

# Dialogue

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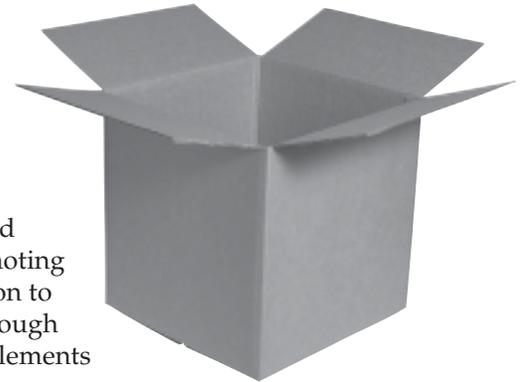
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## Offering Unbundled Legal Services through a Lawyer Referral Service

by Joan Anderson



During the last several years the term “unbundled legal services” has become more common, connoting everything from a new way of practice to the solution to the high cost of legal assistance for consumers. Although the legal services represented by this term contain elements of both, the reality, as usual, is more complex.

### Unbundled legal services defined

Unbundled service may be defined as discrete or limited legal services—the provision of legal services in small units to fit the specific needs of a client rather than a full-service package. These limited services often include pleading preparation and advice for *pro se* litigants, but can also refer to the handling of a particular motion, negotiation or any other discrete legal task that can be separated from the full “bundle” of legal services lawyers have traditionally provided.

Practitioners in other fields, such as business and transactional work, have long provided discrete services. Attorneys performing such services normally charge regular hourly fees, but the fees are paid on a per-service basis with no substantial retainer. In this way, clients who opt to handle part of their legal matter *pro se* can obtain professional legal services at less cost than the traditional method of retaining an attorney to provide a full range of services.

### The role of unbundled services in lawyer referral programs

This article will focus on the interplay between lawyer referral and unbundled legal services in one area of law, domestic relations. Although unbundled services can be provided in a number of areas of practice, the use of such services has burgeoned in the area of family law primarily due to the number of moderate-income persons who get divorced and have only a few issues beyond those constituting the most basic non-contested matter. In response, some lawyer referral and information service programs are creating “unbundled” panels to more easily assist those who could

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## DIALOGUE

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## Responding to the September 11 Disasters

Much of the work on this issue of *Dialogue* was completed when the terrorist attacks in New York and Washington, D.C. occurred on September 11. The ABA Division for Legal Services joins the rest of the world in extending its condolences, thoughts and prayers to the victims of the attacks and their families.

In future issues *Dialogue* will provide coverage of how the attacks and their aftermath have affected those areas of legal practice and work that are the focus of *Dialogue*. It is important, however, to also inform readers of the efforts now being undertaken by the ABA to respond to the attacks. On September 18 the Division for Legal Services launched a Web-based guide to legal resources related to the disaster recovery efforts. The multifaceted site at <http://www.abalegalservices.org/disaster> contains details about efforts to aid victims, provide information, assist affected military members, guide volunteer attorneys and help displaced lawyers.

Other ABA responses include the establishment of a memorial Web page for ABA members lost in the attacks, and the appointment of a Task Force on Terrorism and the Law. More information about these and other developments can be found on the ABA's main Web page at <http://www.abanet.org>

## Unbundled

(continued from page 1)

benefit from unbundled assistance. Some family law practitioners have provided unbundled services informally for years. However, an LRIS program that wants to facilitate unbundled service normally must create a separate panel because not every family law attorney is willing to provide unbundled services.

### Benefits and issues for panel attorneys

Attorneys are often interested in providing unbundled services because they recognize that it is a service to clients who otherwise might not seek the help of an attorney at all. The attorney, while not collecting a large fee, can collect a fee reliably by requiring payment at the time of service.

Some issues in providing

unbundled services in family law cases arise where the attorney has drafted the pleadings, but is not named on them because the client is appearing *pro se*. Some states have already passed "ghostwriting" rules that require disclosure of the drafting attorney's identity. (See, for example, Colorado Rule of Professional Conduct 11.) Attorneys who draft pleadings often do not like to be identified because of the risk that the client might change the pleadings without the attorney's knowledge. In addition, it might result in the court requiring the attorney to make an appearance, although the Colorado rule specifies that it does not. (Colo. R. P. C. 11b.) Most practice rules do permit limited-scope representation, but the limited scope of the representation should be clearly defined in the retainer agreement to make sure that the client "consented

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## From the Chair...



by James B. McLindon  
Chair of the ABA Standing  
Committee on Lawyer Referral  
and Information Service

I would be remiss if my first act as chair of the Standing Committee was not to thank those whose terms ended this past August. LRIS Committee Chair John Busch, Board of Governors Liaison Thomas Fitzpatrick, and members Joan Andersen, Edwina Martin and Sonia Tanksley have worked diligently on behalf of the LRIS Committee—and therefore on behalf of you—over the last three years. Their service was much appreciated and will be greatly missed. In particular, I am aware of how difficult it will be to follow John Busch's able leadership as chair of this committee over the last three years.

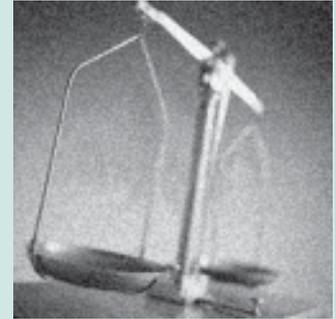
Let me take this opportunity to outline for you my goals as chair. First, I would like to improve the compliance rate of programs with the ABA Model Supreme Court Rules Governing Lawyer Referral and Information Service. That rate has grown steadily since the rules were adopted by the ABA House of Delegates in August 1993. At present, we estimate that approximately 50—or one in six—programs nationwide now satisfy the requirements of the rules. While this statistic represents significant

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## The Purpose of Lawyer Referral: A Delicate Balance Between Public Service and Member Benefit

by Sheree L. Swetin

*Editor's Note: The following is adapted from remarks delivered to the National Association of Bar Executives by Sheree L. Swetin during the ABA Annual Meeting in August 2001.*



**P**ublic service versus member benefits. These two goals are not inconsistent.

Progressive lawyer referral and information service (LRIS) programs know that improved service to the public is good for business. Public access to quality legal services enhances the image of the LRIS program and the legal profession while increasing the flow of business to panel members.

The primary goal of LRIS programs is to provide a public service. To do so in an effective manner, the program must also provide a benefit to its panel members. LRIS is designed to serve the needs of clients who can afford to pay legal fees, but are unable to 1) determine if they have a true legal problem, or 2) select appropriate legal counsel. Businesses of all sizes, as well as middle- and higher-income individuals, sometimes find themselves searching for a lawyer with particular expertise, and a lawyer they can trust. Obtaining a recommendation from a trustworthy organization like the bar association is an excellent way of finding such a lawyer.

It is the role and responsibility of lawyers to provide legal services to the public. It has been demonstrated by responsible studies that people often do not receive needed legal services, sometimes because they are unaware of available services, do not understand how they can benefit from those services or do not know how to obtain them. Therefore, it is also the legal profession's responsibility to inform the public about these issues.

Without lawyer referral, thousands of people would lack an agency to turn to for legal assistance. Lawyers, already perceived as expensive and inaccessible, are even further removed from the public they are supposed to serve. LRIS programs seek to bridge the gap between attorneys and the public. By providing such a valued service, a bar association enhances its image as a public-spirited organization that is concerned about the community in which it exists.

It should be noted that the function of a lawyer referral service is not to provide free legal services to every caller. Rather, it is to assist callers in locating the most appropriate legal resource according to their problem and pocketbook. By referring clients who cannot even pay the referral fee, let alone afford ongoing representation, the LRIS program does a disservice to both the client and the attorney. The LRIS program can truly serve these clients by referring them to the appropriate legal

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## Unbundled

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after consultation.” (See, for example, Washington Rule of Professional Conduct 12.) Limited representation may sometimes increase the risk of a client complaint if the client does not fully understand the limits of the representation. Attorneys may not, however, attempt to limit their liability in advance, and the best solution is to have a very specific agreement with the client about what services will and will not be provided.

### Issues for the LRIS program

Panel attorneys should always closely scrutinize unbundled referrals to ensure that limited services are appropriate, but the LRIS program should do its own thorough screening before referring a client. The best candidate for unbundled services is a well-educated client who truly wants to handle the case *pro se*, but wants to ensure that he or she is properly completing documents and following court procedures. Realistically, however, most clients who call an LRIS program are not appropriate candidates for limited legal services. Indeed, many may seek such limited services more by default than by choice. For example, many people start divorce proceedings *pro se* but get stuck in the middle. Others can't afford full representation at full rates, but neither qualify for free legal assistance nor feel confident about handling a case without help.

Some of these callers can be helped with unbundled services, but only if the screener ascertains that they meet several criteria. First, the client must be literate at a relatively proficient level.

Screeners should determine the caller's education level and how easily he or she handles other "paper" matters. Second, the client must have a clear idea of the desired outcome in terms of custody and property. Distraught clients without any idea what they want except help are not good candidates for unbundled services. Third, the case must not be hotly contested or extremely complicated. A client whose spouse files frequent motions or who has a complex and contested financial situation likely needs full representation. A domestic violence victim will generally not be able to stand up in court alone against the batterer. Finally, the client must clearly understand that unbundled services are neither free nor provided at a reduced rate, but are paid for as received at the attorney's usual rate unless other arrangements are made with the attorney.

A survey by the King County Bar Association (KCBA) LRIS program of attorneys on three different unbundled referral lists in the Seattle area indicated that the biggest problem encountered was that of clients not clearly understanding (or sometimes willfully not understanding) the nature of unbundled services. The second ranking difficulty was clients who could not afford even unbundled assistance. These results seem to indicate a need for the referring entity to more intensely screen clients and to more thoroughly explain the nature of unbundled services to them.

### Creating an unbundled panel

Creating an unbundled panel where the practice is commonplace should not be difficult. Members who have experience

offering unbundled services can both provide the core of a panel and help in creating training materials for additional panel members. The support of the courts is important in making the use of unbundled services a successful experience for clients. Where courts have been inundated with *pro se* divorce litigants, that support is usually readily forthcoming. If you encounter resistance, it may take a while to find a supportive jurist to back your efforts, but is well worth the wait and effort. Your organization's board can play an important role in creating support within both the family law bar and the judiciary.

In jurisdictions where few family law practitioners provide unbundled services, a training seminar is usually helpful. It can cover the ethics of limited services, errors and omissions insurance considerations, screening clients, practice tips, and drafting limited legal services agreements.

The unbundled panel may need to operate differently from regular panels. Many clients who encounter problems proceeding *pro se* need immediate assistance, so giving more than one name at a time may make sense if your service does not presently do so. Since much of the unbundled work is advice, the consultation fee may be handled differently. For instance, it may go to the attorney instead of the LRIS program. After some experience with how unbundled cases work out in your jurisdiction, you may also decide that it is preferable to collect a lower percentage fee or a percentage only on fees starting at a level higher than your current threshold. Remember when considering such "discounts" that cases initially referred as

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## From the Chair...

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progress in a relatively short period of time, we owe it to the public that relies on lawyer referral programs to substantially increase that rate of compliance.

If your program currently is not in compliance, I urge you to consider what steps you must take to satisfy the Model Rules. As you do, please remember three things. First, many programs, when they decide to make the effort to come into full compliance, are surprised at how easy it is. Quite often, only one or two aspects of the program need to be adjusted. Second, as you ponder how you will make the necessary changes, remember that the LRIS Committee's Program of Assistance and Review (PAR) consultants are ready and willing to help. Third, programs in compliance can apply for the right to use the ABA logo and slogan which identify them as meeting ABA standards, an important market-

ing advantage in an increasingly competitive market place.

My second goal concerns the PAR program just mentioned. I would like to substantially increase the number of PAR visits over the current rate. At your request, the PAR program will send to your service two expert consultants to analyze whatever issues you are facing, such as finances, staffing, technology and operations. The LRIS Committee has been disturbed that the number of such requests has tailed off in recent years, perhaps due to the fact that, for the first time, the LRIS Committee began to charge a fee for the service in 1997. Whatever the reason for the drop in requests, however, we are once again offering this unique service free of charge to encourage more programs to take advantage of it. Please contact Jane Nosbisch at the ABA if you would like to schedule a PAR visit.

My third goal concerns the National Marketing Project which the LRIS Committee has run for a number of years now. Through

the project, the committee has conducted an annual radio media tour that usually features the ABA President-elect and reaches millions of listeners. Through the project, we also have issued a constant stream of news releases, providing additional print coverage of lawyer referral nationwide, and have published a marketing handbook (now in its second edition) available to programs for a nominal sum. To ensure the project's continued success, the time has come for the LRIS Committee to thoroughly re-evaluate it, and tweak it as necessary. As the committee begins that process this year, we welcome and invite your ideas.

My fourth goal involves the review and, where necessary, the updating of the many publications of the LRIS Committee. Many of these publications are in editions that predate the advent of widespread Internet technology in the LRIS sector, as well as other advances in lawyer referral, and thus have become outdated. We hope to issue new editions of our publications as necessary, bringing them into the 21st century.

These goals, and the approaches that should be taken to achieve them, are by no means cast in stone. As I begin my term, I would like to hear your thoughts about these goals, lawyer referral in general, and the committee's efforts in particular. What are we doing right, what are we doing wrong, and what are we just not doing at all that you would like us to? Please feel free to contact me with your thoughts at [jmclindon@juno.com](mailto:jmclindon@juno.com)

*You may reach Jane Nosbisch, acting staff director for the LRIS Committee, at 312-988-5754, or via email at [jnosbisch@staff.abanet.org](mailto:jnosbisch@staff.abanet.org)*

## Unbundled

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unbundled service cases may often turn into full representation cases with regular fees for which your program should receive full payment.

Unbundled services in the family law arena have been successful for a number of years in several jurisdictions. The emphasis has been primarily on family law because of the high need in that area. The availability of advice services and forms on the Internet may increase the need for unbundled services through LRIS

programs in order to "rescue" people who have encountered trouble after using such services to assist them in proceeding on their own. If this turns out to be the case, unbundled panels in other areas might become necessary. The need for additional unbundled panels may also be spurred if an increasing number of potential clients desire to handle major parts of their own cases.

**Joan Andersen** is lawyer referral director for the King County Bar Association, and is a former member of the ABA Standing Committee on Lawyer Referral and Information Service.

## Delicate Balance

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services or community agency.

The secondary purpose of LRIS is to provide a source of new business to bar members. Both new attorneys and those in long-term practices often rely on lawyer referral for a steady stream of cases. Panel attorneys benefit directly from the LRIS program when a referral produces a paying client. Even if the attorney is not retained, a client who is satisfied with the initial consultation is likely to remember the attorney when another legal problem arises, and will pass on the attorney's name to co-workers, family and friends when they need a lawyer. All attorneys benefit from a well-run LRIS program. Many callers who should not be referred to a lawyer in private practice are given useful information through the LRIS screening process, thereby helping panel members avoid spending time with people who either do not need or cannot afford the assistance of a lawyer.

Last, but certainly not least, lawyer referral is a tremendous public relations vehicle for the bar association and the legal profession. The lawyer referral service is often the most visible program the bar offers to the community, as well as the first point of contact a client has with the legal profession. If properly set up, run and marketed, the LRIS program will address the needs of a segment of the population that does not now know how to choose a lawyer, and, by its accessibility and quality of service, will help elevate the profession in the eyes of the public. Handled well, the client comes away with a sense

of relief that a source of assistance has been located, and satisfied that the case will be handled in a responsible and supportive manner to a just conclusion. Handled poorly, the client comes away from the bar with a renewed sense of frustration and anger with lawyers and the justice system.

Providing a public service and supplying an ongoing source of new business to members—can these goals be reconciled? If you envision these goals on a continuum, most bars fall somewhere in the middle, placing an emphasis on public service, but balancing that with the need to serve the members. A diverse and qualified panel can be maintained only by meeting the needs of the lawyer-members. Only by maintaining a diverse and qualified panel can you truly provide a public service.

In order to survive within the bar association environment, most LRIS programs must subsidize their operating expenses to some extent. Lawyer referral programs are in the "business of public

service." While some bars believe that lawyer referral is purely a public service, and expect to pay full freight for the operating expenses, most bars expect the LRIS program to earn revenues from panel membership fees, consultation fees and even percentage fees. Many lawyer referral programs now bring in sufficient revenues to meet their annual operating budget, and some earn enough to subsidize other public service programs of the sponsoring bar. To continue providing benefits to the public and the legal profession, as well as panel members, LRIS programs increasingly need to operate so as to reduce or eliminate the need for subsidies from the sponsoring bar associations.

The value of the LRIS program to the bar association cannot be measured in financial results alone. The good will generated by the program cannot be duplicated by the bar association's public relations budget. By promoting its expertise and assistance in provid-

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### 2002 Cindy A. Raisch Award

Nominations are now sought for the 2002 Cindy A. Raisch Award. This award recognizes innovative projects in the field of lawyer referral, and the enhancement of public service-oriented lawyer referral and information programs that provide access for moderate-income legal consumers across the country.

The winner will receive an expenses-paid trip to the 2002 ABA Midyear Meeting in Philadelphia, where the award will be presented at the National Association of Bar Executives luncheon.

Past award winners have included: the New York State Bar Association LRIS, the Bar Association of San Francisco LRS, the Toledo Bar Association LRIS, the King County Bar Association LRS, and the Travis County Bar Association LRS.

Award applications have been sent to all public service lawyer referral and information programs. For any questions regarding this award, please contact Jane Nosbisch at [jnosbisch@staff.abanet.org](mailto:jnosbisch@staff.abanet.org)

## Welcome to New LRIS Committee Members

The ABA Standing Committee on Lawyer Referral and Information Service is pleased to welcome four new members to its ranks. Dru Ramey, executive director of the Bar Association of San Francisco;

Elizabeth Schettee of Givertz Lunt in Portland, Maine; Lonnie Williams with Snell & Wilmer in Phoenix; and Grace Fonseca with the Association of the Bar of the City of New York join the LRIS Committee for three-

year terms. The LRIS Committee also welcomes Armando Lasa-Ferre as its liaison from the ABA Board of Governors. We encourage you to contact committee members with your thoughts and ideas.

## Delicate Balance

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ing legal information and referrals to qualified attorneys within the community, the LRIS program

becomes the envoy of the bar and the legal profession, enhancing the bar's reputation for responsible service to consumers and the profession's image as counselors and advocates for the public.

**Sheree L. Swetin** is executive director of the San Diego County Bar Association, and was formerly staff director of the ABA Standing Committee on Lawyer Referral and Information Service.

### What is Your Program's Purpose?

#### A collection of LRIS statements of purpose from across the country

- LRIS programs are primarily a public service. Lawyer referral services generally are intended to provide a mechanism for matching clients who are in need of legal services, and who are able to pay at least some attorneys' fees, with lawyers appropriate to handle their legal problems. The goal of LRIS should be to refer members of the public to attorneys who are competent to handle their particular legal needs.
- The purposes of the lawyer referral service are:
  - (a) To establish a public service of the bar association;
  - (b) To establish procedures whereby every member of the public may obtain legal advice and representation and mediation services within her/his means to pay or finance the fee;
  - (c) To make available to the public generally the services of an attorney who has the required experience in a particular field of law or mediation practice; and
  - (d) To promote high standards of practice and encourage the highest quality of legal and mediation services.
- The purpose of the LRIS program shall be to make affordable legal services more available to the general public by providing a mechanism by which clients in need of legal services who are able to pay at least some attorneys' fees, are referred to lawyers who are interested in, and competent to handle, their legal problems. The goal of the bar association and the LRIS is to continually improve the quality of service it provides to clients and attorneys.
- The lawyer referral service of the bar association is organized and operates to provide a public service by which any person may readily obtain legal services at an affordable fee, or referral information for appropriate legal service, or both. LRIS is a non-profit organization created by the bar association to assist individuals who are seeking help with a legal problem and do not have counsel. Persons who contact the service are referred to lawyer who has indicated that he or she is qualified to handle the legal problem presented. No person shall be deprived of the right to be referred to an attorney because of his/her race, religion, country of origin, gender, color, age, or sexual orientation.

Further objectives of LRIS are:

- (a) To acquaint people in need of legal service with the value of consultation with an attorney;
- (b) To provide information about lawyers and the availability of legal services which will aid in the selection of a lawyer;
- (c) To provide general legal information needed by the public; and
- (d) To encourage lawyers to recognize their obligation to provide legal services to any person in need of such services at a fee affordable to the client.

# LAMP Reaches Out Through Distance Learning CLE

by David Clement

Through quarterly CLE presentations at various military bases, the LAMP Committee has long been educating approximately 200 legal assistance attorneys and paralegals every year. While the committee's work in this regard has always been appreciated by the services, its ability to reach everyone who could benefit from CLE programs has been limited by ABA and Department of Defense budget constraints, schedule conflicts and geography—until now. The LAMP Committee's first Web-based distance learning CLE is scheduled for launch in November 2001. It will focus on the improved capabilities of DL Wills™ Version 6.01f to handle the complex blended-family scenarios increasingly encountered in legal assistance practice. The CLE will provide step-by-step treatment of the many legal and practical factors that legal assistance attorneys must consider to make the best use of

the DL Wills™ program to carry out their clients' intentions.

Within the United States, LAMP distance learning content will be delivered over the Internet via a streaming audio or video format, heavily supplemented with graphics (such as screen shots and slides) and well-organized Web links to more in-depth content. The committee will also make the content available via CD-ROM to overseas installations or other bases whose Internet connectivity or meager computer hardware prevents effective online delivery.

In structuring the CLE content, the LAMP Committee was aware that most legal assistance providers will have difficulty finding a large block of time for training given their client-laden work schedules. Accordingly, each distance learning CLE will be divided into bite-sized segments that can be completed as the

provider's schedule permits.

All LAMP Committee distance learning CLE will be free to all military legal assistance providers. The committee has also budgeted to pay any fees that legal assistance attorneys must pay to their respective licensing authorities to claim CLE credit (if "distance learning" credit is permitted).

The LAMP Committee will publicize the exact launch date of the DL Wills™ distance learning CLE through service channels, the LAMP Listserv, and through an announcement and link on the LAMP Committee's web site, <http://www.abalegalservices.org/lamp.html>. The LAMP Committee plans to add two new distance learning CLE presentations in 2002 and invites suggestions from field legal assistance personnel on topics that they would like to have made available online.

**David Clement** is a member of the ABA LAMP Committee.



Army TJAG MG Walter B. Huffman, pictured with MAJ Robb Jefferson and MAJ Dan Kelly during the presentation of the 2001 LAMP Distinguished Service Award to members of the Task Force Falcon (Kosovo) Legal Assistance Office.

## LAMP Introduces Listserv

The LAMP Committee has established an electronic mailing list for military legal assistance attorneys, legal support staff, civilian attorneys serving military families, and any other non-commercial professionals involved with delivering legal services to military personnel and their families. The Listserv is to provide a forum where profes-

sionals can exchange substantive information, ask questions and solve problems. Content will be regulated only to the extent necessary to keep it concise, relevant and non-commercial. Those interested in subscribing should send their name, rank, service branch and email address to Colleen Glascott at [glascotc@staff.abanet.org](mailto:glascotc@staff.abanet.org)

*From the Chair...*



*by David C. Hague  
Brigadier General,  
U.S. Marine Corps, Retired  
Chair of the ABA Standing  
Committee on Legal Assistance  
for Military Personnel*

I am for the first time using this space to report on a meeting of the Standing Committee on Legal Assistance for Military Personnel (LAMP). Our most recent quarterly meeting provides a revealing snapshot of the committee and its interaction with the uniformed services. The people associated with the committee and the work they are doing in support of military legal assistance are the focus of this column.

On August 20, 2001, we presented seven hours of continuing legal education (CLE) at the Naval Justice School in Newport, Rhode Island. Three of us also judged the basic course legal assistance competition. Four attorneys, all experts in their fields and polished speakers, gave generously of their time to prepare outlines and handouts and provide world-class instruction. **Timothy Lenés** of Norwich, Connecticut spoke on dissolution proceedings. **Patricia Apy** of Red Bank, New Jersey provided a detailed overview of federal and uniform acts on family law and their effect on military members. **Gary Caswell**, an assistant

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*LAMP Spotlight...  
Naval Station Newport,  
Rhode Island*

*by Bryan Spencer*

**T**he Naval Justice School at the Naval Station in Newport, Rhode Island was the site of the LAMP Committee visit on August 20-21. It's always uplifting to visit one of the service schools for military attorneys, and seeing the Naval Justice School in Newport was no exception. The visit was hosted by CAPT Dennis Bengtson, commanding officer, and Lieutenant Robert Passerello, project officer for the visit.

The Naval Justice School is placing increasing emphasis on legal assistance this year. It just completed its first weeklong estate planning course, which was attended by over 40 military judge advocates and civilian attorneys from all branches of service. In addition, the school will soon offer a two-and-a-half day family law course. Both courses contain significant practical components and are a direct result of feedback from the fleet. LCDR Rebecca Conrad has just reported to the Naval Justice School and has assumed duties as legal assistance division officer.

Congratulations are owed to LTJG Gregory Ryan, JAGC, USNR, a graduate of the latest NJS basic class who won the Naval Justice School Client Counseling Competition.

Newport is also home to the Defense Institute of International Legal Studies, a spin-off of the Naval Justice School. The Institute provides resident and nonresident instruction to foreign military and civilian government employees in over 250 legal topics of military law, justice systems, and the rule of law, with an emphasis on the execution of disciplined military operations. The Institute has presented programs to over 15,000 military and civilian personnel in 83 countries worldwide since being established in 1992.

**Legal Assistance**

LTJG Sean Cogley provides legal assistance at the Naval Station and is supported by Petty Officer Jason Weaver. They staff the Newport Branch Office of the Naval Legal Service Office North Central. The NLSO NC is headquartered in Washington, DC and covers a 22-state area in the north central United States. There are approximately 680 officers, 818 enlisted personnel and over 1800 resident students at Newport Naval Station. The legal assistance workload is similar to other legal assistance offices with cases in the areas of wills and estates, divorce and separation, landlord and tenant, consumer issues, and military rights and benefits.

The Naval Station is home to a number of commands including the Naval Education and Training Command (which includes a 10 month pre-officer accession preparatory program for enlisted personnel), the

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## North Carolina LAMP Committee Leads the Way with Innovation

by Gill Beck and Lori Kroll

Time and again, the military has found that soldiers, Marines, and airmen who have unattended legal problems at home cannot devote their full energies and attention to their mission. Only through preventive lawyering and proactive legal assistance can service members be prepared for deployment. But how can military legal assistance attorneys, who are often new to the military and the practice of law, stationed in a state other than where they are admitted, and working to see more clients with less office staff, reasonably be expected to practice proactive legal assistance? The North Carolina State Bar's Standing Committee on Legal Assistance for Military Personnel (NC LAMP Committee) has developed several innovative ways to help active duty and reserve military members.

"With the third largest military population in the United States, North Carolina has a special

responsibility to serve members and spouses with legal problems," according to Judge Robinson O. Everett, chair of the NC LAMP Committee. "These young American Marines, soldiers, sailors, airmen, and Coast Guard personnel, find themselves far from home and beset with daunting legal problems when they deploy in support of our country's national security objectives."

### Innovative projects to meet legal needs

To address those legal needs, the NC LAMP Committee has developed several projects. According to the committee's executive director, Paul J. Raisig, Jr., a Sanford attorney and retired Army Colonel, "Many of the military attorneys assigned to provide legal assistance are recent law school graduates and usually are licensed in a state other than North Carolina. The LAMP Committee recognizes the challenges these

judge advocates face and has undertaken several projects to assist legal assistance attorneys."

One of the most helpful projects initiated by the NC LAMP Committee has been its preventative law handout program. Mark Sullivan, a Raleigh practitioner, US Army Reserve Colonel, and nationally recognized expert on military and family law, explains: "This project, which began in 1983, has been one of the NC LAMP Committee's most successful efforts for extending legal support to military attorneys and personnel. The pamphlets and handouts help prevent legal problems before they arise, answer some of the military client's questions before he or she is interviewed by a legal assistance attorney, and provide legal assistance attorneys written information on applicable North Carolina law and procedure." *TAKE-1* handouts and *The Legal Eagle* are materials designed

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## Naval Station

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Chaplains school, Officer Indoc-trination School for newly commissioned staff officers, Damage Control School for fire and water incidents, and the Equal Opportunity Instructor Training School.

Other commands at Newport include the Naval War College, founded in 1884, the Surface Warfare Officers School, as well as medical and dental commands, a

band, a Marine Corps detachment, the Naval Academy Preparatory School, the Command Leadership School for prospective commanding officers and executive officers and their spouses, the Senior Enlisted Academy, and other smaller units.

LTJG Cogley is responsible for providing legal assistance to the personnel assigned to these commands, as well as other Naval and Coast Guard units in Massachusetts and Rhode Island. This

includes the Boston-based crew of the USS Constitution, the oldest US Navy vessel that dates back to the Revolutionary War.

The Committee would like to thank again CAPT Bengtson, LT Passerello, the staff and facility of the Naval Justice School, and the staff of the Naval Station, who all facilitated a productive and pleasant visit.

**Bryan Spencer** is a former member of the ABA LAMP Committee.

## From the Chair...

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attorney general in Texas, comprehensively covered support issues involving the military.

**Dave Strachman** of Providence, Rhode Island addressed the tax implications of dissolution and post-dissolution estate planning.

Our business meeting was held on August 21. Members in attendance were **Daniel K. Bean** of Jacksonville, Florida; **David B. Clement** of Cary, North Carolina; **Kenyon Luce** of Tacoma, Washington; **Bryan Spencer** of Austin, Texas; **John Jenkins** of Alexandria, Virginia; and **Traci Jones** of San Diego. **Lieutenant Colonel Steven Strong, USA** participated as the Department of Defense liaison. Six of our eight advisors also actively participated: **Captain Dennis Bengston, JAGC, USN**, commanding officer of the Naval Justice School; and the chiefs of legal assistance for their respective services: Colonel **George Hancock, USA**; **Major Melinda Davis-Perritano, USAF**; **Commander Ann DeLaney, JAGC, USN**; **Major Chris Rydelek, USMCR**; and **Captain Pete Seidler, USCG**. We were pleased to welcome to our meeting **Captain Bruce MacDonald, JAGC, USN**, commanding officer, Naval Legal Service Office Northwest, Bremerton, Washington. Two new liaisons also joined us: **Lori Kroll** from the North Carolina State Bar LAMP Committee, and **Lieutenant Junior Grade Kristen Romao, USCG** from the ABA Young Lawyers Division. **Jane Nobsch**, our ABA acting staff director, and **Jon Murphy**, an ABA media relations specialist, contributed significantly to the meeting. **Lieutenant Robert Passerello,**

**JAGC, USN** demonstrated the best of Navy hospitality and efficiency in providing on-site support for our CLE and business meeting.

We sadly bade farewell to three remarkable men who have completed their terms of service as committee members: **Kenyon Luce, Bryan Spencer, and Colonel David Anderson, USMC**. And, we welcomed to the committee **Rear Admiral John Jenkins, JAGC, USN (Ret.)** and **Traci Jones. Richard Podell**, the ABA Board of Governors liaison to the committee, **Lieutenant Colonel Linda Webster, USA**, a committee member, **Christo Lassiter** of Cincinnati, Ohio, a new member, and **Elizabeth Gibson**, our liaison from the ABA Law Student Division, were unable to attend the meeting.

The LAMP Committee continues to pursue a broad range of projects and ideas. This meeting's agenda included the following:

- Establishing a LAMP Committee-sponsored legal assistance writing contest with \$1000 prize.
- Developing model rules for state-level Expanded Legal Assistance Programs (ELAP).
- Launching a Web-based distance learning CLE with DL Will instruction in late 2001.
- ABA House of Delegates resolution to amend 10 USC to allow acceptance of voluntary legal services.
- Continued efforts to change Section 1034 of the Internal

Revenue Code, which unfairly burdens military personnel.

- Multijurisdictional practice, the ABA Ethics 2000 Commission, and creating a safe harbor for legal assistance attorneys.
- LAMP Web site development and funding.
- Promoting development of state bar military law and LAMP committees.
- Military paralegal training and credentialing.
- Wider and more targeted distribution of the ABA *Dialogue*.
- Refining and enhancing the annual LAMP Distinguished Service Awards.
- Promoting the concept of legal assistance as entitlement in Congress and among the services.
- Publishing the history of military legal assistance and the LAMP Committee.
- Developing a PowerPoint presentation on the LAMP Committee.
- Creating a public relations and marketing plan for military legal assistance and preventive law.
- Developing a list of ABA members with military affiliation.

The LAMP Committee continues to press forward in its mission to foster military legal assistance. We welcome support from all quarters. You can reach us by sending an email to LAMP Committee Acting Staff Director **Jane Nobsch** at [jnosbisch@staff.abanet.org](mailto:jnosbisch@staff.abanet.org)

### ABA Supports Voluntary Legal Services

During the ABA Annual Meeting in August, the ABA House of Delegates approved a resolution sponsored by the LAMP Committee that urges the amendment of Title 10 USC Section 1588. The amended statute would allow the Service Secretaries to accept voluntary legal services. The committee will begin work with the ABA Governmental Affairs Office to include language for the amendment in upcoming legislation.

## North Carolina

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to address frequently asked questions from legal assistance clients. *Co-Counsel Bulletins* and *Silent Partners* are designed as attorney-to-attorney resources for legal assistance attorneys. These handouts are now a staple in every legal assistance office throughout the state, and save hours of military judge advocate staff time every year.

Through the efforts of Buren Shields, a committee member and retired Army colonel, the NC Lamp Committee has developed a committee Web page (<http://www.ncbar.com/home/lamp.htm>) on part of the NC State Bar Web site. The committee's legal reference materials can be accessed on the site. Reserve units can now link their division's Web sites to the committee's Web site and provide important legal information to reserve soldiers around the clock.

The committee sponsors an annual two-day continuing legal education (CLE) program for military legal assistance and civilian attorneys on relevant areas of North Carolina law. In 2000 the committee sponsored training at Fort Bragg. Legal assistance attorneys attended the training from all of the services along with reserve and civilian attorneys located near military installations. Experts were recruited from the local area and volunteered their time to make presentations on family law, wills, estate planning, child custody/visitation, separation agreements, garnishments, paternity/child support, consumer law, real estate issues, motor vehicle laws, immigration and naturalization,

and debtor-creditor law. Additionally, Judge Paul L. Jones, a Superior Court judge and retired US Army Colonel, gave a presentation on professional responsibility. Judge Louis Foy, Jr., who also serves as the staff judge advocate for the NC National Guard, and Judge Elizabeth Keever, spoke on district court practice and provided feedback about common problems encountered in military separation and divorce cases within their jurisdictions.

Lori Kroll, CLE co-coordinator, a Cary, North Carolina attorney, and a former Airborne JAG, says that "as a former chief of legal assistance at Fort Bragg I know how important the LAMP conferences were to our efforts to train newly assigned attorneys. Now that I have left active duty, I have an obligation as an attorney in North Carolina to reciprocate by coordinating these conferences for the attorneys that followed me at Fort Bragg." Recently, M. Ann Reed, president of the NC State Bar, commended the NC LAMP Committee, including Kroll and Gill Beck as co-coordinators for the November CLE, with a certificate of appreciation "for outstanding service to the legal profession" and "for enhancing legal support of our military personnel, which directly relates to the readiness of our military forces, and to the future security of the United States of America."

In an effort to better serve the needs of the military, the NC LAMP Committee holds quarterly meetings to discuss the legal assistance problems facing our military and to coordinate their efforts. In addition to the committee members, the staff judge advocates or their representatives from Fort Bragg, Camp Lejeune, Cherry Point Marine Air Station,

Seymour Johnson Air Force Base and Pope Air Force Base meet to discuss ways to improve legal assistance to soldiers. These meetings are an invaluable tool for obtaining feedback from the military services regarding problems they are facing. They are also a vehicle for providing the NC State Bar with information on significant developments within the military community.

### Looking to the future

Despite its accomplishments, the NC LAMP Committee continues to look for new ways to help. One such way has been to join forces with the ABA Standing Committee on Legal Assistance for Military Personnel. In 1998 and again in 2001, the ABA LAMP Committee and the NC LAMP co-hosted CLE programs at Fort Bragg and Camp Lejeune. These CLEs were specifically geared to military judge advocates and civilian attorneys serving military clients and the unique issues they face. A third program is in the initial planning stages. Judge Everett commended the ABA LAMP Committee, in particular Brigadier General David Hague, its chair, and former staff director Sheree Swetin, for the leadership they have provided to the NC LAMP Committee and to other such committees throughout the United States. He emphasized that "without the dedication of General Hague and Ms. Swetin, the NC LAMP Committee would not have been able to accomplish so much. We owe them our appreciation, and although the service members in North Carolina may never know their names, they will certainly have benefited greatly from [their] efforts."

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## North Carolina

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The ABA LAMP Committee recognizes the work done by the NC LAMP Committee. "No state bar LAMP Committee in the country does a better job than the NC State Bar's LAMP Committee in providing training and support for military and civilian attorneys serving the military community," according to General Hague, the ABA committee chair. The NC LAMP Committee is considering new initiatives such as developing a civilian lawyer network. This network would provide a list of civilian attorneys who are willing to assist military attorneys when they need guidance. These civilian attorneys would also be willing to represent military clients at a reduced fee. Another such initiative is the "Divorce and Separation" video manuscript that was produced by Mark Sullivan in conjunction with Fort Bragg and the Army Judge Advocate General's School. Legal assistance offices can use the manuscript to produce an informational video. One such video has been used with great success at Fort Bragg and has significantly increased the number of clients the office has been able to assist.

The North Carolina State Bar's support has also played a key role in the success of the NC LAMP Committee. The State Bar has provided funds, when necessary, to help cover the cost of CLE programs, has assumed responsibility for the committee's mailing list, and has made arrangements for the committee's quarterly meetings.

There are also countless others who serve as committee members and volunteer their insights

## State LAMP Initiative Checklist

*If you are interested in becoming involved with your state's LAMP committee, follow these practical tips.*

1. Contact your state bar association. Note that not all states call the relevant committee a "LAMP" committee, and that some LAMP committees are subcommittees. Tell your state bar representative what type of committee you are looking for and they can point you in the right direction. If your state does not have an active committee then ask your state bar how a committee can be created.
2. Contact people in your state who might be interested in creating a committee. Look for retired military judge advocates and members of the reserves. They often are the most likely to want to help.
3. Contact the staff judge advocates (SJA) for the military installations in your state. Get them involved early. The SJAs can also be a great resource for finding retired and reserve attorneys who may want to become involved.
4. Contact other state bar military committees and see how they do things and what projects they have. No two LAMP committees do things the same. In addition to North Carolina, Texas has a very active committee that can provide useful ideas and examples.
5. Once you have a group of interested people, set up a meeting. The first meeting should be used to select officers of the committee, establish the role of the committee, and develop goals or projects. Consider publishing a newsletter and establish a calendar for future meetings.

gained over many years of faithful service to this country. "It is reassuring and heartwarming to see attorneys in private practice and in state and federal service give voluntarily of their time and talents to support the NC State Bar and LAMP Committee's efforts to extend legal services to our military stationed in North Carolina. Without their pro bono contributions to the committee, we could not perform our mission," according to Committee Chair Everett.

*Attorneys who are interested in the NC LAMP Committee should contact Executive Director Paul Raisig via email at [PJR4U2@aol.com](mailto:PJR4U2@aol.com) or by*

*telephone at 919-499-5916. For a list of the status of LAMP committees in other states, please visit the ABA LAMP Committee's Web site at <http://www.abalegalservices.org/lamp.html>*

**Gill Beck** is an assistant United States attorney in Greensboro, North Carolina. He is also a member of the U.S. Army Reserve and serves as staff judge advocate for the 108th Division (Institutional Training) in Charlotte, North Carolina.

**Lori Kroll** is an attorney in Cary, North Carolina, former chief of legal assistance at Fort Bragg, and former chair of the NC LAMP Committee.

# Multijurisdictional Practice Commission Addresses Dilemma Common to Military Attorneys

by Daniel K. Bean

In a development that could have consequences for military legal assistance, the American Bar Association created the Commission on Multijurisdictional Practice of Law with a mission of addressing the difficulties created by the interstate practice of law. The commission was launched following a national symposium in March 2000 on multijurisdictional practice (MJP). The symposium was spawned in part by the case of *Birbrower, Montalbano, Condon & Frank, P.C. v. Superior Court*, 17 Cal. 4th 119, 949 P.2d 1 (Cal. 1998), cert. denied, 525 U.S. 920 (1998).

*Birbrower* analyzed whether a New York-based law firm was entitled to fees for representing a California company in an arbitration matter in California. None of the attorneys in the New York firm were licensed to practice in California, yet they proceeded to advise their California client and engaged in negotiation with the opposition and conducted interviews within California. After reaching a settlement in the underlying conflict, however, the firm and its client had a fee dispute. In the resulting lawsuit the California Supreme Court held that the New York law firm could not collect for the work physically performed within the borders of California because that work constituted the unauthorized practice of law.

The MJP Commission was formed to examine the ethical and legal burdens imposed on lawyers who represent clients across state lines, and to issue a report and

recommendation on how to regulate the multijurisdictional practice of law in a way that will best serve the public interest. The commission expects to issue a preliminary report and recommendation in November 2001, and a final report and recommendation to be filed with the ABA House of Delegates during the 2002 Annual Meeting. It is anticipated that the commission will suggest appropriate amendments to the ABA Model Rules of Professional Conduct.

The primary ethical rule guiding the commission is Model Rule of Professional Conduct 5.5, which forbids attorneys from engaging in the unauthorized practice of law. The commission has been aggressive in seeking comment on the issue from a variety of sources, and the Armed Forces have not been shy in providing input.

Currently, the Army, Navy, and Marine Corps have issued comments addressing the topic and its impact on providing legal assistance to military members. Each of the documents share a common theme: that licensed military attorneys currently provide legal assistance to military members throughout world pursuant to Title 10 USC § 1044, despite being assigned to military bases located in states or territories in which they are not licensed to practice law. None of the service branches believe this routine activity constitutes unauthorized practice of law because it is done on federally controlled territory. However, all three branches

believe an expressed "safe harbor" provision would be a welcome addition to the Model Rules.

In their comments, these three branches state that in combination they provided legal services to well over 300,000 personnel on a wide spectrum of legal issues in 2000. They also highlight that the vast majority of those assisted were enlisted personnel of modest income. Finally, all three services contend that the legal assistance program is regarded as a significant benefit of military service as well as a major quality of life program that enhances duty performance and retention.

While the Navy and Marine Corps letters recommend the creation of an expressed "safe harbor" within Rule 5.5 that would acknowledge the provision of legal assistance services done in accordance with 10 USC § 1044, the Army's recommendation is more expansive. It notes that military legal assistance attorneys are not alone in this dilemma. Military prosecutors and defense counsel, as well as civilian federal government attorneys, are similarly situated and deserve expressed relief under Rule 5.5.

Additional information on the Commission's work can be found on its Web page at <http://www.abanet.org/cpr/mjp-home.html>. You can find the written comments from the Army, Navy and Marines at [http://www.abanet.org/cpr/mjp-written\\_comments.html](http://www.abanet.org/cpr/mjp-written_comments.html).

**Daniel K. Bean**, JAGC USNR, is a member of the ABA LAMP Committee, and works as a federal law clerk.

## From the Chair...



by Robert N. Weiner  
Chair of the ABA Standing  
Committee on Pro Bono  
and Public Service

A recent report on pro bono work by Florida lawyers provides encouraging news. Reported pro bono hours by individual lawyers in 2000 hit an all time high of 1,146,502. That is more than twice the amount of pro bono hours reported in 1995, reflecting a steady increase since that year. Moreover, contributions to legal aid organizations from Florida lawyers increased by 87 percent since 1995, to \$1,642,033 in 2000.

What accounts for this good news? Before answering that question, we should perhaps consider why we know these statistics in the first place. Florida is the only state that mandates pro bono reporting. On their annual bar dues statement, attorneys must report the hours of pro bono legal services they performed during the year. They can also report contributions to legal aid organizations. Reporting zero hours complies with the rule. Failure to report at all is a disciplinary offense, although the form of discipline has not been defined, nor has any such action been taken to date.

So, let's return to the initial question. Why does it appear that lawyers are doing more pro bono

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## Sharing Lessons: A Report from the Center for Pro Bono Peer Consulting Project

by Cheryl Zalenski

For nearly ten years, the ABA Center for Pro Bono has provided in-depth technical assistance and support to organizations and communities interested in developing and improving organized pro bono. Utilizing the services of over 100 volunteers and visiting over 70 programs, the center has gained valuable insight into the traits of successful programs and the problems that commonly trouble many others. Exploring the center's experiences offers pro bono programs a framework for self-examination and a tool for improvement.

By way of background, it will help to understand more about how the project operates. At the invitation of a pro bono program, the center sponsors (free of cost) a team of volunteer consultants and center staff (the "team") that visits the program. Typically, the team reviews extensive documentation about the program's operations and then travels to meet with program staff, local bar leaders, volunteers, organizations providing legal assistance to low-income persons, the judiciary, and others in order to develop a full picture of the program's operations. After the visit, the team normally provides the program with a confidential report that sets out areas of strength, areas of concern, and recommendations to further strengthen the program.

### Lesson One: Uncovering "unknown" issues

Prior to conducting a consulting visit, the center asks the program to identify the particular problems it is experiencing. Issues presented might include how to develop new recruitment strategies, or how to develop a broader range of service opportunities for volunteers. From a purely objective standpoint, these issues are fairly straightforward and easy to resolve. Interestingly enough, however, on a majority of the visits it turns out that the issues presented by the program are only the tip of the iceberg. Deeper problems lurk beneath.

From the perspective of the project, this only reinforces the need for programs to engage in self-examination, especially through the assistance of a disinterested facilitator when possible. Now, you are probably thinking, "Why would I want somebody to find problems that even I did not know were there?" For the manager of a program, it may be difficult to step back and ask for outside assistance. It can also be difficult to know when outside guidance would help expand and improve the program's services. Additionally, there is a common tendency to avoid having anyone look too closely for fear that they might find something "wrong." Even when a director is able to gain the perspective necessary to ask for help, however, it is critical that the director knows he or she might get more than what was asked for—in a good way.

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## Sharing Lessons

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A manager's willingness to request a visit from the center—to invite outsiders into the program—is a reflection of a manager who is not afraid to take a risk in order to improve the program. The ability to identify issues of concern to the program and to open a dialogue about its

operations indicates that the program is well managed and has great leadership.

Yes, it is possible that new issues will be discovered in the course of a Peer Consulting Project visit. Through the knowledge and expertise of the consultants, however, the program will receive excellent recommendations about how it can be even better in the future.

## Lesson Two: Know the program's audience and productivity

In addition to asking programs to identify issues and concerns, the center asks the program to provide certain essential information prior to conducting an on-site visit. This information includes the number of attorneys within its service area, the number of

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## From the Chair...

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work in Florida? For the answer, we must go back to June 23, 1993, when the Supreme Court of Florida adopted new pro bono rules designed to expand pro bono legal services to the poor. The pro bono rules articulated an aspirational responsibility to perform annually 20 hours of pro bono legal services for the poor or to contribute annually \$350 to a legal aid organization. The rules also created judicial circuit pro bono committees to implement pro bono at the local level. And the court urged The Florida Bar to establish a Standing Committee on Pro Bono Services to expand pro bono opportunities for lawyers, ensure needed support services, and increase participation by lawyers.

The establishment of the circuit pro bono committees was a critical innovation. These committees assess the legal needs of the poor in each circuit, evaluate the potential pro bono resources within the circuit, and, with careful planning, create opportunities for the legal community to provide pro bono services to those who

need them most. The committees tailor their activities locally to develop a pro bono culture within the legal community and to provide leadership in ensuring access to justice.

The judges are actively involved. The chief justice of each circuit chairs the circuit pro bono committees. Membership on the committees includes local bar leaders, pro bono and legal services program staff and others important to the development and implementation of a successful plan. This diverse membership ensures local input, and local involvement in and acceptance of the committees' plans. It also provides a vehicle for the judiciary, organized bar and legal services providers to work together to increase pro bono work on behalf of the poor.

The success in Florida, then, may stem from several factors.

- **Involvement of the judiciary.** Judges have the authority, the prestige, and the wherewithal to affect the level of pro bono services in their jurisdictions. In Florida, they are spending this capital. Moreover, the judiciary has done more than issue a pronouncement from on high promoting pro bono. Judges are involved at the local level.

- **The commitment of the Bar and legal service providers.**

The circuit committee system in Florida has kindled the commitment of key players in each legal community. The Florida Bar is responding in the finest traditions of the profession.

- **Mandatory reporting.** The requirement that lawyers report their number of pro bono hours may well have increased the amount of pro bono work being done in Florida. No one wants to report a "zero." Moreover, the information gathered is useful in assessing how the legal community is doing in fulfilling its pro bono obligations.

I am not advocating mandatory reporting for every jurisdiction. I am suggesting, however, that there is value in pro bono reporting, mandatory or voluntary; and that states should consider the Florida experience, the impact of the reporting requirement there and the utility of the information gathered. The goal is for each of us in our respective locales to learn from the best practices of our neighbors, adapting them to our own situations in order to increase access to justice. Florida provides a model worthy of consideration.

## Sharing Lessons

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members of the local bar association(s), the number of attorneys actively volunteering, the number of “special” attorney populations such as government attorneys, and the number of cases referred in a year.

While numbers alone do not tell the complete story of a program’s successes or failures, they do serve as an indicator of important activities like recruiting and client outreach, and they provide a general picture of the program’s health. After all, the “output” of a pro bono program is the number of clients served and the amount of attorney resources accessed. A vigorous program should constantly seek to improve in both areas. Therefore, a program’s inability to provide this information immediately upon request may indicate that it has lost sight of what is important.

Pro bono programs must know as much as possible about their “volunteer market” to cater to its particular interests. A narrow appeal that addresses the particular concerns of the audience is more likely to be successful than a general appeal for assistance.

Similarly, the number of active volunteers on its panel and the number of cases referred can also provide an attentive manager with an indicator of undetected problems. For example, a decrease in active volunteers on the panel may be related to recent changes in the legal community, or it may indicate dissatisfaction with the volunteer experience. Upon observing a decrease, a program manager can follow up with volunteers who have become inactive and determine if the

program needs to adjust its operations to meet changing needs.

Knowing the program’s market and output provides a foundation for a program’s planning and activity. Whether a program manager is recruiting attorneys or monitoring the program’s operations, using that information as a point of reference allows him or her to work more effectively.

### Lesson Three: Ensuring the development of community partnerships

Equally important for an effective program is the development of community partnerships. During a site visit, the team generally meets with representatives from local organizations that are current or potential partners of the program. The importance of meeting with local partners and understanding the nuances of the local delivery community reflects the center’s mission to promote community partnering. This mission recognizes that partnerships will help the pro bono community to maximize limited resources, avoid duplication and overlap in services, and stimulate creative programming.

The team will typically ask questions to learn how the client organization interacts with the possible partners. In other words, the team tries to determine whether the partnership is meaningful. Typical questions include: Do the groups work together in a delivery setting, such as by sharing intake or jointly recruiting? Do the groups jointly raise funds, or is there competition around this critical issue? Do the groups invite representatives from other groups to sit on advisory or governing boards? The answers to these questions often indicate

how “real” the partnership is. How does your program respond to these questions?

Building partnerships is much like building personal relationships—they need to be built on time, nurturing and a foundation of common trust. To promote these relationships a team may help the program to identify low-impact opportunities for the groups to demonstrate their good intentions and build trust. For example, the team may suggest that potential partner organizations direct joint fundraising efforts at a resource untapped by either organization. Another suggestion may be to develop a formal communication device such as shared board members or a liaison relationship.

Regardless of the method used, developing partnerships with other organizations requires patience and persistence. The first step is to identify potential partners in the community. You can then begin the process of developing and improving relations with these partners to build a strong foundation for future partnering.

Although each program visited is unique, the characteristic shared by each one is a willingness to assess itself, to identify areas of concern, and to develop strategies to improve. Periodic review of program operations, whether by the program alone or with the help of outside consultants, enables a program to constantly grow and improve.

**Cheryl Zalenski** is assistant staff counsel for the Center for Pro Bono. If your program is interested in a site visit from the Peer Consulting Project, please contact her at 312/988-5770 or via email at zalenskc@staff.abanet.org

# AALS and ABA Form Law School Pro Bono Partnership

by Cynthia Adcock

Non-profit organizations are sometimes criticized for duplicating efforts, for unreasonably protecting their turf, and for being inefficient. When it comes to promoting pro bono service in law schools, however, two major organizations within the legal profession are proving that this criticism does not apply to them.

The American Bar Association (through the Standing Committee on Pro Bono and Public Service) and the Association of American Law Schools (AALS) have developed the Law School Pro Bono Partnership to strengthen and expand pro bono in law schools. Through the partnership, the ABA and AALS will work to support law schools in developing pro bono opportunities for students and faculty. Duke University School of Law is adding its support to the partnership by contracting to provide a consultant for the project.

## AALS pro bono initiatives began in 1997

The Law School Pro Bono Partnership is the latest development in a series of collaborations begun several years ago. In 1997, the incoming president of the AALS, Deborah L. Rhode of Stanford Law School, announced that addressing pro bono programs in law schools would be her initiative during her term as president. Through Rhode's efforts, the AALS obtained funding from the Open Society Institute for a yearlong study of the role of pro

bono and public service in legal education. The AALS formed a Commission on Pro Bono and Public Service Opportunities, chaired by David Chambers of the University of Michigan Law School, to conduct the study. The ABA was represented on the commission by then-chair of the ABA Standing Committee on Pro Bono and Public Service, Judge Judith Billings.

The AALS commission conducted a national survey of law schools regarding their pro bono activities and held focus groups to discuss the subject. Allied organizations gave their input at a meeting in November 1998. Participants in that meeting included Steve Scudder, counsel to the ABA Pro Bono Committee, and Greg McConnell, director of the ABA Center for Pro Bono. Other groups offering input included the National Association for Public Interest Law, the National Association of Law Placement, and Pro Bono Students America (now the Public Service Law Network).

At the completion of its study, the commission produced a report titled *Learning to Serve* setting forth its findings, conclusions and recommendations.<sup>1</sup> Included in the report is the finding that at some law schools, no students participate in law-related pro bono projects, and at most others, only a minority of students participate in pro bono projects. Concluding that law schools should do more, the commission's report recommended that schools: (1)

make available to all law students at least once during their law school careers a well-supervised law-related pro bono opportunity and either require students' participation or find ways to attract the great majority of them to volunteer, and (2) adopt a formal policy to encourage and support faculty members to perform pro bono work.

## The AALS Pro Bono Project

To help law schools meet its recommendations, the commission arranged for creation of the AALS Pro Bono Project for two years with the help of funding from the Open Society Institute. The AALS then hired a director and an administrative assistant for the project.

The AALS Project was able to accomplish its two principal goals: (1) "to assure the establishment of a permanent and healthy Section on Pro Bono Opportunities within the traditional AALS structure," and (2) "to work directly with law schools to foster the creation of new and expanded pro bono programs and to improve the quality of existing programs."

The AALS Section on Pro Bono and Public Service Opportunities was established in 1999. In just two years, it has attracted over 300 members, with an active executive committee and numerous subcommittees. Currently chaired by Theresa Bryant of Yale Law School, the section is raising awareness within the AALS of the

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## AALS and ABA

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curricular value of pro bono programs, encouraging strong models for pro bono programs and exploring curricular innovations in teaching the importance of pro bono service.

Technical assistance for pro bono programs in law schools has been provided in recent years by the Center for Pro Bono, PSLawNet, and NAPIL. The AALS Pro Bono Project visited 90 law schools and attended numerous conferences. Through these meetings, it helped law schools to expand or begin pro bono programs, gathered information on how law schools are currently encouraging pro bono service, and connected people with similar interests and challenges.

Currently, 99 of the 184 ABA approved law schools have a formal, administration-supported pro bono program that offers and encourages a variety of pro bono opportunities and attempts to involve all or a substantial portion of the student body. Twenty-five law schools have no formal pro bono program but have one or

more in-house or collaborative student group projects that offer law-related pro bono opportunities to a portion of the student body. In total, 124 law schools currently have some pro bono opportunities available for their students.<sup>2</sup>

### Partnership aims to build on Pro Bono Project's legacy

Despite this progress, very few law schools involve a large proportion of their student body in pro bono opportunities. Law school faculty and administrators are eager for ideas and assistance regarding building strong pro bono programs, but they almost universally face time and financial constraints that impede their progress. Meanwhile, the profession continues to change, as does the nature of unmet legal needs. The Law School Pro Bono Partnership will provide ongoing institutional support and assistance to help law schools achieve their pro bono vision.

Much of the first year of the ABA/AALS Pro Bono Partnership will be devoted to developing a long-term plan and financial support for the project. Meanwhile, the partnership will

establish a clearinghouse of online and off-line resources to assist law schools. It will also respond to the unique needs of law schools seeking to increase pro bono participation by providing resources, information and advice. Ultimately, the partnership hopes to witness the emergence of programs in every law school that will inspire and enable all law students to provide pro bono legal services to the poor, pursue a public interest career, or otherwise work toward solving the unmet legal needs in their communities.

### Endnotes

- <sup>1</sup> *Learning to Serve* is available online at <http://www.aals.org/probono>
- <sup>2</sup> Descriptions of these programs are set forth in a soon-to-be released manual titled *A Handbook on American Law School Pro Bono Programs*.

**Cynthia Adcock** is consultant to the ABA/AALS Law School Pro Bono Partnership and is the former director of the AALS Law School Pro Bono Project.

*A version of this article appears in the Fall 2001 issue (Vol. 2, No. 2) of the AALS Section on Pro Bono and Public Service newsletter. To request a copy of the newsletter please contact Steve Schwinn at [sschwinn@law.umaryland.edu](mailto:sschwinn@law.umaryland.edu)*



## New Web Addresses

The ABA Standing Committee on Pro Bono and Public Service and its project, the Center for Pro Bono, are pleased to announce that the Web address for their home page has changed to <http://www.abaprobono.org>. In addition, the Web address for the ABA Child Custody Pro Bono Project has changed to <http://www.abachildcustodyproject.org>. Please bookmark these new addresses and visit us soon!

## New Pro Bono Publications Available Online

The ABA Standing Committee on Pro Bono and Public Service and its project, the Center for Pro Bono, recently added three publications to their Web site at <http://www.abaprobono.org/legalservices/pbpubs.html>

*The Path to Pro Bono: An Interviewing Tool for Law Students* was recently revised. The new edition of this pamphlet was added to the Web site and printed in hard copy. It educates law students about how to ask interviewing law firms about their pro

bono efforts and practices and discusses why this is important. The *Path to Pro Bono* also includes sample interview questions and testimonials from prominent lawyers on the importance of incorporating pro bono into a job search and career. The brochure will be distributed to all ABA-accredited law schools. You can obtain printed copies of the brochure by calling the ABA Center for Pro Bono at 312-988-5769.

*BLUEPRINT for Constructing a Pro Bono Project in a Mid-Sized*

*Law Firm* (1998) is a how-to manual that contains tips for mid-sized law firms in developing pro bono policies and projects.

*Making Pro Bono A Priority: A Bar Leader's Handbook* (1997) is a guidebook for bar leaders that discusses models through which bar associations can play an integral role in the delivery of legal services to the poor. The handbook includes examples of the specific application of these models around the country, along with contact names and phone numbers.

## ABA PRO BONO CORNER: ABA/UNDP Legal Resource Unit

*Editors Note: American Bar Association sections and divisions support a multitude of pro bono projects and initiatives, evidencing broad support for pro bono among the ABA's membership. With this issue, Dialogue begins a periodic feature on pro bono activities sponsored by ABA entities.*

In response to growing demand by developing countries and emerging democracies for technical assistance in strengthening legal infrastructures and enacting legal reforms, the American Bar Association (ABA) and the United Nations Development Programme (UNDP) jointly established the ABA/UNDP Legal Resource Unit (LRU) in 1999.

Housed within the ABA Section of International Law and Practice, the LRU assists UNDP representative offices around the world to identify candidates who can provide legal advice and training, primarily on a pro bono basis, in legal institution-building, judicial reform, legislative drafting, and other law-related areas. To date, the LRU has identified

legal experts at the request of more than 50 UNDP representative offices in Asia, Africa, Latin America, Central and Eastern Europe, and the newly independent states formerly part of the Soviet Union. These experts have been sought as resident and non-resident advisors, workshop speakers and legal commentators.

The LRU maintains a database that consists of more than 500 highly experienced legal experts from over 50 countries. These LRU-registered experts include attorneys, judges, court administrators, prosecutors, litigators, arbitrators, corporate and government counsels and law professors.

The LRU welcomes more attorneys to participate in its activities. Please visit the LRU's Web site at <http://www.abanet.org/intlaw/lru> where additional information, including an online registration form, is available. You may also contact LRU Project Coordinator Frank DeLeon, at 202-662-1662 or [deleonf@staff.abanet.org](mailto:deleonf@staff.abanet.org) for more information.

## From the Chair...



by L. David Shear  
Chair of the ABA  
Commission on IOLTA

Change and continuity were both evident in early August when the Summer 2001 IOLTA Workshops convened during the ABA Annual Meeting in Chicago.

The tradition of high quality, timely and forward-thinking Workshop programming continued, thanks again to the hard work of the Joint Commission/NAIP Meetings Committee. The Workshops' programming addressed current and future trends, such as the burgeoning use of hotlines, the demand for *pro se* legal assistance, and the proliferation of business law *pro bono* programs. Other sessions addressed perennial concerns of the IOLTA community, and included a presentation on interest rates by a Federal Reserve Bank of Chicago economist, and discussion of ongoing changes in the structure of legal services. The Newer Directors Breakfast was well attended. Both the Joint Banking and Technical Assistance Committees held productive meetings.

The Workshops were also a reminder of the transitions in our community. We had the opportunity to say goodbye to several IOLTA directors who will be leaving their programs this fall. The commission's meeting also

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## IOLTA Grantee Spotlight... Fighting Domestic Violence in the District of Columbia

Imagine the horror of enduring physical, psychological and even sexual abuse at the hands of the one who is supposed to love you most. Obtaining legal protection from such abuse is often the first step victims of domestic violence can take to attain some measure of physical and emotional security. The District of Columbia Bar Foundation has a long history of supporting programs that provide legal advocacy for victims of domestic violence, starting with a grant to the Emergency Domestic Relations Project (EDRP) at the project's inception in 1978. Since then, the bar foundation has expanded its funding of domestic violence prevention initiatives, including through ongoing grants to EDRP, The Families and the Law Clinic at the Catholic University of America Columbus School of Law, and Clínica Legal Latina. In this issue, *Dialogue* takes a look at these three programs and how they work to combat domestic violence in our nation's capital.

EDRP has been providing legal advocacy for victims of domestic violence in the District of Columbia since 1979 and has helped more than 50,000 victims since then. In 2000, more than 5,000 victims of domestic violence petitioned for civil protection orders in D.C. Superior Court against their abusers, and approximately 80 percent of them went forward without attorney representation. The court process can be daunting and confusing for those without legal training. In response, EDRP aims to help unrepresented petitioners understand and successfully navigate the court process.

For the past five years, EDRP has been housed in the Domestic Violence Intake Center at the D.C. Superior Court, where it is an integral part of an interagency response to domestic violence that includes representatives from the D.C. Metropolitan Police Department, the U.S. Attorney's Office, the DC Coalition Against Domestic Violence, and other agencies. There, EDRP's two intake counselors—one of whom is bilingual in English and Spanish—meet with victims and explain the process for securing an order of protection and the breadth of legal protection an order can provide, help them fill out the necessary petition, and describe the role of witnesses and evidence in proving their cases.

Most of the domestic violence victims that EDRP assists only visit the program for the intake interview. On average, the interview lasts one hour, but can have an immeasurable, ongoing impact in helping petitioners leave violent relationships. Some victims whose cases are more complicated or suggest a higher potential level of danger are referred to Women Empowered Against Violence, Inc. (WEAVE), EDRP's parent organization, where they seek representation from a staff attorney or a network of *pro bono* attorneys trained in litigating civil protection orders.

Since 2000, EDRP has been a program of WEAVE, which was

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## Domestic Violence

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founded by American University law students with a mission of providing holistic services to survivors of domestic violence, with an emphasis on fostering self-sufficiency. In addition to extended legal representation, WEAVE also provides clients with counseling and case management services. WEAVE has an active community outreach program to educate the public about domestic violence, and also provides targeted assistance to welfare recipients who are subject to domestic violence.

EDRP has earned an excellent reputation in the District of Columbia community in large part because of its director, Meshall Thomas. Thomas has been with EDRP since its inception, and is highly respected for her expertise. Thomas admits that it can be disheartening to hear

such traumatic details of victims' lives every day. "But because EDRP is here," she says, "they have hope of living without violence, and know that the court can help protect them."

Thomas has spearheaded EDRP's latest initiative, the establishment of a neighborhood-based satellite domestic violence center in order to be more easily accessible to victims of domestic violence in the impoverished neighborhoods east of the Anacostia River. With the assistance of the clerk of the Domestic Violence Unit, Thomas compiled statistics on the number of petitioners residing in the three District wards east of the river. She found that from July 2000 through December 2000, 62 percent of the petitioners seeking court relief related to domestic violence in the District lived in those communities.

Last summer, an agreement was reached with Greater Southeast Community Hospital to provide space and additional

services for a domestic violence center in the area. The satellite center will open later this year, and will include staff from EDRP as well as many of the other agencies that participate in the Domestic Violence Intake Center at D.C. Superior Court.

### The Families and the Law Clinic

The Families and the Law Clinic (FALC), formerly the Family Abuse Project, affiliated with The Catholic University of America's law school, has served Washington, D.C. area victims of domestic violence for more than 22 years. The D.C. Bar Foundation has provided support for FALC since 1979. During the past two decades, FALC has offered quality legal services for clients who would otherwise go unrepresented, and at the same time provided in-depth, rigorous clinical training to law students.

FALC's emphasis has always  
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## From the Chair...

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marked the end of the terms of several commission members. In addition to John Deal, who resigned for personal reasons, we said goodbye to Ragan Powers and Judge Lora Livingston. Ragan, who previously served as chair of the commission, brought with him sure-handed knowledge of IOLTA and familiarity with the Ninth Circuit litigation. Lora served with distinction as chair of the Joint Meetings Committee and was the master of ceremonies at the Workshops. She also contributed her intelligence, her IOLTA background, and her familiarity with the Fifth

Circuit litigation. Like the others, she will be sorely missed.

With every transition we also have the opportunity to see new faces. I welcome our new members—Vermont Supreme Court Justice John Dooley, John Paul "Toby" Graff and Karen Neeley—to the commission. I am confident that the commission's work will continue to thrive with their wealth of knowledge and dedication.

Finally, I believe it is important to acknowledge the accomplishment of the Florida Bar Foundation and The Florida Bar in securing IOTA rule changes from the Florida Supreme Court. In short, these changes will allow attorneys to place IOTA accounts in a broader

range of financial institutions, allow the deposit of funds in government securities money market funds, and establish a "floor" for the interest rates that may be paid on IOTA accounts held by participating financial institutions. Although we will need to scrutinize the actual results of this rule change, I encourage other IOLTA programs to look to this approach and others like it as a way to maximize IOLTA's potential.

*Please read more about the new members of the Commission on IOLTA on page 26. Details of the Florida rules changes are part of the article on IOLTA program revenue enhancements on page 24.*

## Domestic Violence

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been on treating each client as an individual and meeting each client's specific representational needs. The clinic makes every effort not to turn away a client who has an emergency, and has accepted numerous cases by appointment from judges of the D.C. Superior Court and the D.C. Court of Appeals.

FALC also offers clinical training to second and third year law students in the area of domestic violence, provides training and technical assistance in the area of domestic violence to members of the D.C. Bar, and participates in local efforts to educate the public about the nature of the problem and to improve the community's response.

The clinic's interns, who are licensed to practice in D.C. courts under appropriate supervision, have been actively involved in representing clients seeking civil protection orders or more traditional domestic relations remedies such as divorce, child custody or support cases. The clinic's supervising attorneys maintain daily interaction with the interns and closely monitor case strategy and development. The interns are required to submit all written material to the supervising attorney for approval and are accompanied and advised by the supervising attorneys at all court appearances.

In addition to the practice experience, interns also participate in a weekly three-hour seminar that includes in-depth classroom instruction. The course covers all areas of substantive law and procedure relevant to the clinic's practice. Interns also participate in community education and

outreach efforts. Recent highlights demonstrate the range and depth of the interns' experiences:

- FALC students spent three days in local high schools talking with students about teen dating violence. Through role-playing and interactive class discussions, the law students illustrated the dynamics of domestic violence, the legal system's responses to domestic violence, and the ways that teens can work with friends who are committing or experiencing domestic violence.
- Clinic students worked with residents of a battered women's shelter, providing information on child custody and visitation, child support and public benefits.
- FALC students handled a number of complex family law issues. In one case, clinic students obtained a civil protection order on behalf of a suicidal 16 year-old who had suffered years of abuse at the hands of her father. The students successfully overcame challenges to the entry of the order based on the girl's age and on the father's withdrawal of his consent to the order. In another matter, the clinic assisted a woman seeking a legal separation after seventeen years of physical and sexual abuse at the hands of her husband.

FALC is staffed by professors Catherine Klein and Margaret Martin Barry, who share responsibility for representing clients, teaching classes, conducting workshops and legal training sessions, lecturing on domestic violence and related legal problems, providing assistance to area practitioners, and participating in efforts with other community

organizations to improve the District's response to abuse victims.

### Clínica Legal Latina

Ayuda, "help" in Spanish, is a nonprofit, community-based legal and social service agency serving the low-income Latino and foreign-born community in the D.C. metropolitan area. Since its incorporation in 1973, it has become the District of Columbia's leading source of bilingual legal assistance for this population in the areas of immigration, domestic violence and relations. Ayuda has received funding from the D.C. Bar Foundation since 1980.

Responding to needs of the growing Latino community in the District of Columbia, Ayuda opened its domestic violence clinic, Clínica Legal Latina (Clínica), in 1986. Clínica has developed a holistic, culturally sensitive, and bilingual legal and social services program to serve battered immigrant women and children fleeing violence in their homes. Clínica is unique because it offers assistance to walk-in domestic violence clients, and is the only legal and social services agency in the District of Columbia that is fully staffed with bilingual Spanish/English members who offer services to victims of domestic violence, while taking into consideration how immigration laws limit the resources and solutions available to its clients. Clínica is staffed by two full-time attorneys, a part-time supervising attorney, a paralegal, a social services coordinator, and a support group coordinator. Additionally, law school and undergraduate students provide support to Clínica staff each semester and over the summer months.

Clínica lawyers offer a full  
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## Revenue Enhancement Initiatives: One Size Does Not Fit All

by David Holtermann

**M**aximizing IOLTA revenues is an ongoing effort for every IOLTA program. With the slowing national economy and the decline in interest rates, improving IOLTA incomes takes on even greater urgency. *Dialogue* brings you a look at recent efforts to enhance revenues from a sampling of IOLTA programs. Part one of this two-part article will focus on recent initiatives in Minnesota and Florida, and part two will focus on developments in South Carolina and Maryland. These efforts

vary in their methods and scope, but they all merit consideration by programs seeking to improve their bottom line.

### Advocacy with Minnesota banks

For the past year, a small working group formed by the Lawyer Trust Account Board (LTAB) of Minnesota has used targeted advocacy with Minnesota banks to push toward increased interest rates and reduced service charges on IOLTA accounts. The working

group is actually a committee of interested parties coordinated by the immediate past president of the Minnesota State Bar Association, Kent Gernander, in collaboration with LTAB Chair Tom Fraser as part of a larger initiative between the state bar, the LTAB and Minnesota legal services leaders to improve funding for legal services.

Fraser and Gernander approached 10 of the largest IOLTA revenue-producing Minnesota

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## Domestic Violence

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range of legal representation beginning with assistance in obtaining temporary protection orders and continuing with petitions to modify, extend and enforce civil protection orders, and separation and/or divorce orders, custody and visitation rights, and spousal and child support. Clínica's social services coordinator helps clients access shelters, day care, housing, employment, food, clothing and health care for themselves and their children. This assistance can be especially critical for clients whose immigration status makes them ineligible for certain public benefits. (In fact, undocumented status often gives perpetrators of domestic abuse another source of coercion over victims.) The coordinator also works to strengthen clients' earning

capacity and self-esteem by facilitating access to job readiness training, English classes, work authorization, and public benefits.

Clínica's community education provides abuse victims with life saving information about their legal rights and the services available to protect them. Clínica also consists of a grassroots leadership development and empowerment program of and for Latina survivors of domestic violence. *Hermanas Unidas* ("Sisters United") works to educate the community about domestic violence and assists members in improving self-esteem and public speaking abilities.

In the past year Clínica has received a large grant from the U.S. Department of Justice pursuant to the Violence Against Women Act. This funding is enabling Clínica to conduct training for a nearby community health clinic's staff and related professionals on domestic violence, immigrant

rights, barriers faced by immigrants, and cultural sensitivity. This training is to educate health care workers so that they are better able to detect clients experiencing domestic violence, and to encourage health care staff to implement formal screening policies, which has been done at the partner clinic. Clínica staff and *Hermanas Unidas* representatives augment these efforts by engaging in outreach to patients waiting to see their clinic physicians, educating them about domestic violence, the remedies provided by the legal system, and sharing their personal experiences.

*Dialogue* thanks **Stacie Mruk**, director of development for WEAVE, **Professor Catherine Klein** of the Catholic University of America Columbus School of Law and **Stephanie V. Neumann**, director of development for Ayuda, for their contributions to this article.

## Revenue

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banks to seek a more favorable interest rate structure and to seek fee waivers. They both signed a letter on MSBA letterhead asking banks to commit to applying to IOLTA accounts the premium rates paid on their business accounts, and to waive all service charges and transaction fees. Seeking to build on successful efforts several years ago with the two largest banks in Minnesota, Wells Fargo and US Bank, the letter cited the favorable premium rates paid by Wells Fargo. The letter also explained the work of legal services programs in Minnesota and the critical need for support from IOLTA funds.

According to Nancy Kleeman, MSBA access to justice director, the working group has seen success with approximately half of these banks since the letters were mailed out in January 2001. The effort has been especially successful where someone related to Minnesota's IOLTA efforts had personal contact with the key bank decision-makers. In May, one area bank, Marquette Bank, N.A., increased the interest rate paid on all of its IOLTA accounts to 2.0 percent, and also agreed to continue waiving service charges and transaction fees. Highland Banks agreed to pay interest at the same rate as that of their highest checking account rate, and has waived monthly service fees.

Kleeman used a contact with the Bremer Financial Corporation, a regional bank, to secure its agreement to a system-wide increase in its rates. The rates paid on IOLTA accounts at each of Bremer's 100 locations increased from 0.5 percent to 1.5 percent

*The letter-writing initiative is a periodic necessity for ensuring that banks maintain awareness of IOLTA and remain mindful of the purpose of IOLTA.*

beginning July 31, 2001. This increase is expected to provide LTAB with an annual increase of more than \$600,000.

LTAB Executive Director Judy Rehak says the letter-writing initiative is a periodic necessity for ensuring that banks maintain awareness of IOLTA and remain mindful of the purpose of IOLTA when they set interest rates and fees. "This is an ongoing, necessary function of the LTAB. Programs like ours need to be continually proactive to maintain the status quo," according to Rehak.

Success from the working group's advocacy has also come in other, less expected ways. For example, one of the two largest banks agreed to make a \$50,000 donation in lieu of waiving service fees. Kleeman notes that outside of the letter-writing campaign, many other banks are paying favorable rates as well, and that Minnesota's efforts to advocate with banks will continue as part of an ongoing process to improve revenues.

### Florida rule changes offer new possibilities

In June, the Supreme Court of Florida approved changes to the state's IOTA rule that will expand the range of permitted account types and financial institutions

where IOTA funds may be placed. The rule change also requires financial institutions holding IOTA funds to create parity between IOTA accounts and non-IOTA accounts of comparable value.

The first thrust of the rule change is to allow brokerage houses to hold IOTA funds. According to Florida Bar Foundation Executive Director Jane Curran, this change will offer attorneys an expanded pool of institutions in which they can place their accounts, with the expected payoff being that some institutions may offer more attractive interest rates than traditional banks. It is also hoped that the new element of competition will encourage banks to offer higher rates as well.

The second aspect of the change is simply to add to the products available to IOTA. The new rule allows IOTA funds to be placed in money market funds registered with the Securities and Exchange Commission, comprised solely of U.S. government securities, and with an asset value of at least \$250 million. The funds are still held in an extremely secure, stable environment, but at a higher interest rate than that earned on NOW accounts.

The final change under the amended rules requires participating institutions to treat IOTA accounts in the same way as similarly situated non-IOTA accounts. In other words, an institution that wishes to hold IOTA accounts must pay interest rates and waive fees on those accounts in a manner comparable to the treatment of accounts of similar size and value.

The idea of seeking parity initially developed from the Florida Bar Foundation's idea of

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## Commission on IOLTA Welcomes New Members

Three new members joined the ABA Commission on IOLTA this fall. Vermont Supreme Court Justice John Dooley, John Paul "Toby" Graff of Portland, Oregon, and Karen Neeley of Austin, Texas were appointed to the commission by ABA President Robert Hirshon.

Justice Dooley has served as Associate Justice of the Vermont Supreme Court since 1987. Prior to then he worked in Vermont's state government as secretary of administration and legal counsel to the governor. Justice Dooley's experience also includes six years as the director of Vermont Legal Aid, Inc., and service as a U.S. District Court magistrate.

Justice Dooley is also a past president of the Vermont Bar Association and was chair of the Board of the Vermont Bar Foundation from 1989 to 1990. During his term as chair, he directed the conversion of the Vermont IOLTA program from voluntary to comprehensive status.

As a member of the commission, Justice Dooley will serve on the Commission on IOLTA/National Association of IOLTA Programs (NAIP) Joint Meetings/Training

Committee and the Technical Assistance Committee.

Toby Graff comes to the commission with a long record of bar association involvement. An attorney with Graff & O'Neil, he concentrates in constitutional issues and complex civil appeals in state and federal courts. Graff is also active in the ABA Section of Individual Rights and Responsibilities and Section of Litigation.

Graff currently serves on the board of directors of the Oregon Law Foundation, which he joined in 2000. He is active within The Oregon State Bar, where he is a currently a member of the executive committee (and founding member) of the Constitutional Law Section and a former member of the Board of Governors. Graff's bar involvement also extends to the Multnomah Bar Association, the Oregon Trial Lawyers Association, the Trial Lawyers for Public Justice, and the American and Oregon Civil Liberties Unions.

Graff will join the Communications and Resource Development/Banking Joint Committees.

Karen Neeley brings her extensive background in banking law to the commission. She is currently

general counsel to the Independent Bankers Association of Texas and is of counsel with Long, Burner, Parks, McClellan & DeLargy, P.C. She is a frequent writer and lecturer on banking topics and is an advisory director of the Texas Association of Bank Counsel.

Neeley is a member of the board of trustees of Texas' IOLTA program, the Texas Equal Access to Justice Foundation. She also chairs TEAJF's Revenue Enhancement Committee. Neeley is a fellow of the Texas Bar Foundation and is active in numerous professional organizations, including the American Bar Association, the State Bar of Texas, the Travis County Bar Association, and the American and Texas Societies of Association Executives.

Neeley will serve on the Joint Communications and Resource Development/Banking Committees.

The new members replace John C. Deal, Hon. Lora Livingston and Ragan Powers. They will join Commission Chair L. David Shear and incumbent members Matthew Feeney, Judy Garlow, Zona Hostetler, Lynn T. Nagasako and Dwight Williams.



Justice Dooley



Karen Neeley



Toby Graff

## ABA Seeks Nominations for Innovative Programs

Programs and projects dedicated to improving the delivery of legal services to those of moderate income are encouraged to submit nominations for the American Bar Association's prestigious Louis M. Brown Award for Legal Access. The award honors and recognizes the contributions of those who demonstrate innovations in their efforts to match the unmet legal needs of the middle class with lawyers who provide legal information, services and representation in affordable ways.

The 2002 Brown Award will be presented on February 2, 2002 at the ABA Midyear Meeting in Philadelphia.

The Brown Award has recognized an array of projects stemming from the courts, bar associations, non-profit groups and individual initiatives. Recipients have been dedicated to advancing legal services in creative ways and have focused on issues such as *pro se* support, unbundled legal services and brief advice. Louis M. Brown was a leading advocate of innovation in a career that spanned 60 years. He promoted neighborhood legal clinics, developed legal checklists and created the notions of preventive law for both individuals and businesses.

The Brown Award is presented by the ABA Standing Committee

on the Delivery of Legal Services. Each year the committee encourages the replication of various models that improve access to legal services by publishing a booklet titled "Profiles of Moderate Income Delivery Programs," with information about each award nominee. Information about prior award recipients and nominees is also detailed online, at the committee's Web site.

For more information about the Brown Award, go to the online nomination site at <http://www.abalegalservices.org/brown.html>, or contact the committee's staff counsel, Will Hornsby, at 312-988-5761 or [whornsby@staff.abanet.org](mailto:whornsby@staff.abanet.org)

## Revenue

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encouraging Florida attorneys to attain a benchmark interest rate on their IOTA accounts. An *ad hoc* committee of the foundation studied the issue further, and decided to follow an approach then under consideration in Ohio to place the onus for a minimal rate on institutions, not attorneys. In December 2000 the foundation's board voted unanimously to pursue such a rule change.

The petition to the Florida Supreme Court to change the rules was preceded by efforts to build support within The Florida Bar and its board of governors. The foundation was aided by Terry Russell, president of The Florida Bar. The board of governors offered its unanimous support for the changes. By

*By the time the Florida Bar Foundation filed its petition last winter, approximately 180 bar members had joined as petitioners.*

the time the foundation filed its petition last winter, approximately 180 bar members had joined as petitioners. According to Curran, the petition earned so much support simply because "it made sense."

According to Curran, the petition elicited some formal comments from the Florida Bankers Association (FBA), but no outright opposition. The foundation amended its petition following the initial round of

comments submitted to the court by the FBA.

The foundation will be responsible for determining the eligibility of institutions to hold accounts under the new rule. The rule change went into effect shortly after the court's approval, but institutions holding IOTA accounts have until January 14, 2002 to comply. There is no way to predict how successful the changes will be, and currently interest rates on "REPOs" (accounts that utilize daily bank repurchase agreements) are too low to make them practical for all but the very largest IOTA accounts, according to Curran. Nevertheless, the foundation is hopeful that these developments will lead to significant increases over the long term.

**David Holtermann** is assistant staff counsel to the ABA Commission on IOLTA.

## ABA Adopts Hotline Standards

**A**t the ABA Annual Meeting in August, the ABA House of Delegates voted to adopt the *Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information*. The Standards were drafted and submitted to the House by the Standing Committee on the Delivery of Legal Services. As a result of the House action, they are now among the policies of the ABA.

The Standards are intended to be a source of guidance and direction to those involved in the establishment and maintenance

of telephone hotlines providing legal services. Prior to the development of these standards, no such guidance had been available to those delivering legal services through hotlines.

The Standards set out minimal obligations, centered on the need to comply with state ethics provisions, and advance best practices in ways that are designed to use this mechanism to best serve clients.

The adoption by the House of Delegates is significant as the ABA acknowledges the impor-

tance of this alternative method of providing consumers with cost-effective legal services.

The committee encourages those involved in the development or operations of telephone hotlines to analyze the standards and assess the ways in which they can enhance their programs. The Standards and their comments are available online at <http://www.abalegalservices.org/approvedstandards.pdf> or by contacting Denise Boyd at 312-988-5758 or [boydd@staff.abanet.org](mailto:boydd@staff.abanet.org)

## Sheree Swetin Leaves ABA to Join San Diego County Bar as Executive Director

**T**he ABA Division for Legal Services recently bid a fond farewell to Sheree Swetin, who on October 1 assumed the post of executive director of the San Diego County Bar Association. Sheree came to the ABA in 1982 to work on professional liability issues, and in 1984 was promoted to the position of staff director for the Standing Committees on Lawyer Referral And Information Service, Lawyers' Professional Liability and Legal Assistance for Military Personnel. She became known as a national expert on the subjects examined by those committees, authored a number of articles and publications on those topics during her tenure, and shared her expertise through the provision of technical assistance to many programs and individuals.

Sheree's key accomplishments included:

- Shepherding development of the ABA Model Supreme Court Rules Governing Lawyer Referral and Information Service;



- Developing new services for ABA members seeking malpractice insurance or advice

about other professional liability matters;

- Developing ABA policy in support of changes to the Soldiers and Sailors Civil Relief Act; and
- Advancing the adoption in the military of a standardized wills procedure, federal advance medical directives and protections for reservists called to active duty.

While Sheree has left the staff of the ABA, she will be leading the staff of an important local bar association, and looks forward to continuing to work with colleagues nationwide on many issues relating to access to justice and service to the profession. You may reach her by email at [Sswetin@sdcba.org](mailto:Sswetin@sdcba.org)

## From the Chair...



by L. Jonathan Ross  
Chair of the ABA Standing  
Committee on Legal Aid and  
Indigent Defendants

I want to take this opportunity to thank three members of the Standing Committee on Legal Aid and Indigent Defendants (SCLAID) who have completed their terms of service. Each served with distinction.

- Doreen Dodson preceded me as chair of SCLAID, and provided guidance and leadership to the ABA in its continuing strong support for the Legal Services Corporation during difficult times.
- Larry McDevitt, the ABA state delegate from North Carolina, brought key insights as a former chair of the board of a vital local legal services program, and as a former local government leader in Asheville.
- Esther Lardent has spent more than 30 years laboring to improve access to justice for the poor. A former ABA Board of Governors member, she was the guiding spirit behind the most recent ABA Comprehensive Legal Needs Study, completed while she was chair of the ABA Consortium on Legal Services and the Public.

SCLAID has been expanded by 2 seats, and we will be joined

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## Catalyst Grants to Improve State Indigent Defense Systems

by Shubhangi Deoras

In August 2001, the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) began awarding catalyst grants pursuant to its new grant program, the ABA Gideon Initiative. Supported by the Program on Law & Society of the Open Society Institute, the Gideon Initiative was established to provide catalyst grants to foster improvements in state indigent defense systems. The initiative has invited grant applications from a select group of organizations in eight states, challenging them to propose novel approaches to improving the delivery of indigent defense services in their states. To be eligible for a grant, applicants were required to include the substantial involvement of community-based organizations and other “non-traditional” stakeholders in their proposed reform efforts.

The Gideon Initiative has awarded two grants to date. The first was awarded to the Michigan Council on Crime and Delinquency (MCCD) for a project to improve the quality, cost effectiveness, and accountability of representation for defendants throughout Michigan. Through its *Improving Defense Services in Michigan* project, MCCD will coordinate and staff a task force composed primarily of non-defense attorney groups. The task force will be charged with developing (1) a plan for a model public defense system in Michigan, (2) an extensive public education strategy directed at state and local officials, key stakeholders, and the public at large, and (3) an advocacy strategy for implementing the plan. MCCD will seek expert technical assistance to provide the task force with critical indigent defense information on Michigan and other states and to develop the necessary materials for a media campaign. Further, the task force plans to explore the adoption and enforcement of trial-level system and performance standards to ensure system accountability. The task force will coordinate and work in close concert with similar state and local bar association efforts.

A second Gideon Initiative grant was awarded to the Juvenile Justice Project of Louisiana (JJPL) to fund a multi-pronged initiative to increase resources for and improve the quality of indigent defense services for adults and juveniles. Through the *Louisiana Indigent Defense Initiative*, JJPL and its partner, the Louisiana Crisis Assistance Center (LCAC), will build a broad-based coalition of stakeholders to educate legislators, key policy makers, and the public at large about the serious problems in the juvenile justice system. Additionally, JJPL will work to develop and seek adoption of a training curriculum and best practices standards for juvenile defenders in Louisiana. Along with these efforts, LCAC will conduct assessments of juvenile and adult public defender caseloads and resources in Baton Rouge, Lake Charles, New Orleans, and one rural parish.

SCLAID expects to announce additional ABA Gideon Initiative grant recipients in the coming months.

**Shubhangi Deoras** is assistant counsel to SCLAID. For more information regarding the ABA Gideon Initiative or SCLAID’s other indigent defense activities, please contact her 312-988-5765 or [deorass@staff.abanet.org](mailto:deorass@staff.abanet.org)

## From the Chair...

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by five new members:

- James Moore – a former president of the New York State Bar who focused his term on increasing funding and support for legal services for the poor. Jim has continued to devote his efforts to these objectives, and will bring great energy and insight to SCLAID.
- Ragan Powers – a former chair of the Washington State Equal Justice Coalition, and a former chair of the ABA Commission on IOLTA. Ragan has long worked to improve access to justice, including contributing significant pro bono work to preserve IOLTA.
- Sarah Singleton – a former president of the New Mexico State Bar who spent her bar year working for improvements in the state's legal aid system. Sarah has continued that work, and serves as a member of the ongoing state planning committee.
- Randolph Stone – director of a clinical program at the University of Chicago, Professor Stone previously served as the Cook County Public Defender, leading one of the nation's largest indigent defense systems. He has also served as chair of the ABA Section of Criminal Justice, and has continued his involvement in improving the indigent defense system, participating in the ongoing Harvard Executive Sessions on Indigent Defense.
- Bill Whitehurst – a former Texas State Bar president who has remained very active in efforts to preserve and obtain adequate funding for the civil legal services system. In 1980,

Bill joined Mike Greco and me in founding "Bar Leaders for the Preservation of Legal Services for the Poor," a grassroots effort by state bar leaders nationwide to preserve the Legal Services Corporation against attempts to de-fund and destroy the program.

### Georgia Update

I am happy to report that the LSC Inspector General has reached a settlement with the Georgia Legal Services Program that will preserve client confidences and safeguard clients' safety. You may recall that in June of 2000 the LSC Office of Inspector General (OIG) demanded that the two Georgia legal services programs turn over records on hundreds of thousands of clients served over a 10 year period, including information about the type of problem the client had and the client's address. The programs refused, citing concerns about client confidentiality.

The ABA House of Delegates subsequently adopted a resolution opposing incursions into client information that would violate ethical norms and client expectations of privacy and confidentiality.

The OIG issued a subpoena for the requested information and the Georgia programs refused to comply. Negotiations followed, ultimately resulting in a settlement providing that an independent consultant retained by the Georgia programs would produce "geo-coded" data shielding client identity and confidentiality while offering information sought by the OIG. The settlement, however, did not resolve the underlying legal questions concerning the OIG's ability to access client information. It specifically left those questions for another day, stating:

"Neither this Agreement nor any

action taken pursuant to this Agreement shall be construed, considered or used as a waiver of the arguments made in the underlying action, including Respondents' claims regarding the confidential and privileged nature of the information subpoenaed by Petitioner OIG and Petitioner's claims regarding Petitioner OIG's right of access to the information subpoenaed by Petitioner OIG."

### ABA Presidential Initiatives

In August, Robert E. Hirshon of Maine became President of the ABA. Bob previously served as chair of the ABA Standing Committee on Pro Bono and Public Service, and brings to the presidency a strong commitment to justice for all.

President Hirshon has created two special Presidential Commissions directed at improving access to justice. The Commission on Loan Repayment and Forgiveness will examine the problem of the enormous debt burdens carried by graduating law students, and the impediments that this debt creates for those wishing to work in legal services. Anecdotal evidence suggests that today's law graduates find it nearly impossible to embark upon low-paying public service careers. Moreover, those who do find a way to accept such employment often cannot remain in such positions for very long, because their obligations to family soon require them to find more lucrative work. The commission will examine the issues in this area, and develop a report on the situation and on potential means to address the problem. It will kick off its work with its Fall Forum in late October, calling together those with knowledge

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## 2002 LSC Funding Update

The U.S. Senate passed the FY 2002 Commerce, Justice, State appropriations bill (HR 2500, S 1215) on September 13 by a vote of 97-0. The \$41.5 billion bill includes \$329.3 million for the Legal Services Corporation and \$40 million for civil legal assistance under the Violence Against Women Act (VAWA).

The September 11 terrorist attack has consumed Congressional attention and no appropriations bills were enacted before the start of the FY 2002 budget year which commenced on October 1. At press time, the government, including LSC, was operating pursuant to the first of many expected continuing resolutions. Ultimately, House and Senate conferees are not expected to make any changes in provisions for LSC or VAWA as they are identical in both the House and Senate versions of H.R. 2500. Nevertheless, the impact of recent national events on this and other funding matters remains uncertain.

## From the Chair...

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of the issues for an intensive one-day exploration of the problems and potential solutions.

President Hirshon has also created the Commission on Billable Hours, intended to gather information about the impact of the billable hour paradigm as the nearly exclusive method of valuing legal work. This commission will examine whether billable hour requirements in law firms have resulted in reduced contributions of pro bono time, and have generally resulted in diminished quality of life and professional growth for young lawyers.

## 2001 Harrison Tweed Award

The 2001 Harrison Tweed Award was presented at a joint luncheon of the National Conference of Bar Presidents and the National Association of Bar Executives during the ABA Annual Meeting. The award, which recognizes the extraordinary achievements of state and local bar associations in expanding access to justice for low-income civil litigants and

indigent defendants, was presented this year to the Brooklyn Bar Association, the State Bar of California and the Oregon State Bar. A detailed description of the accomplishments of each of these organizations can be found in the Summer 2001 issue of *Dialogue*, or on the Web at <http://www.abalegalservices.org/dialogue.html>

### State Bar of California



SCLAID Chair L. Jonathan Ross with (back row left to right) Mary Viviano, Robert A. Hawley, Andy Holcombe, President Karen S. Nobumoto and (seated) Teresa Saucedo, Executive Director Judy Johnson, and Judy Garlow of The California State Bar.

### Oregon State Bar



Ross (far left) with representatives of the Oregon State Bar (left to right) Thomas Matsuda, Immediate Past President Lawrence B. Rew, and President-Elect Angel Lopez.

### Brooklyn Bar Association



Ross (left) pictured with Brooklyn Bar Association representatives (left to right) Ken Jockers, President Lynn R. Terrelonge, Diana Szochet, and James Slattery.

## *“Help Reservists” Web Site Serves as Hub of Efforts to Aid Reservists*

[www.abalegalservices.org/helpreservists/home.html](http://www.abalegalservices.org/helpreservists/home.html)

In response to a request from the chiefs of military legal assistance to establish a Web site to centralize pro bono efforts to assist mobilizing reservists, the ABA Standing Committee on Legal Assistance for Military Personnel (LAMP) has established a site at <http://www.abalegalservices.org/helpreservists/home.html>

### **Resources for bar associations**

The Web site contains resources for bar associations seeking to help reservists and their family members in the current mobilization effort. In addition to providing a central registry for pro bono efforts, the site also includes frequently asked questions (and answers), teaching guides on key laws, models for bar association involvement, links to helpful resources and a directory of volunteer lawyers to whom military attorneys can refer reservists.

### **Military has capacity to handle current reservist mobilization**

LAMP recently conducted a conference call that included representatives from 28 state and local bar associations, several chiefs of legal assistance, and others experienced in the pro bono efforts launched in Desert Storm. The purpose of the call was to discuss the legal issues likely to arise for reservists and how bar associations could become educated on key laws that impact the mobilized reservists. Given the current

mobilization numbers of 26,000 reservists (at press time), the chiefs of military legal assistance indicated that the capacity exists within the military to handle the reservist mobilization. Recognizing the value of a civilian pro bono network of attorneys who have also been trained in key military laws impacting reservists, they will use the Help Reservists Web site to keep the civilian bar updated on the need for help.

### **Listserv**

A new Listserv has been established to exchange information. Those interested in subscribing to the Help Reservists Listserv should contact Colleen Glascott at [glascotc@staff.abanet.org](mailto:glascotc@staff.abanet.org)

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## *Find Us on the Web—Update!*

The ABA Division for Legal Services has a new, shorter Web page address. You can now locate the Division’s Web page at <http://www.abalegalservices.org>

The Division continues to update the Web-based Consumers’ Guide to Legal Help on the Internet at <http://www.findlegalhelp.org>

Information about legal services related to the September 11 attacks has been compiled by the Division for Legal Services at <http://www.abalegalservices.org/disaster>

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