

# PUBLIC INTEREST LAW CENTER



## OF PHILADELPHIA



### Winter 1995 ~ News of Public Interest

#### Overview

All summer and fall the headlines have been full with issues which have long been the focus of the Law Center's work.

**Educational revitalization** -- Full day kindergarten expands in Philadelphia; Superintendent Hornbeck moves forward on his attempts to raise achievement levels.

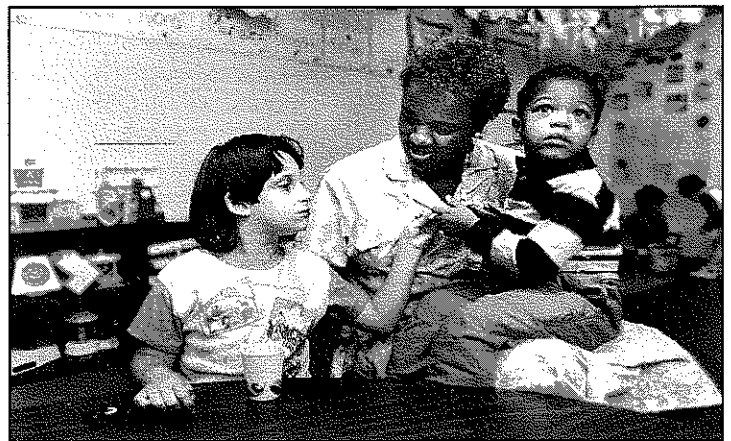
**Police bias and misconduct** -- The "revelation" of racial bias by police and prosecutorial tolerance of police misconduct in the Simpson trial; Police corruption and abuse in the 39th District; The efforts of the Police Advisory Board to conduct an effective investigation into the death of a Hispanic man being taken into police custody.

**Disability rights** -- Congress debates ending economic support for disabled persons; Deinstitutionalization battles are on the front pages in Connecticut and Tennessee.

**Environmental racism** -- Chester residents picket a Westinghouse facility in Chester as well as absentee owners in Phila.; Pa. House committee holds hearings on Supreme Court jurisdiction.

**Children's health care** -- Congress debates ending entitlement to medical services for low-income children.

**Adequate school funding** -- Governor Ridge attempts to channel funds to students attending private schools instead of to public schools; Judge Smith joins state and city in Philadelphia lawsuit to determine if they must increase funding.

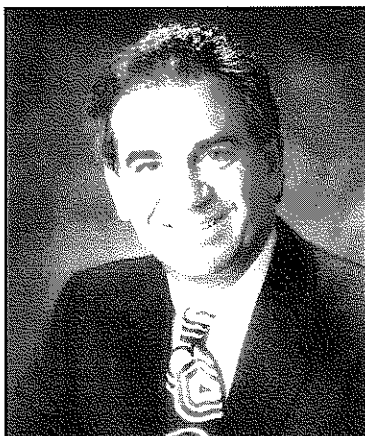


**Law Center personnel have been playing significant roles in these important matters.** The Congressional attack on welfare and health care for persons unable to provide for themselves took aim at services for disabled persons and poor children. Tom Gilhool and Robin Bolduc were asked to testify at Congressional hearings on rights of disabled persons this summer, and both have consulted with Secretary of Education Riley on education policies. Tom has helped draft amendments designed to spare entitlements for children in Medicaid. Robin has taken numerous clients to Washington to tell the Beltway crowd that real people have real problems which will be deeply affected by what they

are doing. Robin, Judith Gran and Frank Laski have worked with advocates from around the country in attempting to develop effective strategies to counter congressional assaults on clients' needs.

Karen Black has been one of the experts turned to throughout the post-Simpson analysis of why minorities perceive police abuse and prosecutorial tolerance of it as a substantial problem. For 25 years, the Law Center has been trying to develop an alternative to jury nullification by ending the culture that permits the frameups of Police Officer Baird and others in the 39th District to continue despite complaints to both the DA's office and to the Police Internal Affairs Bureau.

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PILCOP Chairman Richard Glazer

#### Message From The Chairman Of The Board

Lately it seems the only thing worse in Washington than being poor is being a lawyer standing up for poor or working class persons. This makes private fundraising that much more important -- and difficult!

Although the Law Center receives no federal funds for legal services, the cutbacks from the Capitol will have ripple effects on our fundraising. Congress and Harrisburg plan to cut the funds for Philadelphia's Community Legal Services by 12.5% for this year. At the same time, important restrictions limiting high-impact litigation

will be placed on the remaining money.

One explanation given is that private agencies, like PILCOP, will cover the slack.

This would mean that PILCOP's case load will increase and there will be nowhere else for clients to turn for system reform litigation--which often gets the most desirable results for the lowest cost-- if the Law Center cannot handle the case.

But, in fact, financial pressures have already led to a 25% reduction in PILCOP attorneys this year. Additional contributions

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## Chairman's Message

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are necessary in order for the Law Center to handle its current case load, even before expanding to pick up the unmet need from C.L.S. Any decline in support from the legal community will be felt by our clients.

The Law Center has an unmatched record for delivering quality services and obtaining successful results for clients and for the community at large. But we cannot continue to serve our clients and community without your contributions.

## BAR ASSOCIATION HONORS LAW CENTER

The Philadelphia Bar Association has given its 1995 Leon I. Obermayer Award for Distinguished Service to Education to Michael Churchill, Chief Counsel at the Law Center. The Obermayer Award recognizes Mr. Churchill's work on the Philadelphia School Desegregation case, as well as other litigation to improve the education and health care on behalf of Pennsylvania's children. Michael Churchill has been with the Law Center since 1976, and has acted as the Chief Counsel for the last nine years.

This honor was decided by the Philadelphia Bar Association at its December Quarterly Meeting. The award to Mr. Churchill is the second time an attorney at the Public Interest Law Center of Philadelphia has received the Obermayer Award. Thomas K. Gilhool received the award in 1991 for his distinguished contributions to education on behalf of school-age children as Secretary of Education for the Commonwealth of Pennsylvania, and for his three decades of lawyering including his origination of schooling for children with disabilities.

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Top photo on Page 1 courtesy of Bruce Stromberg

## Environment Project Update

### PILCOP FIGHTS ENVIRONMENTAL RACISM

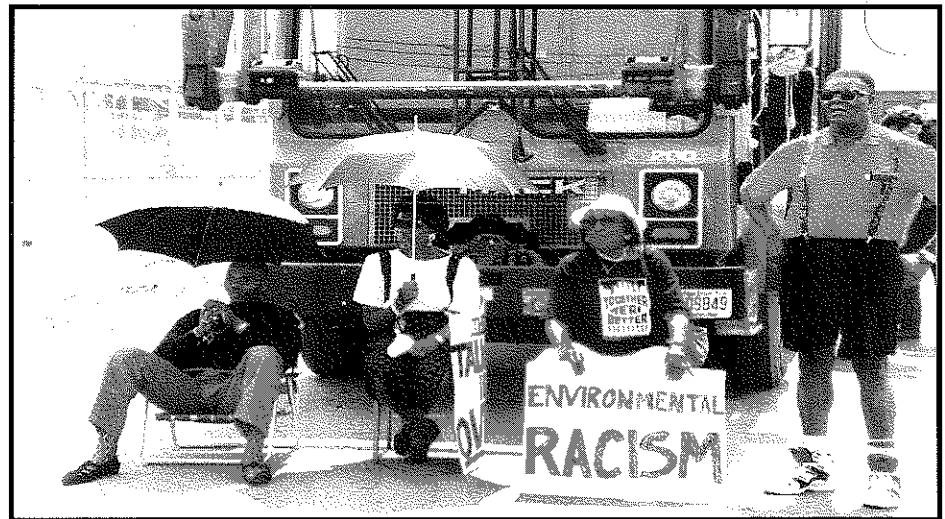
Environmental racism is like the weather: everyone talks about it, but hardly anyone does anything about it.

**Environmental racism is the concentration of waste processing and disposal facilities in low-income, minority communities that allows other communities to evade their fair share responsibility to site these necessary waste facilities.**

proliferation of additional waste facilities in Chester.

The Law Center, however, has been trying to do something about environmental racism in Chester. Since 1993 the Law Center has represented Chester Residents Concerned for Quality Living (CRCQL). Working closely with Zulene Mayfield, President of CRCQL, the Law Center has undertaken a variety of projects to prevent the proliferation of waste facilities in Chester and to reduce the air pollution emissions from existing waste processing facilities:

- 1) Revision of Chester Zoning Law
- 2) Appeal of Thermal Pure's infectious



Communities that suffer environmental racism are generally communities with high mortality rates, high infant mortality rates, and high rates of low birthweight babies; i.e., communities that have poor public health.

The City of Chester, Pa. is a quintessential victim of environmental racism. Chester is the site of one of the largest municipal solid waste incinerators, the largest infectious waste processing plants in Pa., a construction debris recycler facility, and a large sewage treatment facility. And, the Pa. Department of Environmental Protection just granted a new permit for a facility to treat contaminated soils despite research stating that Chester should not site any more waste facilities. The EPA and the Pa. Department of Environmental Protection have admitted they are helpless to stop the

waste permit (1993-1995). Argued before the Pennsylvania Supreme Court October 1995.

- 3) A federal lawsuit against DELCORA to end air pollution from sludge incineration.
- 4) Appeal of the soil remediation permit, currently before Environmental Hearing Board (1995).

Alongside these legal activities to end environmental racism has been CRCQL and their supporters who have participated in countless meetings and picket lines in Chester and in Philadelphia. These events have achieved significant media coverage and raised awareness of the need for action to protect communities with poor public health conditions from additional sources of environmental pollution.

## Disability Rights Project Update

### LAW CENTER ADVANCES SELF-ADVOCACY

*"People First is a disability rights organization growing from the bottom up. People First means growing from the grassroots: self-advocacy chapters working as teamwork. People First means freedom, change and respect. People First means doing good work working hard. People First means standing up for ourselves and helping others. People First is speaking out, not having other people tell you what to do." People First of Tennessee, Inc., Sharing Our Vision (1994).*

In 1974, former residents of the Fairview Training Center, a state institution in Oregon, met to form a new organization. In discussing the selection of a name, one of the members said, "Why not call ourselves People First, because we want to be known as people before we're known for our disability?"

After that, People First organizations were formed all over the country. All share the same common purpose: supporting the right of all consumers of developmental disability services to make their own decisions; to live in homes and communities of their own choosing; and to exercise all their rights as citizens.

In 1991, representatives from self-advocacy organizations all over the country met in Nashville to form a national organization, Self-Advocates Becoming Empowered (SABE).

The self-advocacy movement has had a profound impact on mental retardation service systems throughout the United States and abroad. As self-advocates have raised their voices demanding to be treated as customers of services, the dominant paradigm in the field has shifted from "service for" to "support of."

Perhaps the strongest emphasis of the self-advocacy movement is its opposition to institutionalization. In April 1995, Self-Advocates Becoming Empowered met for a conference on Closing Institutions Nationwide which launched a nationwide campaign, Operation Close the Doors. Law Center attorney Judith Gran was a speaker and participant at the conference.

#### PILCOP's Role

Over the years, the Law Center's Disability Rights Project has represented more than 120 disability organizations; an increasing number are self-advocacy organizations. We have had an active partnership with Speaking for Ourselves in Pennsylvania since its founding in 1982. During the 1980s, we represented more than a dozen self-advocacy organizations all over the country as *amici curiae* in the Supreme Court and the Third Circuit.

In 1991, we were retained by People First of Tennessee to bring litigation against the Arlington Developmental Center, an institution of approximately 400 persons near Memphis. That case, *People First v. Arlington Developmental Center* (W.D. Tenn.), is the first class-action lawsuit brought by a self-advocacy organization against a state institution. Both the state and the institutional Parent-Guardian Association vigorously fought class certification. However, in late September 1995, the Honorable Jon P. McCalla

certified the class and named People First of Tennessee class representative for approximately 500 present and former Arlington residents as well as those at risk of placement at Arlington. Judge McCalla also granted partial summary judgement to the People First plaintiffs on their claims that institutional conditions were inadequate.

PILCOP has received additional requests to represent self-advocacy organizations in litigation to create community services for institutional residents; with additional resources, we could accept more cases. Our work with self-advocacy organizations is an example of the cutting-edge practice of the Law Center's Disability Rights Project.

#### LAW CENTER AWARDED FEDERAL GRANT

The Law Center is the proud recipient of a grant from the U.S. Department of Health and Human Services. The three-year project is entitled "Self-Advocates Using the Americans with Disabilities Act to Secure Justice for Persons with Developmental Disabilities Who Are Involved in the Criminal Justice System."

The project advances the ongoing work of a national panel of self-advocates who are intimately familiar with the prejudice and misunderstanding that confront persons with disabilities in our criminal justice system.



## *Police Accountability Project Update*

For 20 years, the Law Center has fought to bolster law enforcement by ending police misconduct and corruption. The need continues.

Recently we became aware of widespread abuse of witnesses. People contended they were taken to a police station because the police believed they possessed information about a crime. These persons were never arrested and were not suspects themselves. Yet, they were detained for up to twelve hours and informed by word or action that they could not leave until they told police what they wanted to know. These witnesses were neither offered an attorney nor were they given food or access to bathrooms -- several of them were forced to leave their children at home unattended. In addition, a number of persons told us that they were physically abused while in custody.

In one case, an African-American woman, the sister of a Philadelphia Police

Officer, witnessed an officer shoot a man in the leg in Germantown, Pa. Police drove her down to the 35th precinct to take her statement. She was placed in a room without an exit (the doorknob was missing) for over an hour. When someone finally responded to her cries, she informed the detective that she wished to leave and that they could contact her officer sister or her the next day and she would return to give a statement.

As she walked to the door, a white detective picked her up by her pants waistband and slammed her against a wall. He then threw her into a holding cell, handcuffed her, and hit her in the face with his fist and fractured her nose. She was left in the holding cell for almost six hours despite her repeated attempts to obtain medical attention and the use of a bathroom. Finally, after being informed that she would not be let out until she gave police the statement they wanted, she agreed to talk to them if they would let her use the bathroom. She gave a statement and only then did they let her go.

This woman was never under arrest and was not charged with any crime. The Law Center obtained compensation for the damages she suffered, but more importantly, we achieved a change in department policy that may prevent these abuses from happening to others. From now on, if the police want to bring a witness to a police facility for questioning, they must read the following card:

"We are investigating [describe crime]. Investigating crimes involves asking people questions. We are asking you to help us by coming with us to the Police Station. You have a right to say no. You are not under arrest. If you don't want to come now, but would be willing to come later, that can be arranged. If you do agree to come with us, you would be free to leave any time you want."

Now, we must work to ensure that the card is actually used and its message is followed. Police abuse of witnesses weakens support for law enforcement.

## *Fair Housing Project Update*

PILCOP's Fair Housing Project has a very simple goal: ensuring that no one is denied the home he or she chooses because of race, national origin, disability, religion, sex, or presence of children. Our current efforts include negotiations with leading insurance companies to stop "redlining practices," as well as more traditional fair housing litigation.

In a case the Law Center just settled, Darlene and Kelvin Keasley took on a large Abington Township apartment complex alleging that they were discriminated against because of their race. The Keasleys, an African-American family, searched for and found an apartment in Abington to raise their family. Having toured the apartment, applied to be tenants, and obtained verbal acceptance, they returned to the office to finalize the details of their tenancy. Here they were told that a mistake had been made and that all of the vacant apartments had been leased.

Suspicious, the Keasleys sought the help of the Law Center and the Fair Housing Council of Montgomery County to determine whether or not they were the victims of discrimination. We confirmed through testing that the complex was discriminating.

The Council sent black and white testers to inquire about becoming tenants at the complex. By comparing the manner in which they were treated, the Council found that the complex maintained a practice of screening out black applicants by not returning their phone calls or by informing them that there were no apartments available when whites inquiring within the same hour were shown and encouraged to rent vacant apartments. The investigation made clear that the Keasleys were only one of many

African-American families who had been denied housing solely because of their race.

Because of the Law Center's negotiations, this complex and all other rental properties managed by the same company will dramatically alter their rental practices to ensure that no further discrimination occurs. In addition, the Council will monitor all tenant applications and selections at this complex for one year.

Cases like the Keasley's provide another step toward equal housing for all. You, too, can help. If you know people who have encountered discrimination, encourage them to enforce their right to fair housing. We must all demonstrate that housing discrimination will not be tolerated in our communities.

## Education Project Update

Little long-term progress on Philadelphia's future will be made if preventative measures are not taken to end the growing differential between the education received by Philadelphia children and children in the suburbs. Clearly the health of the suburbs will be threatened if its residents need to support deep into the next century those Philadelphians who can not participate in the economy because of an inadequate education today.

**Philadelphia schools receive \$1,500 less per child than the average suburban school, and nearly \$3,000 less per child than the ten highest spending suburban districts. This is true even though 76% of Philadelphia's students come from poverty homes and less than 9% of suburban students are poor. Educators acknowledge that it is more expensive to effectively educate poor children -- yet less money is available for them.**

The reason simply is Pennsylvania's system of making the amount of money spent on a student dependent upon where he or she lives, and upon how rich or poor that community is, rather than a statewide system. State funding currently provides only a part of the cost of schooling; for example, the state provides 47% of the money spent by the Philadelphia School District.

More than a year ago the Law Center asked Judge Doris Smith to include the State and City as defendants to pay the cost of correcting the inequalities in Philadelphia's schools. We did so for a simple reason: there is nowhere else to turn -- the School District has no taxing power of its own. The Judge held it was premature until there was first an adequate plan with known costs to remedy the inequalities, and secondly a study showing whether the School District was wasting money which could pay for the reforms.

When those steps were completed this summer, both the Law Center and the School District again sought to join the State and City; this time Judge Smith agreed. In

November she ordered the State and City to be prepared to explain how Philadelphia can pay for the necessary reforms without additional money (which the School District estimates at \$150 million over the next three years). Interestingly, so far neither has denied the need for new money; instead, the City points to the State and says it should pay, and the State to the City.

In the meantime, however, the children of Philadelphia have reforms which cover less than a third of the students and the Governor introduces again a plan to transfer tax dollars to students attending private schools rather than providing adequate funding for public schools.

The Law Center and its clients will continue to press the state, both in and out of court, to find the money necessary to give Philadelphia students an adequate and equal education.

### Overview

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Because of situations like these, City Council created the Police Advisory Board at the demand of Karen and her clients. And because of situations like these, PILCOP has been assisting the Advisory Board in its attempts to sustain its right to exist and to receive testimony from officers instead of being dependent upon the Internal Affairs Bureau.

Law Center clients in Chester found that they had taken on powerful opponents when the company whose waste processing permit they challenged hired a former State Supreme Court Justice to seek an unprecedented stay by the Supreme Court of an action which hadn't even been heard by any lower court. Jerome Balter has challenged the constitutional propriety of the Court's action and has appeared before a State hearing on the proper extent of the Court's "King's Bench" jurisdiction.

PILCOP is proud to continue to provide quality leadership on issues of importance to so many throughout our region and country.

## Public Interest Law Center of Philadelphia

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*We need your help! Your gift, along with the contributions of many other friends of the Law Center, allows us to continue to provide high-quality representation to often voiceless community members and neighborhood organizations in high-impact litigation and systems' change efforts. Please complete this form and mail your tax-deductible contribution payable to PILCOP.*

I/We wish to show our support for the Law Center's efforts, and have enclosed a check payable to PILCOP in the amount of : \_\_\_\_\_

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