counsel at the trial stage to guide the development of important issues for appeal. In addition, we provide assistance to non-PJC appellate counsel through strategizing, editing appellate briefs, and mooted for appellate arguments. This year we worked on 26 appellate cases.

Notable highlights include **Cruz v. State of Maryland**, the Talbot County (MD) case in which the state's attorney criminally prosecuted Kelly Lynn Cruz, a thirty-year old woman, based on the state law crime of endangering the welfare of another under the theory that Ms. Cruz's ingestion of cocaine during pregnancy contributed to the birth of her son with a low birth weight. Ms. Cruz was represented by the ACLU-Maryland. The PJC and co-counsel National Advocates for Pregnant Women submitted an amicus brief on behalf of the International Center for the Advancement of Opioid Dependence, National Council on Alcoholism and Drug Dependence (National and Maryland chapters), Maryland Society of Addiction Medicine, NAADC – the Association for Addiction Professional, Obstetrical and Gynecological Society of Maryland, and 34 other concerned organizations and professionals. Our brief argued, among other points, that the prosecution of Ms. Cruz for being pregnant and addicted to cocaine vitiates the longstanding recognition that addiction is a disease that requires treatment, not prosecution, and that such prosecutions merely drive drug dependent women away from the prenatal care and drug treatment that would benefit them and their offspring. In August 2006, Maryland's Court of Appeals overturned the conviction, adopting in part the arguments presented by the PJC.

In **Toledo v. Sanchez-Rivera**, the PJC and the Bazelon Center for Mental Health Law submitted a friend of the court brief signed onto by 24 other disability rights organizations. The brief supported Ivan Toledo, a first year student at the University of Puerto Rico's School of Architecture. After missing classes due to a disability, the University refused to provide reasonable accommodations to him to complete the assignments, as required by the federal Americans with Disability Act (ADA) and Section 504 of the Rehabilitation Act. The First Circuit of the United States Court of Appeals, agreed with our analysis, holding that Congress validly abrogated Puerto Rico's sovereign immunity when it enacted Title II of the ADA to remedy a documented history of disability discrimination in public education.

The PJC authored and filed an amicus brief on behalf of a diverse coalition of civil rights and community organizations in the **Deane & Polyak v. Conaway** marriage equality case that made headlines. Our brief focuses on examples of prior discriminatory marriage laws in Maryland, which imposed specific religious requirements on the marriage ceremony, barred interracial marriages, and denied equal rights to married women. Based on this historical perspective, the brief argues that it is entirely appropriate for the Maryland courts now to weigh the next question presented in this historical evolution, and to hold that excluding same-sex couples from the rights, benefits, and responsibilities of marriage violates the Maryland Declaration of Rights, by discriminating against these couples on the basis of sex and sexual orientation and denying them the fundamental right to marry. This lawsuit was the subject of several legislative "override" efforts lead by the religious right that aimed to define marriage in the Maryland Constitution as only between a man and woman. PJC supported a broad array of advocates that successfully defeated every one of these efforts.

The PJC's Appellate Advocacy Project provides the home for the **Francis D. Murnaghan, Jr. Appellate Advocacy Fellowship**. This fellowship is awarded annually to a law clerk who is interested in pursuing a public interest legal career. The 2005-06 fellow was Roscoe Jones, Jr.

This year, The PJC honored attorney John Kopolow for his dedicated volunteer efforts on behalf of our Appellate Advocacy project. Thank you, John.



Megaphone Project

FOCUS ON IMPACT: Workers and Immigrants' Rights

The PJC continued to fight for low-wage workers and immigrants through both appellate and legislative advocacy

As legislative advocates, we weighed in on five major efforts and monitored countless others. We count among our successes the defeat of **HB37** which attempted to strip immigrant workers of their right to workers compensation when they get injured on the job, a right recently confirmed by the state's highest court in the decision of *Lagos v. Design Kitchen and Baths* (and a decision in which PJC submitted an amicus brief). We also worked closely with allies like the Friends of New Marylanders on legislation that prohibited persons from lending cars to undocumented immigrants, even though many such immigrants are legally allowed to drive, and we helped to successfully defend our ally CASA of Maryland from legislation that would have stripped them of their ability to refer willing day labor employees to willing employers.

On the Appellate Advocacy docket we intervened in six labor or immigrant related cases. Highlights of this agenda include the following cases. In **Haas v. Lockheed Martin**, we took the position that the two-year statute of limitations period begins to run for discrimination claims on the day of the actual discharge, rather than the date the employee was notified she would be discharged. In **Jordan v. Alternative Resources Corp.**, we joined Metropolitan Washington Employment Lawyers Association on behalf of an employee who asserted that he had been discharged in retaliation for reporting evidence of a hostile work environment when he reported a co-worker's racist remarks to a supervisor. We took up the case of 58,000 hourly Wal-Mart workers in **Cutler v. Wal-Mart** protesting the company's uniform and wide pay practices that caused employees to work "off the clock" and that short changed employees on promised rest and meal breaks.



FOCUS ON SUPPORT YEAR 21

The PJC received several noteworthy gifts this year from long-time supporters. One such gift came from the combined efforts of the Zanvyl and Isabelle Kreiger Fund and the Fund for Change. The multi-year, general operating grant of \$750,000 is of historic proportions for both foundations and the PJC. The unrestricted nature of the gift offers the organization the flexibility to pursue its mission. A gift of unrestricted money is larger than the cash value of the contribution. It is a donor's vote of confidence in its partner organization's demonstrated ability to pursue a shared goal. Karen Kreisberg, Executive Director of the Krieger Fund and Fund For Change explained the trustee's motivations this way:

“As donors, we knew that we shared a vision of social change with the Public Justice Center, and just as importantly, we have grown to trust in them as a strong and effective partner in remedying the social issues that concern us. This general operating gift tells the Public Justice Center that we believe they have what it takes to make an impact, and we will be there with them.”

Another significant multi-year gift came from the Lois and Irving Blum Foundation who offered \$50,000 for each of the next 5 years. The gifts from the foundations join a growing pool of sustained support from individuals, law firms and foundations.

Thank You. The support of these donors has helped us focus on justice.

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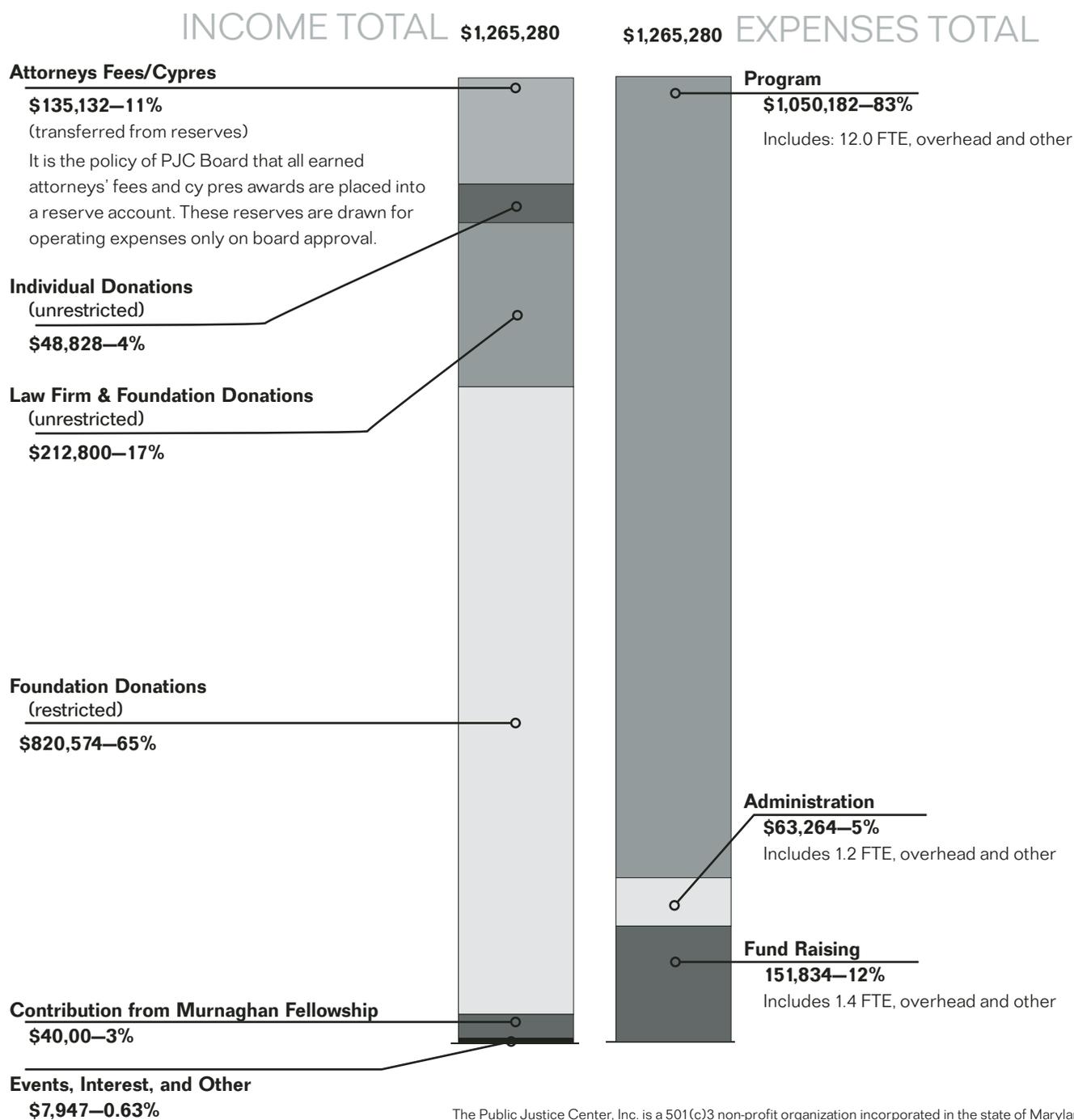
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