

Spring 2004



Points of Interest

POINTS OF INTEREST is the newsletter of the Tennessee Bar Foundation and IOLTA program (Interest On Lawyers' Trust Accounts)

Interest rates cause plunge in IOLTA grants

By Harris A. Gilbert

When interest rates are "high," the desire to borrow money is chilled, but investors and savers enjoy the returns. When interest rates are "low," purchases of cars and homes abound, while those on fixed incomes suffer or worry about future suffering. The IOLTA program also acutely feels the impact of low interest rates.

For many years, good returns on IOLTA-participating checking accounts (holding funds that cannot be made productive for clients or third parties) benefited numerous law-related Tennessee projects. Grant awards to those organizations now total over \$11 million. However, IOLTA income has dropped

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Forensic nurses offer cool professionalism and warm support to sexual assault victims

By Kristi L. Nelson

Adapted and reprinted with permission, *Knoxville News-Sentinel*

Editor's note: The following article spotlights the Sexual Assault Crisis Center (SACC), founded in 1973, which provides comprehensive services to victims and survivors of sexual assault and abuse, as well as advocacy and education for children and adults. Through its Knoxville headquarters and five satellite offices, SACC serves Knox, Anderson, Blount, Campbell, Loudon, Roane, Scott and Sevier counties.

This story highlights the work of the Center's advocates and SANEs (Sexual Assault Nurse Examiners), registered nurses who complete forensic training and are certified to perform examinations and gather evidence after a sexual assault. Examinations by a SANE at SACC's "Safe Center" are performed free of charge in a private, calm, supportive setting. Providing the community with the service of a SANE, for victims who don't require emergency medical treatment, is the standard (or aspiration) for crisis centers.

Since 1990, the Tennessee Bar Foundation



Photo © PHOTODISC

has recognized the efforts of the Sexual Assault Crisis Center by awarding 15 IOLTA grants that total \$80,500.

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Thirty interviews and growing

With the addition of the men pictured here, the Legal History Project's video collection expands to include 30 individual interviews with Tennessee's senior attorneys.

The Project selects five lawyers to interview each year. "We have a treasure trove of people from whom to choose," says Howard Vogel, chairman of the Project. "The committee has a tough time making these decisions." Attorneys age 70 or older are the "demographic." The committee must then choose by balancing geography, gender, race, length of practice and other intangibles. Says Vogel, "It's almost like the college admissions process but there is no written application. Those we 'accept' have applied by just leading intriguing lives."

Three unique, 30-minute, video "collages," which group the best moments of the first 25 interviews (and come complete with music and titles) may be borrowed from the Foundation for use by local bar associations and civic groups. The individual interviews are also available for loan or purchase. Contact the Foundation's executive director, Barri Bernstein, to make arrange-

Text and photos by Barri Bernstein



JUDGE IRVIN H. KILCREASE JR., NASHVILLE
Interviewed by Judge Frank G. Clement Jr.



JUDGE LYMAN E. INGRAM, DYERSBURG
Interviewed by Judge Joe G. Riley



BERNARD E. BERNSTEIN, KNOXVILLE
Interviewed by Donald F. Paine



WILSON SIMS, NASHVILLE
Interviewed by H. Lee Barfield II

2004 Interviewees

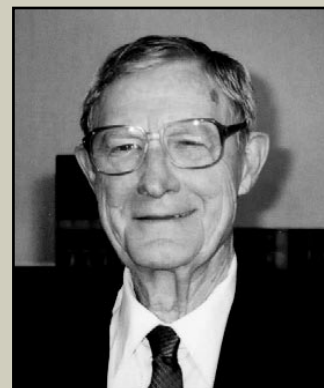
Charles H. Warfield
April 20 • Nashville

Thomas R. Prewitt
July 8 • Memphis

Judge William H. Inman
May 24 • Morristown

W. Jerry Flippin
July 19 • Milan

Jerry C. Colley
May 27 • Columbia



JOHN M. SMARTT, KNOXVILLE
Interviewed by Donald F. Paine

Interest rates cause plunge in IOLTA grants

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precipitously since fiscal year 2000. When income is reduced, grants follow downward. IOLTA awards have decreased 61% since 2000 and 46%, from \$760,000 to \$408,000, since 2003.

The 20-year history of the nation's IOLTA programs shows that their income is often determined by a loose combination of three factors: a state's population, the general health of the economy, and the interest rate paid by financial institutions on the money held in the accounts. If that rubric is applied to determine the drop in Tennessee's IOLTA income, we find no mass emigration from the state and a fairly steady economy. As a matter of fact, bank reports for the last four months show that collected balances in IOLTA accounts range from \$144 million to \$161 million. This is a sign of a strong state economy. The third aspect, the general decline in interest rates (and on checking accounts in particular), is left as the controlling factor in the reduction of IOLTA income.

During January 2004, interest rates paid on IOLTA accounts averaged only 0.45%. The rates ranged from .10% to 1.25%. Of the 150 participating banks, two held deposits of as much as \$22 million. These funds, sitting in demand deposit accounts, are a great source of liquidity for banks. Businesses with these exceedingly large balances do not have the same fiduciary responsibilities that govern attorneys and would seek other investment vehicles or at least preferred interest rates. We haven't done that, until now.

The legal community and financial community are important to each other. We in the legal community should expect a fair and reasonable return on these trust balances. Unfortunately, at several financial institutions, a uniform rate of interest is paid whether the account holds \$50, \$50,000, \$500,000 or

more. Based on the good business that attorneys provide to the financial community, the Tennessee IOLTA program hopes to see many of these banks either increase the rate of interest across the board several basis points and/or adopt "tiered" rates that pay a higher percentage on larger balances.

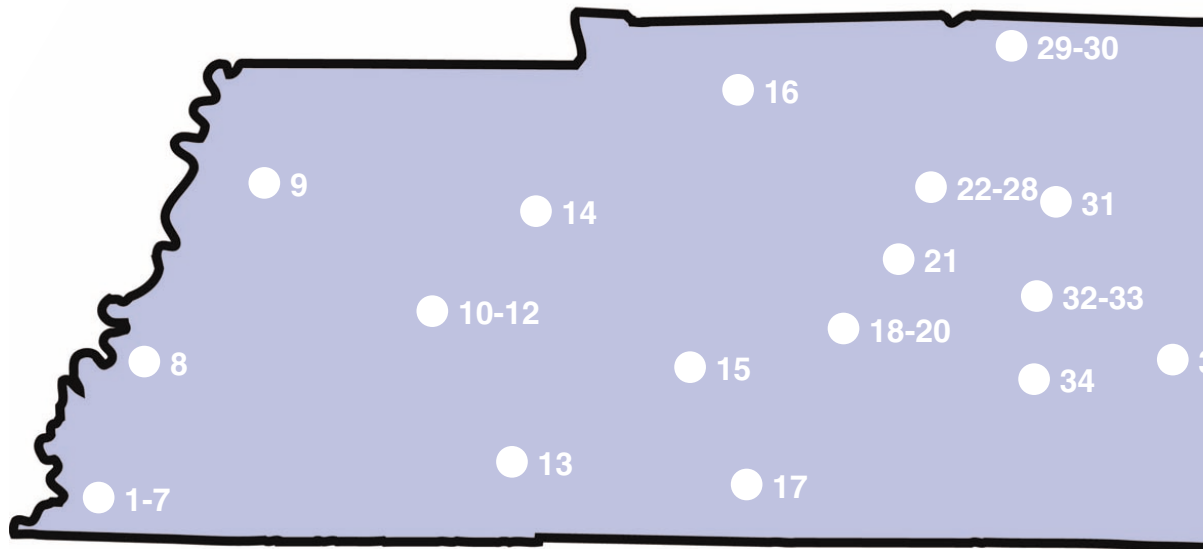
Supreme Court Rule 43, which governs the IOLTA program in Tennessee, and Rule of Professional Conduct 1.15 cannot mandate to the financial community the interest rate to pay on trust accounts or the service charges they may levy. However, the Foundation's Board of Trustees is currently asking Tennessee's banks to review the value of attorney trust checking accounts to their bottom line. We also encourage individual attorneys and/or their firms to take action.

Stop in at the financial institution that holds your funds. Check the interest rate on the account. Talk to the decision-makers about the importance of a reasonable return. If you aren't pleased with the answers, you may even want to consider a change in banks. The law-related organizations that receive IOLTA grant funds, such as legal aid clinics, child advocacy, mediation, domestic violence prevention and pro bono programs, are imperative to a healthy Tennessee, and they, not attorneys, will be the beneficiaries. ■

Gilbert is the Chairman of the Tennessee Bar Foundation.

“Unfortunately, at several financial institutions, a uniform rate of interest is paid whether the account holds \$50, \$50,000, \$500,000 or more.”

2004 IOLTA Grants located



Memphis

1. Community Legal Center — \$7,500
2. Dismas House — \$6,000
3. Exchange Club Family Center of the Mid-South — \$2,500
4. Memphis Area Legal Services — \$23,786
5. Memphis Area Legal Services Pro Bono — \$7,928
6. Memphis Leadership Foundation M.A.R.R.S. — \$1,500
7. YWCA of Memphis — \$2,000

Covington

8. Memphis Area Legal Services — see Memphis

Dyersburg

9. West Tennessee Legal Services — see Jackson

Jackson

10. CASA of Madison County — \$2,300
11. West Tennessee Legal Services — \$11,429
12. West Tennessee Legal Services Pro Bono — \$3,811

Selmer

13. West Tennessee Legal Services — see Jackson

Huntingdon

14. West Tennessee Legal Services — see Jackson

Hohenwald

15. Mid-South Mediation Services — \$3,000

Clarksville

16. Legal Aid Society of Middle Tennessee and the Cumberland — see Nashville

Lawrenceburg

17. Kid's Place, A Child Advocacy Center — \$1,500

Columbia

18. Hope House — \$5,000
19. Legal Aid Society of Middle Tennessee and the Cumberland — see Nashville
20. The Mediation Center — \$500

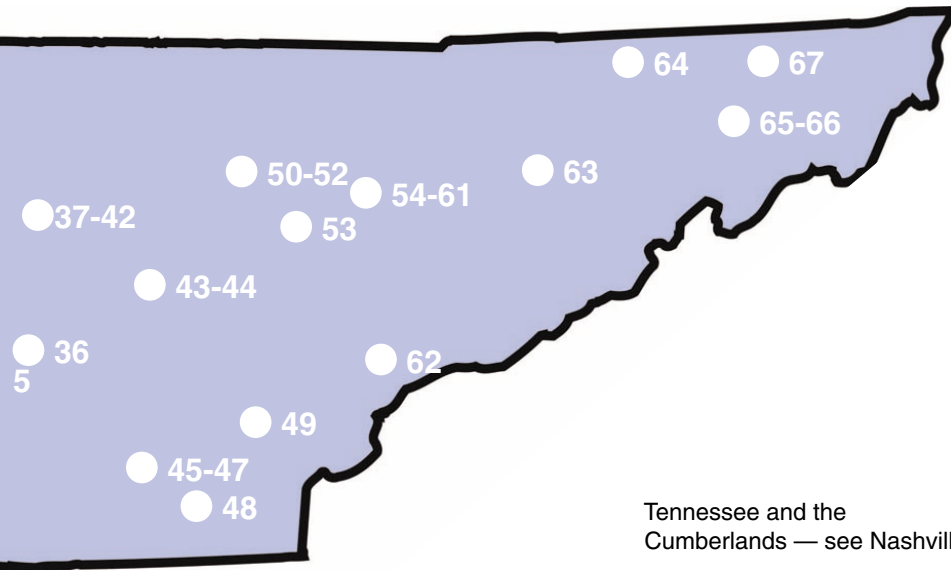
Franklin

21. BRIDGES of Williamson County — \$2,800

Nashville

22. Catholic Charities, Immigration Services Program — \$2,000
23. Dismas House — \$4,000
24. Legal Aid Society of Middle Tennessee and the Cumberland — \$38,352

throughout the state



Tennessee and the
Cumberlands — see Nashville

- 25. Legal Aid Society of Middle Tennessee and the Cumberlands Pro Bono — \$12,784
- 26. MediationWorks! — \$500
- 27. Reconciliation, Inc. — \$5,750
- 28. Tennessee Justice Center — \$108,600

Gallatin

- 29. CASA of Sumner County — \$2,500
- 30. Legal Aid Society of Middle Tennessee and the Cumberlands — see Nashville

Lebanon

- 31. CASA of Wilson County — \$3,400

Murfreesboro

- 32. CASA of Rutherford County — \$3,000
- 33. Legal Aid Society of Middle Tennessee and the Cumberlands — see Nashville

Shelbyville

- 34. CASA of the Center for Family Development — \$4,000

Tullahoma

- 35. Legal Aid Society of Middle

McMinnville

- 36. Families In Crisis, Inc. — \$3,000

Cookeville

- 37. Aging Services for the Upper Cumberlands, Inc. — \$9,000
- 38. CASA of Putnam County — \$4,800
- 39. Dismas House, Upper Cumberland — \$3,250
- 40. Genesis House, Inc. — \$3,000
- 41. Mediation Services of Putnam County — \$4,000
- 42. Legal Aid Society of Middle Tennessee and the Cumberlands — see Nashville

Crossville

- 43. Avalon Center — \$2,700
- 44. Community Mediation Center/VORP — \$2,000

Chattanooga

- 45. Community Reconciliation, Inc. — \$2,500
- 46. Legal Aid of East Tennessee — see Knoxville
- 47. Southeast Tennessee Legal Services — \$15,000

Cleveland

- 48. Legal Aid of East Tennessee — see Knoxville

Athens

- 49. H.O.P.E. Center, Inc. — \$3,500

Oak Ridge

- 50. CASA of the Tennessee Heartland — \$6,000
- 51. YWCA of Oak Ridge — \$4,000
- 52. Legal Aid Society of Middle Tennessee and the Cumberlands — see Nashville

Clinton

- 53. Community Mediation Services — \$2,000

Knoxville

- 54. CASA of East Tennessee — \$3,000
- 55. Community Mediation Center — \$2,000
- 56. Legal Aid of East Tennessee — \$33,533
- 57. Legal Aid of East Tennessee Pro Bono — \$11,177
- 58. Parent Place — \$4,000
- 59. Sexual Assault Crisis Center — \$4,000
- 60. YWCA of Knoxville Victim Advocacy Program — \$2,000
- 61. Child & Family Tennessee — \$1,800

Maryville

- 62. Legal Aid of East Tennessee — see Knoxville

Morristown

- 63. CEASE Domestic Violence and Sexual Assault, Inc. — \$3,300

Kingsport

- 64. CASA of Sullivan County — \$5,000

Johnson City

- 65. CASA of Northeast Tennessee — \$4,000
- 66. Legal Aid of East Tennessee — see Knoxville

Bristol

- 67. Abuse Alternatives — \$3,000

**Grant Awards Total
\$408,000**

'Thank you for a job well done'

I OLTA grantee organizations communicate with the Foundation each calendar quarter to report on the use of the awarded funds. The submitted material includes program evaluations by clients who utilize that organization's aid.

Reprinted verbatim below (with the names removed) are a few comments that show the heartfelt appreciation of individuals receiving law-related services.

Representation by a pro bono lawyer

"He did an excellent job. He followed through in a timely manner and always communicated with us. Plus, he's a nice man."

"I still can't thank you and your staff enough. Your concern for people less fortunate than others is a quality that all lawyers should have."

"You saved my whole self as this was the 1st time in 75 yrs. to experience this situation."

"Don't stop using lawyers like Mr. _____. He do care about his people."

"Mr. _____ was a very great help in my divorce. He did not give up on me and my children. He handled my case on top-notch bases. He went all out to get the ball rolling and to help us with our legal rights. I am very thankful for his help and also Legal Aid. If it wasn't for Legal Aid I would not been able to get out of the fix I was in."

Assistance from pro bono program staff

"I felt I had a million dollars even if I am broked (so to speak)."

From a victim (merchant) in a mediation between a victim and an offender

"We have been very pleased with the system and hold it in very high regard. We now receive money on accounts we would not have without the VORP (Victim Offender Reconciliation Program) system and in a very timely manner — there is now a system in _____ County that levels the playing field for merchants that would

have, in the past, lost valuable time and money."

From the parent of an offender in a mediation between a victim and an offender

"I think I learned that I had some ware to turn to for help with worrie of losing the joy of my life, my daughter. Instead of taking her they are helping us to help each other and listen and talk more. Thank you."

From a victim of domestic violence

"The program has been wonderful. Thank you for your support and the great feeling of security."

From a participant in a batterers' intervention program

"The public needs programs like this and people like [the leaders] teaching us. Learning to keep our anger under control, and to talk about and not to lash out or get violent to hurt anyone. I have lernt to see and feel anger in a different way. 29 years of marriage is worth taking time out for! and trying to hold on to."

From the recipients of law student scholarships

Dear Ms. Bernstein:

I would like to thank you and the Tennessee Bar Foundation very much for choosing to award me the 2003 – 2004 Tennessee Bar Foundation/IOLTA Trust Fund Scholarship. Your gift is very much appreciated and will be of much assistance to me during the upcoming school year. As a student of law, I am continually thankful for all of the encouragement and support I receive, and am further aware of my good fortune to be receiving such a generous award at a time when many people in our nation are forced to do without. Please rest assured that your gift has been well invested, as I will continue to place one hundred percent of my energy and effort into my studies throughout the upcoming school year.

Thank you again for this very generous award.

My only hope is that I can one day find a way to repay all of the kindness and generosity that has been extended to me.

— Christopher A. Wilson, Second Year,
University of Memphis,
Cecil C. Humphreys School of Law

Dear Ms. Bernstein,

I would like to extend my gratitude to you and the Tennessee Bar Foundation for allowing me to pursue my dream, thanks to

the IOLTA scholarship. The scholarship has allowed me to decrease the number of hours I need to work and has increased the number of hours I am able to volunteer. Currently, I am volunteering in the Blount County office of Legal Aid of East Tennessee, and I am the student coordinator for the Family Justice Project. The Family Justice Project is an extension of the University of Tennessee Pro Bono Project which provides free legal services to disadvantaged families

of elementary students in the Knoxville area.

Without your financial help, I would not be able to dedicate my services to my community. I truly believe that I am making a difference, and I am grateful to the Tennessee Bar Foundation for giving me that opportunity. Thank you.

— Jennifer Moore, Second Year,
University of Tennessee
College of Law

Forensic nurses offer support

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In Knox County, in 2001, law enforcement agencies reported 178 rapes. The staff at the Sexual Assault Crisis Center (SACC) didn't think victims should have a long, lonely wait in a hospital emergency room.

That led Penny McDonald, a registered nurse and forensic nurse practitioner with the Center, to found the SafeCenter program three years ago. Advocates and nurses who have been trained to examine victims of sexual assault now immediately respond to rape victims who call the Sexual Assault Center's 24-hour Crisis Line, the police or 911, or go to one of Knox County's six hospital emergency rooms.

Advocates will wait with the victim in the hospital emergency room if the victim prefers. But if the victim doesn't require medical treatment (such as stitches), it's better to take her or him back to the SafeCenter, where an examination can be performed immediately and privately, said Mary Freyre, a registered nurse who

serves as coordinator of the center's Sexual Assault Nurse Examiner program (SANE).

"Everything is done very meticulously," Freyre said, but with as much sensitivity as possible and allowing as much time as the patient needs. "Once you get into the case and start examining the patient, they may say, 'I have to stop,' and you may have to give them some more time."

Nurses at area hospitals and other facilities go through forensic training, which includes sensitive interviewing techniques and proper evidence collection, to be certified as SANEs. They choose shifts when they're not working their regular jobs to be "on call" for SACC.

In the SANE program's first two years, nurses saw 184 cases. This year, they've seen about 70, Freyre said, though she said rates rise during warm weather and on weekends with University of Tennessee home football games.

Most are women, though they do see

some men who have been assaulted by other men, Freyre said.

"We always try to make that point, that it's not just women" who are victims of sexual assault, said Sexual Assault Crisis Center Executive Director Priscilla Jenkins, a licensed clinical social worker. "Men are always just kind of like, 'No, that would never happen to me; they'd have to kill me first, before they did that.' And, it happens."

Most women the center sees are in their 30s or younger. Most were at least acquainted with their assailant.

"The date rape drug (GHB) is big time here in town," Freyre said. "We see it a lot. — And it's not just college kids. We have adult women, in their 20s and 30s, coming in with scratches and their clothes on inside out or torn, going 'I went out on a date with this guy; he seemed like a nice guy, a professional — and this is what happened.'"

If a victim comes in within 72 hours, a nurse can take blood and urine samples

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Forensic nurses offer support

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and screen for date rape drugs, Freyre said. She can offer medication to prevent sexually transmitted diseases and, if the victim chooses, to prevent an unwanted pregnancy. In addition, she'll take DNA samples and photographs of any physical evidence in case the victim decides to file a police report. Bathing, brushing teeth or changing clothes can destroy that evidence.

"This is the hard part for a rape victim, because, the first thing you want to do is bathe and wash your mouth out and wash your face," Freyre said. "We'll swab all over their bodies, anywhere they feel they might have been touched. We do a head-to-toe exam, front and back, a pelvic exam, a Pap smear. Those are really critical points, because anything we get can help their case."

The advocate stays present while the victim answers questions from the nurse and from police investigators. Those questions can be as invasive as the physical exam, Freyre said, "but they're really important."

Even so, many victims choose not to file a police report, and it's the job of the SANEs and advocates to support their decisions.

"Some women have a friend who was raped, and they say, 'The criminal justice system seemed to make her a victim again. I don't want to go through that,'" Jenkins said.

If convicted, a rapist is usually imprisoned for no more than two years, Freyre said. "You completely understand how the patient feels

as far as not wanting to report it, and that's not our judgment call; the whole thing is up to them," she said. "But it can be frustrating."

Before the SANE program, evidence was sometimes mishandled or incorrectly collected, Freyre said. Treatment of victims, too was somewhat "hit or miss"; some emergency rooms offered emergency contraception, STD medication and follow-up counseling, while others did not. Physicians collecting evidence could be hurried and improperly trained, and they were usually men, which made some rape victims uncomfortable.

Now all six hospitals in Knox County work with the Sexual Assault Crisis Center, Jenkins said, and law enforcement officers in surrounding counties often bring rape victims to Knox County emergency rooms so they can benefit from the center's programs.

Even so, Jenkins estimates the center sees only a third of Knoxville's sexual assault victims. "Especially in a college town; that is a lot of folks who are not getting any sort of medical treatment and who also are not getting any sort of emotional support as they try to deal with this," she said.

For more information about the services provided by SACC, contact the executive director, Priscilla Jenkins, at 865/558-9040 or the website: www.thesacc.org.

For crisis assistance, call 865/522-7273 or toll free 888/522-5244. ■

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