

Dialogue

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IOLTA Grantee Spotlight...

Illinois Technology Center for Law & the Public Interest: Using Partnerships and the Internet to Increase Access to Justice

by Lisa Colpoys

Formed in March 2001 in response to the recommendations of a statewide legal services technology needs assessment,¹ the Illinois Technology Center for Law & the Public Interest (ITC) is a unique collaboration of Illinois legal services providers, funders, the private bar and law schools. ITC was created by 12 partner organizations with the mission of increasing access to justice for low-income people through the innovative use of technology to train, support and educate legal aid providers, pro bono attorneys and the public. ITC's primary goals include using the Internet to improve and expand Illinois legal services in a coordinated and cost-effective way, and increasing the public's understanding of their legal rights and responsibilities and their ability to resolve their legal problems.

Unprecedented collaboration

The planning that led to the formation of the Illinois Technology Center for Law & the Public Interest began in early 2000 and included a statewide legal services retreat in November 2000. These events and the subsequent creation of ITC were historic because they marked the first time legal services-related organizations in Illinois coordinated their efforts to create a solution addressing a common issue. The Lawyers Trust Fund of Illinois (Illinois' IOLTA program) and the Chicago Bar Foundation were instrumental in providing the early motivation, leadership and initial funding for ITC. These two organizations acted to truly "put their money where their mouth is" and followed up with substantial three-year funding pledges² that were generously matched by IIT Chicago-Kent College of Law, which houses ITC. As a result of the hard work and financial commitments of these three groups, ITC was then able to obtain additional funding through the Legal Services Corporation (LSC) 2001 Technology Initiative Grants (TIG) to develop statewide legal services Web sites and interactive multimedia Web resources for legal services and pro bono attorneys and for the public.



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DIALOGUE

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ITC

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As Illinois' statewide technology center for legal services, ITC provides valuable resources and services to its attorney and non-attorney constituents, including three Web sites that were launched in July 2001:

- **www.IllinoisLegalAid.org** provides training and practice support tools for legal aid attorneys and staff and will help streamline the delivery of free and low cost legal services in Illinois.
- **www.IllinoisProBono.org** provides online recruiting, training and support of pro bono attorneys.
- **www.IllinoisLawHelp.org** provides Illinois residents with a library of legal self-help and educational materials and an online directory of legal services programs.

These Web sites are now being redesigned, and will have a new look and increased usability later this year.

Aggressive goals

ITC-led projects can be divided into three main categories: 1) building an information technology (IT) infrastructure for Illinois legal services providers; 2) developing the three statewide legal services Web sites; and 3) delivering valuable legal information to attorneys and the public over the Internet. ITC's goals and plans are aggressive, so it is fortunate to have available a talented staff of attorneys, technologists and students, and the resources of an innovative technology university, Illinois Institute of Technology/Chicago-Kent College of Law.

To accomplish the goal of building a robust IT infrastructure, ITC is working with legal services programs to obtain low-cost, high-speed Internet access for 50 legal services offices in Illinois. Thanks to funding from LSC and the Illinois Bar Foundation, 31 offices throughout the state will receive at least one new multimedia-capable computer workstation by the end of this summer. These workstations will allow legal services staff to contribute to the development of content for the statewide Web sites, and in some cases will provide a public Internet access point for clients to obtain online legal information. In another effort funded by the Illinois Community Technology Fund, ITC is helping to bridge the digital divide that lower income individuals face, by piloting ten public Internet access sites at social services agencies, five in the metropolitan Chicago area and five in downstate Illinois. ITC staff will train staff and volunteers at these locations to be facilitators who will assist individuals using www.IllinoisLawHelp.org for legal information.

Building the three statewide Web sites is no small chore. ITC's technology team is putting the finishing touches on a content management system that will allow non-technical users to easily add and edit content on the sites using only word processing skills. By the end of the summer, legal services attorneys and staff across Illinois will be able to publish relevant legal information on the Web as well as to add information about their organizations, pro bono and employment opportunities, legal news and events. The redesign of ITC's current Web sites will transform them from

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From the Chair...



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

Foremost on my mind in this issue is the news that the Supreme Court will review the case involving the Washington State, and possibly the Texas, IOLTA program, during its next term. In some ways, we have been waiting for this day since the Supreme Court issued its decision in *Phillips* in 1998. That decision was inconclusive about two key aspects of the Fifth Amendment claim that was asserted, and the Court now will likely address those issues.

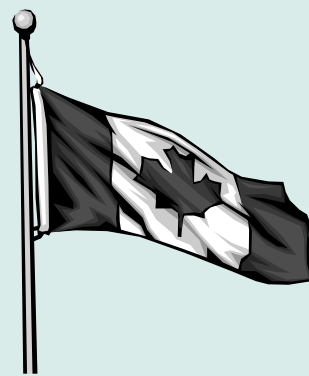
It is important to remember that IOLTA programs have a very strong legal argument in support of both of these points—whether IOLTA is a “taking” under the Fifth Amendment, and whether “just compensation” is due. This was most recently demonstrated by the Ninth Circuit en banc decision that upheld the Washington State program, in which the court found that there was no taking of client property, and even if there was, the just compensation due would be “nil.”

I am very pleased that we have such a strong array of talented and committed advocates working on our behalf. Attorneys from across the country have devoted countless hours of pro bono service in support of

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Trends in Canadian IOLTA Programs

by Owen Snider



The concept of using interest on lawyers’ general trust accounts to fund legal aid, legal education, legal research, law reform and law libraries originated in New South Wales, Australia in 1967. In 1969, the IOLTA concept came ashore to North America. Lawyers in British Columbia persuaded the provincial government to enact amendments to the Legal Profession Act requiring financial institutions to pay interest on lawyers’ general trust accounts¹ to the newly created law foundations. The foundations were to use the interest to benefit the public. Prior to these amendments, financial institutions had used the funds in the general trust accounts without benefit to the public. The British Columbia model was adopted by Alberta, Ontario and Saskatchewan in 1973 and eventually by all of the other provinces and territories, culminating with Manitoba in 1986. (*British Columbia also exported the IOLTA model to the United States—see sidebar on page 6.*)

Canadian IOLTA programs are administered by provincial and territorial law foundations that were established by legislative act in each jurisdiction. The foundations exist as stand-alone organizations, and are not associated with provincial or territorial bar associations, or with the judiciary. The foundations do not perform any traditional bar foundation fundraising functions, existing only to administer IOLTA.

Grants

In the United States, about 90 percent of IOLTA funds go to support civil legal services for the poor. In contrast, Canadian IOLTA funds are used for a wide variety of law-related programs, although many of the law foundations do provide funding to provincial legal aid programs that handle civil and criminal matters. In some cases, the amount of a foundation’s IOLTA contribution to these programs is legislated. For example, Alberta is mandated to contribute 25 percent of its IOLTA revenue, Manitoba 50 percent, Newfoundland 66.6 percent, and Ontario 75 percent. Law foundations in other provinces such as British Columbia and New Brunswick contribute negotiated amounts (agreed to by the foundations and the legal aid programs) while those in other provinces such as Saskatchewan and Nova Scotia do not contribute to the provincial legal aid program at all.

Because Canadian legal aid programs receive most of their funding from the federal and provincial governments, Canadian IOLTA programs support a great deal of activity beyond legal aid. These activities, which are funded at the discretion of each foundation’s board consistent with the foundation’s objectives, include: legal research, program development, law reform, professional and public legal education, and law libraries.

A significant portion of the grants portfolio usually goes to continuing support for programs rather than just to provide funding for

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ITC

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static HTML pages to dynamic, database-driven sites that can be tailored to particular user groups. The new sites will be more attractive and user friendly, providing valuable Web-based tools, including:

- multi-media training for attorneys and the public
- searchable legal aid organization directories for attorneys and the public
- volunteer opportunity search functions for pro bono attorneys and non-attorneys
- interactive document/form assembly for attorneys and the public
- a legal aid community event calendar
- legal news and legal services program newsletters
- legal services job postings that will interface with national legal aid job banks
- substantive law discussion groups for advocates
- subscriptions to periodic e-newsletters and updates.

ITC is drawing upon the expertise of the state's leading legal services attorneys to develop content for the three Web sites. Supervised by ITC's two attorney legal content managers, three teams of five expert practitioners are developing multimedia attorney training and client self-help information in the priority areas of housing, family law and public benefits. Using ITC's content management system, nine other substantive law content editors will begin this summer to assist ITC staff in gathering, updating and posting existing materials in several other areas of law, includ-

ITC collaboration partners include a wide range of members from Illinois' legal community

- Legal Assistance Foundation of Metropolitan Chicago
- Prairie State Legal Services
- Land of Lincoln Legal Assistance Foundation
- Chicago Volunteer Legal Services Foundation
- Coordinated Advice and Referral Program for Legal Services (CARPLS)
- Cabrini Green Legal Aid Clinic
- The National Center on Poverty Law
- IIT Chicago-Kent College of Law
- Southern Illinois University Law School
- Lawyers Trust Fund of Illinois (IOLTA)
- Chicago Bar Foundation
- Chicago Bar Association
- Illinois State Bar Foundation
- Illinois State Bar Association

ITC's national legal services partners include:

- Legal Services Corporation
- ProBono.net
- Lexis/Nexis
- Indiana Legal Services
- Legal Services XML
- NLADA

ing consumer, employment, health, disability, estates/wills, education, immigration, economic development, and civil practice. By harnessing the vast amount of knowledge already available in the legal services community, ITC and its partners will build a more coordinated network as they develop rich content for the statewide Web sites.

Partnerships with national impact

ITC has entered into partnerships with national legal services organizations that extends the scope of its work beyond Illinois. ITC and Chicago-Kent College of Law hosted the successful LSC Technology Initiative Grantee conference in October 2001 and will host the conference for TIG 2002 grantees this year. ITC is

working with ProBono.net, the statewide Web site template for 25 states, to extend the capabilities of the template to include multimedia content development. Through a generous donation of software and equipment by Lexis/Nexis, ITC is working with Chicago-Kent College of Law and Indiana Legal Services to give statewide Web sites the capacity to incorporate document assembly. As a member of the Legal Services XML group, ITC is working with other members, including the National Center on Poverty Law, ProBono.net and the National Legal Aid and Defender Association, to develop protocols for sharing data between Web sites.

Conclusion

The initial success of the ITC can

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From the Chair...

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IOLTA in both the Washington State and Texas cases. These advocates have made it clear that they will leave no stone unturned as they prepare to brief the Court and deliver oral arguments this fall. The ABA has been particularly fortunate to receive pro bono representation from outstanding appellate lawyers in the past, and I am delighted that they will continue to assist us as these cases proceed.

It is with a tinge of sadness that I write this column, as I am stepping down as chair of the Commission on IOLTA in August. I have enjoyed four wonderful years on the commission, including the past two as chair. I would particularly like to acknowledge Lorna Blake and Jane Curran, who, in their capacity as successive presidents of NAIP, during my tenure as chair demonstrated great leadership on behalf of IOLTA programs. I would also like to acknowledge the commission's staff, Bev Groudine, David Holtermann, Janice Jones, Mickey Glascott, and Director of the Division for Legal Services Terry Brooks. It would have been impossible for me to fulfill my role as chair without their talent, support and input. Having been privileged to have served as chair of three ABA committees/commissions, I continue to marvel and be grateful for the magnificent staff that we have in the ABA.

The commission has been and is now comprised of unique and dedicated members, whose talents and friendship I shall always treasure. I encourage the current and future members to continue their steadfast support for defending and building IOLTA. Two

valuable commission members, Matt Feeney and Lynn Nagasako, are departing this year. Matt spent one more year with us than we expected to help out with the IOLTA.org Web site project. Matt's legal acumen, generosity and insight have greatly aided the project, and the commission's interest in it. In her time with us, Lynn has served as co-chair of the Joint Commission/NAIP Banking Committee, and has been a consistent, thoughtful voice on the commission. The commission will miss both of them. The incoming chair of the commission will be Darrell Jordan, a distinguished member of the Texas Bar and greatly respected within the ABA. I am certain he will provide outstanding leadership to the commission in the days ahead.

IOLTA began under my watch as president of the Florida Bar and during my tenure as chair of the Implementation Commission that helped create the Florida program. It is the finest bar-sponsored and supported endeavor to aid those in need that I have ever been associated with in my professional life. Now, as I depart, I remain as confident as ever that the constitutionality of IOLTA will be upheld by the Supreme Court. The ABA shares this confidence, and under its continuing leadership, the commission will be unflinching in its efforts to support the litigation team and individual programs throughout the country. In the end, I know IOLTA will prevail! Be assured of my enduring and unyielding support in every way.

ITC

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be attributed to many people and organizations throughout Illinois. However, without the vision and generosity of our initial proponents and funders including the Lawyers Trust Fund of Illinois, it is questionable whether the valuable resources ITC brings to the Illinois legal services community would be possible. ITC is truly a testament to what people and organizations can accomplish when they put their heads together for a common cause.

Lisa Colpoys is executive director of the Illinois Technology Center for Law and the Public Interest.

Endnotes

¹ *Assessment of the Uses of Technology for Legal Service Providers in Illinois and the Creation of the Illinois Technology Center for Law & the*

By harnessing the vast amount of knowledge already available in the legal services community, ITC and its partners will build a more coordinated network as they develop rich content for the statewide Web sites.

Public Interest, The Chicago Bar Foundation, October 2000.

² The LTF has pledged grants of \$200,000 a year for 2002, 2003 and 2004, and made an initial grant of \$50,000 in 2001. The CBF has pledged \$100,000 each year for 2002, 2003 and 2004, following an initial grant of \$50,000. IIT Chicago-Kent is pledging another \$1 million to match the total LTF/CBF grant amount.

Canadian IOLTA

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projects (as is the case in many other foundations). Another key aspect of Canadian IOLTA programs is that they often act on a “venture capital” model, providing initial funding for initiatives that, while important, are unlikely to attract funding from other sources. Law foundations often proactively encourage applications that reflect current cultural and social issues in the province in question. For example, many law foundations are funding efforts in “First Nations” communities to develop justice systems based upon and consistent with aboriginal values and concepts of justice. Another common objective is funding access-to-justice initiatives, particularly research and development projects. Many foundations have also focused on funding domestic violence prevention efforts in recent years.

Bank yields a challenge

One of the difficulties that the law foundations have faced is fluctuation of interest rates, and the corresponding effects on IOLTA revenues. This challenges programs to provide relatively stable funding to organizations in the continuing grants portfolio while at the same time taking a fiscally responsible approach in the face of these variable revenue streams. Most law foundations have a policy of building up a grant stabilization reserve in high-income years and drawing it down in low-income years.

In Canada, participation in IOLTA programs is mandatory for both lawyers and financial institutions (as compared to the mix of mandatory, opt-out and

From British Columbia to Florida

A friendship between Arthur J. England Jr., former chief justice of the Florida Supreme Court, and Sholto Heberton, Q.C., governor of the Law Foundation of British Columbia, was instrumental in exporting IOLTA from Canada to the United States. Inspired by news of the IOLTA program, England visited Vancouver to collect information, and then led efforts by the Florida Bar and the Florida Bar Foundation to successfully petition the Florida Supreme Court to authorize an IOLTA program in the state. The Florida IOLTA program began operating in August 1981.

With IOLTA in place and growing in his home state, England and his Florida colleagues began the process of spreading the program to other states by communicating with bar leaders across the country and through organizing a national IOLTA conference in 1983. By the end of that year, IOLTA programs had been implemented in 15 states and by 1986, in 42 states. By 1998, IOLTA programs were active in all 50 states.

—*This historical review draws heavily on a January 2001 article in The Advocate by David Brine, Q.C., Master of the Supreme Court of BC.*

voluntary programs in the United States). Combined with certain differences in the practice of law, this results in substantial returns on the general trust funds to the law foundations. For example, Alberta has about 6700 actively practicing lawyers, and received \$10.4 million (Canadian) in fiscal year 2001-2002 on an average net rate of interest of about 1.8 percent.

Working with financial institutions is considerably simpler in Canada. There are eight major banks, which are chartered nationally and operate in every jurisdiction. Trust funds are also held in a number of regional banks, credit unions and the few trust companies that have not yet been taken over by a bank. This concentration of accounts at a relatively small number of institutions means lower administrative costs for the law foundations, but it also creates a blessing/curse situation.

On the one hand, negotiating interest rates is easier because there are so few major contacts to

make and one success translates into a large proportionate increase in revenue. On the other hand, it is hard to individualize the approach and make deals based on local conditions and relationships. Indeed, major banks appear to be moving toward a system of having one arrangement with each bank for all of Canada. This could be a boon for the smaller provinces, where interest rates tend to be lower. But it could be a hindrance for the largest two provinces (British Columbia and Ontario), since the larger pool of funds has often translated into a higher agreed interest rate.

The result of this trend is that Canadian law foundations tend to negotiate with the banks at the same time. As such, they are in a position to keep each other informed of progress and, at the same time, remain aware of and sensitive to local conditions and relationships. This approach currently seems to be yielding positive results. It falls short of a

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Canadian IOLTA

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national negotiating team but it does lend additional weight to each foundation's pitch to the local or regional bank representatives.

The interest rate paid on the accounts is tied to the bank prime rate (for example, prime less three percent) and the aggregate interest may or may not be subject to service charges. The foundations are only interested in the net revenue and each bank has its own philosophy about lower rates without service charges or a higher rate with service charges. The advantage of tying the rate to prime is that the law foundations only have to negotiate about rates periodically, since the rate paid automatically tracks economic shifts in the reference rate. The foundations do, however, actively negotiate to minimize service charges, and only pay regular transaction fees, if any.

The current emphasis in

Canada is on interest rate negotiations because the law foundations are unlikely to receive sufficient revenue to meet core funding needs this year (and probably next year too) and draws on the reserves will be required. Any negotiated increases will ameliorate this problem and, therefore, be of direct benefit to all of those worthwhile community programs receiving funds.

Legal challenge unlikely

As to a constitutional challenge to IOLTA analogous to the pending Fifth Amendment claims in the United States, the sense in Canada is that such an event is unlikely. There is no equivalent provision to the Fifth Amendment in the Canadian Constitution or Charter of Rights that would give rise to a claim for just compensation. Since Canadian IOLTA programs are legislatively created, a change to Canadian IOLTA programs would have to come from the provincial legislatures.

Under those circumstances, "alternative sources of revenue for the programs would need to be found which makes political action seem unlikely".²

In the absence of a legal challenge, the most immediate issues of concern to IOLTA in Canada remain the key determinants of IOLTA revenue streams: the level of economic activity and the rate of interest being paid.

Endnotes

- ¹ As in the United States, Canadian IOLTA programs receive interest only from trust account funds that are held for a short period or in such small amounts that net interest cannot be earned for clients.
- ² "Interesting Times for Trust Accounts", by Judy Van Rhijn, *Canadian Lawyer Magazine*, April 2002.

Owen G. Snider is director of the Alberta Law Foundation, secretary of the Association of Canadian Law Foundations, and treasurer of the National Association of IOLTA Programs.

IOLTA Litigation Update

Supreme Court next destination in Ninth Circuit case

On June 10, 2002, the United States Supreme Court granted certiorari in the case of *Washington Legal Foundation v. Legal Foundation of Washington*. The high court agreed to review the case after the Washington Legal Foundation filed a certiorari petition regarding the en banc decision issued by the United States Court of Appeals for the Ninth Circuit on November 14, 2001. In that decision, the Ninth Circuit Court found in favor of the Washington IOLTA program and rejected claims that it violates the Fifth Amendment.

Briefing regarding the case is expected to take place later this summer. Experienced court observers predict that oral arguments in the case may be heard in late November or early December, with a decision issued by the end of June 2003.

En banc petition in Fifth Circuit denied

On May 31, 2002, in a 7-7 decision with one judge recusing himself, the U.S. Court of Appeals for the Fifth Circuit denied the Texas IOLTA program's petition for rehearing en banc in the case of *Washington Legal Foundation v.*

Texas Equal Access to Justice Foundation. The petition was filed in October 2001 after a three-judge panel of the Fifth Circuit reversed the January 2000 district court decision in favor of the Texas IOLTA program and held that the program violated the Fifth Amendment of the United States Constitution. The Texas IOLTA program filed a petition for a writ of certiorari before the United States Supreme Court on June 26, 2002, and will continue to operate pending a decision by the Court.

For more information, check the commission's Web page at www.abalegalservices.org/iolta

Hearing at Annual Meeting to Examine the Public's Access to Lawyers and the Courts

Do statutes, rules and policies create obstacles for people trying to resolve their disputes in the courts? Do these drive up the costs of legal services and make them unaffordable to middle-class consumers? What steps are bar associations and courts taking to create policies that make legal services more accessible? These are some of the questions being explored by the ABA Standing Committee on the Delivery of Legal Services as it identifies and analyzes policies that enable or hinder access to lawyers and the courts.

As part of its mission to enhance access to legal services and improve the delivery of civil justice to moderate income persons, the Delivery Committee is examining policies from all sources and attempting to gather

as much information as possible. To pursue this, the committee is holding a hearing during the ABA Annual Meeting, on Saturday, August 10, from 8:30 am to 11:30 am at the Omni Shoreham, Congressional Room B, lobby level, 2500 Calvert Street, Washington, D.C.

The committee plans to examine issues such as:

- Policies governing lawyers who provide unbundled legal services including ghostwriting and limited court appearances;
- The effect of courthouse hours on the ability of working class people to gain access;
- Whether the dollar limits on small claims courts are appropriate to maintain a forum for consumer complaints and dispute resolution; and
- The impact of fee shifting on personal legal services.

The committee encourages input from bar associations, the judiciary, court administrators, practitioners, policymakers, academics and public interest entities that are involved in developing policies that address the ability for people to gain access to lawyers and the courts.

To schedule an appearance at the public hearing, contact the committee's staff counsel, William Hornsby, at 312/988-5761; whornsby@staff.abanet.org. Those unable to appear at the hearing are encouraged to submit written information by sending them to: ABA Standing Committee on the Delivery of Legal Services, Attn: Wm. Hornsby, 541 N. Fairbanks Ct., Chicago, IL 60611.

New directors in IOLTA programs

Dialogue continues introducing new program directors who have joined the IOLTA community.

In November 2001, **Nancy Norsworthy** assumed responsibility



as the administrator of the Oklahoma Bar Foundation and IOLTA Program. She holds a bachelor's degree from the University

of Central Oklahoma, and has also studied toward her MBA there. Norsworthy is not a newcomer to IOLTA, having worked for 16 years as the Oklahoma program's

administrative assistant before taking her current position. In addition to her extensive experience with the program, Norsworthy has been involved in many community activities, and is a fellow of the Oklahoma Bar Foundation.

Patrick Norris brings his background in law and banking to the Wisconsin Trust Account Foundation, where he became executive director in May. Norris has a law degree from Marquette University, as well as a MBA from Tulane. He has worked as an attorney in private practice, and spent 11 years in executive positions with two Wisconsin banks. Prior to becoming its executive director, Norris served on the foundation's



board of directors.

The Wyoming State Bar Foundation welcomed **Leigh Ann Manlove** as its new director in May. Manlove

is a graduate of the University of Wyoming College of Law. She has worked for the Wyoming State Bar for two years as its pro bono and lawyer referral coordinator. Manlove will continue to maintain responsibility for the pro bono program for the bar. Her background also includes an internship with former US Senator Alan Simpson, and experience as a radio host and news anchor for Wyoming Public Radio.

From the Chair...



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

Is your program in danger of falling behind? If it doesn't comply with the ABA Model Supreme Court Rules Governing Lawyer Referral and Information Service (Model Rules), your program has already fallen out of the top tier of LRIS programs nationwide, and the day is fast approaching when you'll soon find yourself in the bottom half.

This year, the ABA Standing Committee on Lawyer Referral and Information Services has just reached the one-third milestone for compliance: that is, one out of three programs nationwide now meets the standards set by the Model Rules which were drafted by the LRIS Committee and adopted by the ABA House of Delegates in 1993. That number has been growing steadily since the Model Rules were promulgated. Many of these programs have been certified by the LRIS Committee as meeting the Model Rules; the rest are located in states that have regulations in place that are the equivalent of the Model Rules.

In either case, such programs—considered cutting edge just a few years ago—are now the accepted standard for LRIS nationwide. They have become the norm that

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Planning for Disaster: Lessons from September 11 and Earthquakes

Many readers are familiar with how iLawyer assisted the Association of the Bar of the City of New York with its lawyer referral efforts in the wake of the September 11 attacks. Now Dialogue outlines the lessons learned in New York and earlier in the 1989 Loma Prieta earthquake in San Francisco to help programs understand how to get ready to handle the problems that could occur anywhere.

What sort of disaster might your region experience? We now know there could be a terrorist incident anywhere, although it seems more likely to occur in a major urban area. Some parts of the country are more likely to have an earthquake, while others are in tornado alley. Almost any place could have floods or fires.

Since disaster is a possibility anywhere, your lawyer referral program needs to have plans in place for three different aspects of disaster response: (1) How will your office function if the infrastructure is damaged or your office is unusable? (2) How can you help your panel members if they suffer damages to their offices and can't conduct business in the ordinary way? (3) How can you assist members of the public affected by the disaster? Your ability to address each of these issues is important.

Taking care of the office and staff

Most offices now have some preparation for responding to the immediate incident, such as emergency supplies and evacuation routes. But are you prepared with data stored off-site and communication devices that do not depend on a functioning electronic infrastructure? Does this mean access to shortwave radios? Who are designated as key personnel for each program or function? Who is to take responsibility for what activity? As a lawyer referral program, you will want to be accessible to the public as soon as possible and to have the capacity to make referrals, whether they are related to the disaster or not. This probably means that you will need to have your database functioning on a laptop computer unless you're in the unusual situation where you have an independent generator available. A copy of the database and all important phone numbers should be kept off-site in case your office computers are destroyed. (Did you ever think you'd want to go back to the days of card files and Pony Express?)

Is there a site where you can gather your staff to work together if your office is unusable? What will or should you do if the transportation system is not functioning and the staff cannot get there? If you can still function, or, worse, if you can't, how will you get the word out?

Working with panel members

In New York, one panel member had a piece of an airplane engine in

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Disaster Recovery

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his office following the September 11 attacks. Many more attorneys were also displaced. You should plan to contact all of your panel members (this may mean having their cell phone numbers, if they have one) to find out if they need space or other assistance. In pre-

paration for this type of need, you could survey bar members to see who might have extra space, or contact building managers to see if they would be willing to permit use of any extra space, in a disaster situation. Some bar associations may already have business recovery plan information available for attorneys. If not, perhaps you could prepare something in advance for

your panel members and present it as a free CLE.

In the event of a disaster, while you are contacting your panel members, you will need to note who can remain active on your panel, and identify those attorneys whose businesses were so badly damaged that they don't want new referrals for some period of time.

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From the Chair...

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all programs should emulate if they want to stay in the mainstream of lawyer referral.

Compliance with the Model Rules brings with it substantial benefits. First, it ensures that your program is providing a quality service to the public. Second, it can greatly assist your marketing efforts.

Marketing has never been tougher, as we all know. In the Yellow Pages of many locales, lawyer referral program listings have been moved from directly in front of the lawyer listings to directly behind them. Whatever your location in your local telephone directory, you no doubt compete against page-after-page of large glossy ads, not to mention television, radio, newspaper and billboard advertising. Few LRIS programs have the resources to match this competition.

As difficult as it is for you to compete, consider how much harder it is for a consumer to choose a lawyer from this sea of indistinguishable ads. Here's where compliance with the Model Rules helps you. LRIS programs that comply and are so certified by the ABA are entitled to use the ABA logo and slogan in all their

marketing efforts. The logo and slogan clearly designate the program as "Meeting ABA standards."

The logo and slogan therefore function as a sort of seal of approval for wary consumers, informing them that this program, run by their local nonprofit bar association, provides a better way to find a lawyer than by simply relying on the flashiest ad in the Yellow Pages. This competitive advantage should not be underestimated: it does no less than provide consumers with a rare, objective recommendation as to how to find a qualified lawyer.

As in other endeavors, in the LRIS world, one lags behind at one's peril. For those LRIS programs that compete with another, consider how uncomfortable you'll feel when you see your competitor's new Yellow Pages ad sporting the logo and slogan—right next to yours that doesn't. Which service would you call if you were a consumer?

Don't wait to come into compliance and get certified. Remember that many programs are surprised at how much easier it is than they thought. Quite often, only one or two aspects of a program need to be adjusted. Typical is the need to institute subject matter panels. While eventually a variety of such panels should be

implemented, a program typically only needs to create a small number in key areas at the outset to be certified as in compliance. The LRIS Committee understands, and, indeed expects that different programs in different locales may well fashion standards for panel participation based upon and suited to differing local conditions.

As you ponder how you will make the necessary changes, keep in mind that the LRIS Committee is ready and eager to help. No wheels need be reinvented. Our staff in Chicago can provide a wealth of good advice as well as written materials on every aspect of compliance. Our Listserv provides an excellent means for asking your peers how they managed to comply with any one of the Model Rules that pose problems for your program. Finally, our Program of Assistance and Review (PAR) consultants will visit your program, analyze it and provide you with a written road map to compliance, all at no charge.

There is no longer an excuse not to be in compliance. And, as we move rapidly towards a world where the majority of programs are in compliance, there's no safe harbor left for programs that are not. Let us help.

Join Your Colleagues in Philadelphia for 2002 LRIS Workshop

Attend the 2002 National LRIS Workshop in Philadelphia to learn how your program can meet the needs of your lawyer members and the public. With a theme of "The Changing Face of LRIS," the workshop will focus on the fundamentals of program management and help attendees plan for the role of LRIS in legal services delivery in the future. Sessions at the October 23-26 conference include:

- How to Establish an Unbundled Panel
- Getting the Most out of Your Telephone System
- Developing a Business Plan for LRIS
- Discussion of Critical Ethics Issues
- Marketing to Your Niche Market

Call 312-988-5760 or email Colleen Glascott at glascotc@staff.abanet.org for more information.

Panel members may be unfamiliar with the process of federal assistance under FEMA. The ABA Young Lawyers Division (YLD) has a long-standing agreement with FEMA regarding rendering of legal advice as part of a FEMA-declared disaster. In general, ABA state YLD affiliates function as the state points-of-contact in these FEMA-declared disasters. Their role includes developing rosters of attorneys prepared to help citizens file for assistance. The effectiveness of this program will vary from state-to-state, depending on the strength of the YLD programs. Your LRIS program can obtain its own FEMA materials from www.fema.gov. If you would like more information about the ABA YLD agreement, contact Barbara Sharpley at sharpzeb@staff.abanet.org.

It is easier to create training materials in other areas of law, because you are likely to have panel members who can present a session. Basic handbooks on the application of laws to disaster situations could be prepared for use of attorneys—a great task for your committee members. You could also enlist panel member assistance in preparing information sheets or brochures to be distributed to the public on topics where there are likely to be questions. This information could reduce the number of people who actually need attorney assistance. In the aftermath of September 11, the ABCNY prepared a handbook that could be used either by members of the public or telephone intake personnel not affiliated with legal programs. It has FAQs in a number of areas of law, including obtaining death certificates, probate and intestacy, Social Security and other benefits, all types of insurance, family law,

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Disaster Recovery

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Working with the Community

Many communities have a disaster relief plan and an office in charge of such activities. You should contact that office and introduce yourself, and then work with the office to plan how your program can become part of the recovery efforts where legal assistance is necessary. Your community's disaster plan might structure hotline networks or other services that could assist you in offering legal services and referrals to the public. You, as an LRIS program, will need to coordinate with your bar association's pro bono programs or staffed legal services agencies in order to avoid duplication or gaps in service. Being part of an overall service plan could make it easier for your program and more effective for the public. If your area does not yet have a disaster relief plan, someone on your

panel might be able to play a role in developing one.

There will be a wide variety of legal issues to be dealt with in a major disaster. Some may need to be handled on a pro bono basis, while others might be fee generating. In a major disaster, your panel members will want to be involved in helping those impacted, and participate on special disaster pro bono panels, even if some of the work does not generate fees. You'll want to review the most likely areas of law to be needed after a disaster, such as landlord-tenant, Federal Emergency Management Agency issues, insurance claims, home repair contracts, death benefits, powers of attorney, and replacement of important legal documents.

Information and Training

Ideally, a contingent of attorneys from your panel or other bar activities will receive periodic training in subjects that are likely to be in demand after a disaster.

The Next Step: Developing a Hotline for Your LRIS Program

by Sheree Swetin, Joan Andersen and Mary Ann Sarosi

In the Spring 2002 issue of Dialogue, the authors discussed why hotlines—which commonly have been associated with legal aid programs and prepaid legal services plans—could benefit lawyer referral programs. In the second installment of this article, the authors lay out some basic parameters for developing a hotline project.

In the first part of this article, we described several reasons why hotlines can perform a significant service for the callers contacting your LRIS program. But how do you figure out if a hotline is right for your program? You may want to do an informal (or formal, if you can fund it) needs survey to see if providing brief legal services would help your program better serve both clients and panel lawyers. You can do this by keeping track of the callers who “just want a little advice” or who appear to need limited help in analyzing a problem; by reviewing your referral records to see how many contacts with panel members resulted in “consultation only,” or by conducting a random survey in your service area.

Assuming that the numbers support establishing a hotline, then you need to determine what kinds of brief services are most in demand, and in what subject matter areas. Perhaps 95 percent of the advice-type calls are in family law, or perhaps they are scattered across the board. If you are considering starting your hotline in a single area of law, this information will affect the type of model that would work the best for your area.

Defining scope and structure

If you commit to establishing a hotline, you must first strictly define the parameters of the services it will offer. This is necessary to prevent the hotline services from overlapping your regular LRIS program, and to maintain control of the quality of services offered. Any services requiring ongoing client contact or extensive research should not be included in a hotline. Remember that the key concept is **brief legal services!**

The second step is establishing the structure of your program. There are a number of ways to construct a hotline/brief services program. Some programs utilize 900 numbers for ease of connecting with the advice attorney and collecting fees. There are some private programs that will contract with a LRIS program or bar association to provide this service. But there are several issues to consider when weighing pros and cons of partnering with an independent, for-profit program:

- Whose attorneys are being used, yours or theirs? Will you be able to have control over the standards for attorneys participating in the hotline? Is participation in a hotline a service you want to offer your own panel members? Will you be taking business away from your panel members?
- What is the collection rate versus the charge-backs on the 900 line? Some major phone providers are no longer offering new 900 lines now. In the

future, will it even be possible to have a 900 line? Do the charges for the 900 lines exceed normal per-hour attorney fees?

- How will the intake be handled? Some contract services want to serve as your initial intake pipeline, which could have a major impact on your normal LRIS intake because the contractor—and not your staff—will screen the calls and determine which are appropriate for brief services and which should go the referral service. If you handle the initial call within your program, you will retain the ability to choose a transfer to the hotline, and you will have better control over the types and number of calls that are directed away from the LRIS program.
- How is the fee split between your program, the contractor and the attorneys advising callers?

The major “pro” of this independent contractor structure is that someone else is taking care of all the details and already has the telephone technology in place. The “con” most often mentioned is that you may have little control over both quality and quantity.

Would an in-house structure serve your program better? If so, do you have adequate phone technology to handle transfers easily, or would you have to create a new pathway for callers to these services? Is there an easy way to collect the fees such as

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LRIS Hotline

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by having your own 900 line or allowing callers to pay with credit cards? What impact would this have on your staff and staffing needs? It might require additional staff or a restructuring of your present staff. Will your panel members want to participate in such a service in addition to the regular referrals, or will you have to recruit a separate panel for hotline services?

Either of the models above could also utilize a staff attorney to answer questions. This might work well if a large majority of the calls are in one or two areas of law that one person would be likely to master. It means a more restrictive program that would serve targeted groups, such as callers with landlord-tenant problems or family law issues, but could be very effective within that area. If the needs identified are more diverse, using a single attorney presents serious issues regarding competence and effective public service. There are also budgetary issues: for an in-house program, such an attorney means additional salary, benefits and overhead costs.

Brief services programs that are not true hotlines

If neither of these models appears feasible for your program, there are other brief advice/services programs that could supplement your regular LRS activity. Established brief service models include unbundled services to help pro se clients with documents and strategy, and attorney-of-the-day/advice clinic programs that serve more limited numbers and usually generate limited, if any revenue.

These programs take little technological sophistication to execute, however. Hotlines themselves should be limited to advice and, possibly, document review.

Limited services such as document preparation in non-contested divorces can be provided through a panel on your regular system rather than in a hotline setting. Advice clinics require a lot of organization but little technology—space must be found, attorneys must be recruited and scheduled, and there must be a mechanism for scheduling clients.

Other considerations

There is always a bottom line. Starting and maintaining a regular hotline structure can require substantial initial financial outlay, but because it is meant to be revenue generating, it should eventually pay for itself and perhaps generate net revenue for your program. You must, of course, prepare a detailed budget projection prior to launching such a program just as you do for other aspects of your LRIS program. It is hard to give potential cost figures, because some of the contracting hotlines will negotiate individual contracts with different

components. The same is true of telephone enhancements, because of the number of providers and different configurations that already exist among services.

As mentioned in the first installment of this article the ABA House of Delegates, after lengthy study and review, adopted the “Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information” last year. These standards provide good organizational principles for any hotline or advice component of a lawyer referral service program. Programs should follow the standards, which can be viewed online at www.abalegalservices.org/downloads/delivery/hotlinestandards.pdf

Sheree Swetin is the executive director of the San Diego County Bar Association.

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.

Mary Ann Sarosi is a member of the ABA Standing Committee on Lawyer Referral Information Service.

Disaster Recovery

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and immigration. The full handbook can be viewed on the Web at www.mofo.com/about/pbhandbook/index.htm

What kind of arrangements can be made to relieve staff and prevent quick burnout? Your intake staff may want training in how to handle a crisis situation. They have all had lots of experience in dealing with mentally ill

and angry callers, but the sheer mass of distraught callers in a disaster situation might be overwhelming. Staff will need to take care of their own families, too. Might there be a need for additional staffing, volunteer or paid? Non-attorney staff at your member firms might want to help as well, and could be trained to provide intake and referral services in conjunction with community help lines.

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Distinguished Service Award Nominees

by Traci Jones

Every year, from a large pool of outstanding nominees, the LAMP Distinguished Service Awards are presented to only six recipients for their innovative and cutting edge legal services to military personnel. In recognition of the contributions of all the nominees for the award, the LAMP Committee has traditionally presented a brief synopsis of those programs that deserve honorable mention.

Air Force nominees

Joseph J. Hinds, an individual nominee representing the Air Force Communications Agency (AFCA) Legal Office, revised a legal assistance package for AFCA Secret Service support personnel who were victims of the September 11, 2001 World Trade Center attack. This expedited the filing of claims. Another individual, **Tracey Cooper**, has fostered a reputation of being

a “fair broker” with local authorities in her service as British liaison for the 100th Air Refueling Wing, RAF Mildenhall, United Kingdom. In that capacity, she has provided a much-needed helping hand—ensuring fairness and equitable treatment by British authorities—for military members stationed across the United Kingdom.

As Chief Preventive Law and Legal Assistance Officer, another individual nominee, **Captain Jenny L. Johnson** of the 21st Space Wing Judge Advocate’s Legal Assistance Office at Peterson Air Force Base, Colorado assessed, revised and redesigned over 16 legal assistance pamphlets, wrote several newspaper articles on tax legislation and the tax rebate program, and prepared wills and advance directives for over 60 airmen deployed after September 11. **Captain John S. Freland**, **Randolph AFB**, Texas was nomi-

nated for individual recognition for developing the Client Services Division, which combined all legal assistance, preventive law, income tax preparation, and executive legal services under one umbrella. The division assisted over 3,200 individuals with income tax returns, saving members over \$211,000.

The men and women of the **37th Training Wing Office of the Staff Judge Advocate, Lackland AFB, Texas**, believe that legal assistance for retirees is essential. Since 1988, the office has provided on-site legal services twice a month for retired residents who are unable to travel to the base for services. The **Scott AFB (Illinois) Legal Assistance Program** was nominated for its dedication to customer service. Through the “Adopt A Unit Pro-gram,” the office sent attorney/paralegal teams into 24 squadrons to assist with their legal assistance needs.

A joint nomination was made for **425th Air Base Squadron, Office of the Staff Judge Advocate, and Army, NATO, Joint Command Southeast, Office of the Command Judge Advocate** at Izmir AS, Turkey. Together, these legal services offices provide the full spectrum of legal services to active duty personnel, reservists, retirees, national guard members on active duty pursuant to Title 10 U.S.C., DOD civilian employees and their dependents stationed in Izmir. The **86th Airlift Wing Law Center, Ramstein AB, Germany** serves more than 2,000 Air Force members in more than 130 different locations across Europe and the

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Rear Admiral Robert Duncan, chief counsel of the United States Coast Guard (center) pictured with Nick Grasselli (left) and Rear Admiral John Jenkins during the presentation of the 2001 LAMP Distinguished Service Award to the Joint Pentagon Family Legal Assistance Center Legal Team.

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

Our warriors die on the battlefield, in training, from illness and in automobile and other accidents. They die despite having received the best education, training, equipment, medical care and leadership in the world. They still die, and many die unprepared. How can that be? How can the United States Armed Forces, the most advanced and sophisticated in the world, with thousands of lawyers, allow any one of its members to die without essential estate planning? Why doesn't every service member and every service member spouse have a will, advance medical directive, power of attorney, and an annual consultation with a military legal assistance attorney? Why? Because, despite the considerable improvement in the delivery of legal support to individual service members and their families, the World War II mindset prevails with regard to personal preparedness.

In World War II, more than 16 million mostly young single men and women were under arms.

With few assets or responsibilities and before living wills (advance medical directives) were

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Educating Navy Legalmen: Innovation Leads to Success

by Lori Kroll

The life of a sailor is a challenging one. It includes long work hours, frequent travel, military duties in the evening and on weekends, duty aboard Navy vessels, and lengthy service overseas. For sailors, obtaining formal education in a particular field of study can be difficult, and oftentimes prohibitively costly and time-consuming.

Navy legalmen are no exception to this predicament. The equivalent of civilian legal assistants, legalmen perform paralegal and clerical functions under the direction and supervision of Navy attorneys. Traditionally, they assist Navy lawyers in military justice, administrative discharge proceedings, claims for and against the U.S. Government, admiralty law, recording and transcribing the proceedings of courts-martial, courts of inquiry and investigations and preparing legal assistance documents. Unfortunately, since the inception of the Legalman Rating in 1972, these Navy paralegal professionals have not been utilized to their full potential due to the lack of formal education opportunities and civilian experience.

Finding a solution

Recognizing this problem, Naval Legal Service Office Northwest (NLSO NW) at Naval Station Bremerton, took the lead in finding an American Bar Association-approved¹ and fully accredited course of study that was both cost effective and convenient. These efforts were led by Captain Bruce MacDonald², who began serving as the executive officer of NLSO NW in 1995. The solution was Highline Community College (HCC), located near Seattle. In partnership with NLSO NW, HCC established a formal educational program where Puget Sound legalmen, civilians and family members could attend evening classes at a satellite campus NLSO NW's courtroom in Bremerton.

In September 1996, HCC has offered an accredited two-year paralegal program at NLSO NW. Students at the Bremerton satellite campus are taught by local and military attorneys who are trained by HCC and who meet its standards for adjunct faculty members. The HCC program coordinator supervises the courses and ensures the integrity of all classes. The coordinator also evaluates classes by conducting on-site visits and interviewing potential instructors. In addition to the coordinator, a military member is assigned to manage the daily operation of the program at the Bremerton site.

The Highline curriculum contains seven required classes, including topics such as civil procedure and legal research and writing. Students are also required to complete six elective courses within the paralegal major, and five general education classes. The elective topics include contracts, torts, criminal law and procedure, family law, and legal investigations. Completion of the two-year program results in an

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Highline

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associate of applied science degree in paralegal studies. Highline also offers a paralegal plus certificate for students who already possess a bachelor of arts degree

Due to the transient nature of being a sailor, it was essential that the program make allowances for transfer credits and waivers for sufficient skills in a required area to enable success in the program. Accordingly, waivers were established for some of the requirements. For example, ethics and introduction to law course requirements are waived

for legalmen. HCC also established transfer credits for JAG School paralegal courses plus basic classes from other educational facilities.

Success and replication

With its accessible location and flexible curriculum, the HCC program has proven to be a huge success. Eighty-five students have participated, and 11 have graduated with an associate of applied science paralegal degree. Senior Chief Legalman Maureen Owens-Worley, one of the first three graduates, felt the program gave her an advantage over her peers. "Highline initially provided me with the essential knowledge of the civilian legal system that

I lacked in my military experience," said Owens-Worley. "I received a job offer for a considerable sum (\$52,000 per year) even prior to my graduation. My future is secure." Deciding to remain in the Navy, she was promoted and has been given jobs with increased levels of responsibility.

The Navy TJAG, RADM Donald J. Guter, recognized the tremendous success of the Bremerton project and is exploring the possibility of expanding the two-year paralegal program worldwide. This would afford the same educational opportunity to sailors, civilians and family members around the world, and permit current students to con-

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commonplace, they had limited need for legal assistance. There was even less need for preventive law programs since pay was so low, and service members fell victim to fewer fraudulent practices. Preparing the force for battle, not for a career, was the order of the day. The contrast with today's Armed Forces could not be more dramatic.

We now have an all-volunteer, largely professional active duty force of about 1.4 million and a similar number in reserve and National Guard units. The family members of the active duty force number about 2 million. Virtually every service member has a minimum estate of at least \$250,000, the amount of his or her Servicemembers' Group Life Insurance benefit. Most are married; many have significant assets in the form of automobiles, homes, personal savings, stocks, and bonds. Trusts, guardianships,

living wills, powers of attorney, and wills are now as important to personal preparedness as marksmanship, occupational skill, physical fitness, and good health are to combat readiness. The Armed Forces have long espoused a holistic approach tying personal readiness to combat readiness. So why are so many service members not prepared to deploy and possibly die with the knowledge that their legal affairs are in order? The reason is that we are applying a mid-20th century template on 21st century warriors.

Use of an old model is part of the problem, but so is perception. What do our military and civilian leaders see when they view the 47 casualties of the war on terror identified in a recent issue of the *Marine Corps Times*. The photographs of the young men and women who died in service to their country evoke different feelings depending on the viewer. Loved ones and friends weep at the sight. The rest of us also feel pain

and sorrow, but not as intensely, and we react differently.

Commanders must carefully and dispassionately evaluate each death so as to lessen the likelihood of further loss of life under similar circumstances. Commanders and judge advocates should also be evaluating their performance to determine if they did everything possible to preserve and protect each of the fallen warriors, to protect and preserve them and their families. Did they have estate plans? Had they left instructions for the disposition of their property, care of their children, and actions to be taken regarding continuation of life support if left in a vegetative state due to wound, injury, or illness? No after-action report on the death of a service member can be considered complete without knowing the answers to such questions. An answer of no to any of those questions represents a failure of command and congressional oversight.

Building an Effective Relationship between the Staff Judge Advocate and U.S. Attorney's Office

by Gill P. Beck

To be successful, Staff Judge Advocates (SJA) in all branches of the military need effective relationships with key organizations and people. One often-neglected relationship is that between SJAs and the United States Attorney's Office (USAO). There are instances in which SJAs can benefit from counsel, representation or other kinds of assistance from their local USAO, and a pre-existing relationship can pay dividends when help is needed.

US attorneys perform many functions

The US attorneys serve as the nation's principal litigators and as the chief federal law enforcement officer in each federal judicial district, responsible for coordinating multiple agency investigations within that district under the direction of the attorney general. As such, the US

attorneys conduct most of the trial work to which the United States is a party. By law, there are 93 US attorneys stationed throughout the United States and several territories, with generally one US Attorney in each district. 28 U.S.C. § 541.

The attorney general supervises all litigation to which the United States or any US government agency is a party, and is responsible for directing all US attorneys, and their assistants, in the discharge of their respective duties. 28 U.S.C. §§ 514, 515, 519. However, pursuant to 28 U.S.C. § 547, each US attorney, within his or her district, has the responsibility and authority to:

- prosecute offenses against the United States;
- prosecute or defend all civil actions, suits or proceedings in which the United States is concerned;

- appear in civil actions on behalf of government officials in revenue and customs matters;
- bring proceedings to collect fines, penalties, and forfeitures incurred for violation of revenue laws; and
- make such reports as the attorney general shall direct.

Organization

Each US attorney determines the organization of the local USAO. Accordingly, throughout the country there is some variation in USAO organization. Typically, however, the US attorney appoints a first assistant to serve as principal deputy, and divides the USAO into criminal, civil and administrative divisions. The US attorney appoints a chief for both the criminal and civil divisions and the head of the administrative division. The criminal divi-

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Highline

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tinue their studies without losing valuable time and credits. So far, these ongoing efforts have resulted in plans for the next satellite campus to open on-base later this summer in Jacksonville, Florida. Ultimately, hopes are to expand the Highline Community College program to Naval bases in Norfolk, Virginia; San Diego; Naples, Italy; and Yokosuka, Japan within the

next several years. Highline is also exploring distance learning options such as video teleconferences and the Internet as possible ways to reach sailors aboard ships and in other remote areas.

If you would like more information on the Highline Community College paralegal program go to www.flightline.highline.ctc.edu/paralegal/ or call the NLSO-NW at 360-476-2156. For admission information contact Debbie Faison at 206-878-3710, ext. 3293 or email her at dfaison@hcc.ctc.edu You may

also look at the Navy College Program Web site at www.navycollege.navy.mil and search under partners of college programs.

Endnotes

¹ For more information about ABA approval of legal assistant training programs, log on to www.abanet.org/legalassistants

² MacDonald was awarded with the 2001 ABA LAMP Distinguished Service Award in recognition of these efforts.

Lori Kroll is an attorney in Cary, North Carolina, and is former chief of legal assistance at Fort Bragg.

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sion may be further divided in a number of different ways. Some offices have established sections regarding white-collar fraud, health care fraud, money laundering/forfeiture, general crimes, and violent crime sections.

Similarly, the civil division may be organized to accomplish particular functions depending upon the size of the division and the types of cases handled. The administrative division deals with a wide range of personnel, contracting and other issues essential to the operation of the USAO.

Building an effective relationship with the USAO

The resources of the USAO are limited, and prosecutorial discretion must be exercised to ensure that it provides optimal litigation support to federal agencies within the constraints of available resources. Each case must be evaluated on its own merits, but often the full range of options in handling cases is not available because of inadequate coordination between federal agencies and the USAO.

In both civil and criminal litigation, early and frequent communication is the key to successful results. In the military context, such relationships facilitate the handling of emergency matters such as temporary restraining orders, requests for military officials to testify or provide documents in state court, and a wide variety of other matters in which time is of the essence. Therefore, if the first time that a SJA contacts a USAO is when a problem arises, that SJA has two problems: the problem at hand and the problem arising from failure to

establish a pre-existing, effective relationship with the USAO.

Establishing an effective relationship with the USAO enables the best possible communication of the agency's interests to the USAO, and enables the USAO to communicate its own assessment and counsel so that informed decisions can be made about handling a case. The SJA cannot presume that the USAO understands the importance of particular cases to agency programs and policies. Effective federal agencies periodically visit the USAO to communicate and provide education on important policies and programs and new agency developments. This information allows the USAO to better understand the importance of the issue when a case arises in the future. This communication process also allows the USAO to provide guidance on how best to investigate a case or prepare it for litigation.

Most USAOs employ former judge advocates, and a good way of establishing a relationship with the USAO is to identify and contact them. The SJA could have a USAO's administrative officer determine if there are any former JAGs on staff. If they agree to the role, many former judge advocates can serve as a natural liaison between the USAO and the SJA.

Other kinds of outreach can also build relationships. In some instances, SJAs have invited USAO representatives to teach classes at their SJA office. This has not only educational value but allows members of the SJA office to establish personal relationships with members of the USAO. SJAs may also consider making an office call on the US attorney, or inviting the US attorney or representative to military exercises or lunch at the officers' club.

SJAs may also build relationships with the USAO through the appointment of special assistants to US attorneys (SAUSAs) to perform certain duties such as felony prosecutions originating from the military installation. The US attorney may appoint attorneys employed in other departments or agencies of the federal government as SAUSAs to assist in the trial or presentation or cases when their services and assistance are needed. 28 U.S.C. § 543. SAUSAs can become a key link between an SJA and USAO.

SJAs can also identify certain individuals within their office to be responsible for building relationships in particular areas. For example, in the area of claims against the government, a claims judge advocate could be assigned as liaison with the USAO to facilitate coordination of large dollar Federal Tort Claims Act matters likely to go into litigation. This coordination is essential to ensure that United States interests are best promoted through informed decisions regarding whether to settle or litigate particular cases.

Relationships help prompt response

In addition, ongoing coordination ensures that in the event military officers or officials are sued in their individual capacities in state court or in Bivens actions in federal court, the request for Department of Justice (DOJ) representation process can be conducted in a speedy manner while ensuring that a default is not entered against the military officer or official. In a number of cases, service members have been criminally charged in state court for actions involving the perfor-

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Army JAG Puts Emphasis on Estate Planning

Major General Thomas J. Romig recently stated in Policy Memorandum 01-09 that the goal of the Army "is to ensure every soldier in the force is armed with an appropriate estate plan." The memorandum begins by recognizing that today's soldier faces more complex family and financial structures than ever before.

The strong policy statement further notes that JAG personnel "should assist commanders in educating soldiers on the value of an estate plan to adequately provide for their families... It is imperative that judge advocates provide this essential service."

The memorandum provides an definition of estate planning that integrates wills, trusts, powers of attorney, advance medical directives, insurance policies, and investments into an estate plan. The memorandum further charges judge advocates to engage in "adequate interview and counseling" to produce an estate plan that achieves the client's wishes.

New estate planning guide

The Army recently announced the availability of its new *Estate Planning Tool Kit for Military & Family*

Members, which is intended to help soldiers understand basic tools and techniques many military members use. The *Tool Kit* consists of the following chapters: Introduction to Estate Planning with Sample Solutions; Your Last Will & Testament; Using Trusts in Estate Planning; Life Insurance in Estate Planning; Survivor Benefits; Survivor Benefit Plan; Power of Attorney; Advance Medical Directive/Living Will; Organ Donation; Funeral & Burial Arrangements; Probate; Long-Term Care & Insurance; Federal Estate Taxes; State Estate/Inheritance Taxes; Conclusion: Putting It All Together. After a short introduction to its topic, each chapter includes frequently asked questions and answers, and then links to additional information resources. The *Tool Kit* ends with four appendices: Estate Planning Questionnaire; My Peace of Mind Plan; How Much Do I Need; More Information: Estate Planning Internet Resources; & a Glossary of estate planning terms. The *Estate Planning Tool Kit* is available on the Army's Legal Services site at www.jagcnet.army.mil/legal in the Estate Planning Information Center.

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mance of their military duties. DOJ representation may be available where the service member was acting within the scope of federal employment and representation is in the best interests of the United States. For example, military drivers involved in accidents during military convoys may be eligible for DOJ representation under certain circumstances, and it is important that the SJA communicate early and often with the USAO, as well as the service's litigation division and the DOJ Torts Branch.

Conclusion

Building an effective relationship with the USAO will contribute to an SJA's effectiveness and success. Efforts to build such a relationship should begin before there is a pressing problem. Visits to the USAO, invitations to representatives of the USAO to teach classes at the SJA office, appointment of SAUSAs, and establishing points of contact within the SJA office responsible for ongoing relationships with the USAO are some ways of developing such a relationship. The benefits of building such a relationship are numerous and the costs insignificant in comparison with the need to handle cases implicating the U.S. district courts

in an efficient and effective manner.

Gill Beck is an Assistant United States Attorney in the United States Attorney's Office for the Middle District of North Carolina in Greensboro, North Carolina, and as an Army Reserve Colonel, has served as Staff Judge Advocate for the 108th Division (Institutional Training) in Charlotte, North Carolina.

The information in this article is taken in part from the United States Attorney's Manual; however, the views expressed herein regarding building relationships between SJAs and USAOs are those of the author, and do not necessarily represent the views of either the U.S. Department of Justice or the U.S. Army.

Advocates Gather at Equal Justice Conference

by David Holtermann

How can Web-related technology improvements benefit legal aid and pro bono programs? What is holistic advocacy? What is the role of the private bar in addressing the unmet need for legal services? Who is responsible for remedying the legal system's shortcomings in addressing the needs of the poor? These were just some of the questions in the air when over 700 advocates gathered in Cleveland for the Fourth Annual Equal Justice Conference.

The conference in April was highlighted by dozens of substantive workshops, a unique reception at the Rock and Roll Hall of Fame, several days of pre-conference programs, and two galvanizing keynote addresses. "Working to Secure a Better Future" was the theme of this year's event, and indeed, the gathering focused on what concrete ways the legal profession and the equal justice community can build for the future, especially during these challenging times. The conference programming placed great emphasis on creating positive outcomes for clients, regardless of who is providing the legal help. Pro Bono Committee Chair Robert N. Weiner emphasized this theme in his opening remarks, stating, "Lawyers can make a difference."

Broad range of programming

Every year, the days leading into the formal conference have become increasingly important opportunities for smaller groups of advocates to come together for training, networking and dialogue. This year's "preconference" included



Conference co-Chairs Randy Jones and Harrison McIlyver



Keynote speakers Gene Nichol, dean of the University of North Carolina Law School, and ABA President Robert Hirshon

skill-building seminars for new and experienced pro bono managers and for new executive directors. State access to justice chairs held their first-ever national meeting to discuss emergent and continuing issues. [Turn to page 27 for a detailed recap of this meeting.]

The main event, of course, was the program of more than 85 workshops for conference attendees, and affinity group sessions regarding: pro bono managers and staff, self-help innovations, community-based problem solving, hotline programs, court-based pro se support, Technology Initiative Grants, cooperation between legal services programs/non-legal services funded programs, and law school community legal education.

Space does not allow for description of more than a few of the workshop sessions, but several illustrate some of the current trends and issues in the equal justice community. A well-attended session on statewide Web site development brought together advocates using LSC Technology Initiative Grants, IOLTA funds, and other grants to assemble Web sites to assist both legal services providers and low- and moderate-income consumers state-by-state. The technology is extremely effective at broadly distributing useful information.

However, the builders of these sites are also coming to terms with the related "human issues," such as content management, evaluating the effectiveness of sites, and making Web-based materials effective for use by legal services and pro bono attorneys.

Another session focused on holistic strategies, and their role in advocacy for client needs. Holistic practitioners shared their stories of helping clients achieve objectives of self-sufficiency beyond the scope of resolving one distinct legal "problem." Much of this work centers on identifying and removing obstacles that, left in place, might negate the positive results of other legal services provided.

Using videoconferencing technology and Web resources to bring legal help to far-flung client populations was the topic of another workshop. A session on rural delivery issues focused on helping pro bono attorneys succeed in sparsely populated areas. Another session addressed different models of serving clients in domestic violence cases, including a dedicated "unit" of attorneys focused on the labor-intensive work of representing the most seriously abused and endangered clients.

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From the Chair...



by Robert N. Weiner

Chair of the ABA Standing Committee on Pro Bono and Public Service

This is my last column as Chair of the Standing Committee on Pro Bono and Public Service.

The protocol for these valedictories is to begin with expressions of gratitude to the staff. My general inclination is to violate accepted protocols, but this one makes sense. It makes sense because, as we all know but generally do not admit, the staff actually does the work, and the volunteers take the credit. The Pro Bono Committee is fortunate to have effective, hardworking ABA staff members, who are committed to securing access to justice for the poor.

A succession of ABA presidents has also blessed the committee with talented and dedicated members. These members did not blanch or demur when they found that this is a working committee. They contributed their time, their energy, and their ideas. They made speeches, worked on grant proposals, attended conferences, and raised money. They stood as a shining example to the ABA and to other lawyers of what it means to treat pro bono as a central value of our profession.

So what did we accomplish? Well, we did not solve the problem of the unmet legal needs of the poor. If that were the standard,

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2002 ABA Pro Bono Publico Awards

The ABA Standing Committee on Pro Bono and Public Service established the ABA Pro Bono Publico Awards in 1984 to recognize lawyers, law firms and other legal institutions for their extraordinary contributions to extending free legal services to the poor and disadvantaged.

Three lawyers, a law firm and a state attorney general's office will receive the 2002 ABA Pro Bono Publico Awards in August during the ABA Annual Meeting.

"The individuals and firms receiving 2002 ABA Pro Bono Publico Awards have displayed tireless dedication to ensure that legal services are available to so many people in need," said Robert Weiner, chair of the ABA committee. "This extraordinary devotion shown throughout their careers, and specifically in the aftermath of September 11, sets an example for the entire legal profession. These award recipients truly make a difference in the lives of those they serve. They deserve our highest commendation."

The 2002 award winners are:

- **Michael Miller**, president-elect of the New York County Lawyers' Association (NYCLA), who displayed extraordinary leadership by leading his association to aid thousands of survivors of those killed in the World Trade Center attacks. He coordinated NYCLA's effort to recruit and train volunteer lawyers to assist victims' families and was instrumental in establishing its program to help grieving families receive death certificates. In addition, Miller helped design and implement NYCLA's Adopt-a-Family Pro Bono Program, under which families of firefighters, police officers, and other uniformed services personnel killed in the attacks receive free legal services throughout the probate process. These contributions represent the latest chapter in his career-long commitment to developing innovative pro bono projects to serve those in need.
- **Luis A. Ochoa** of Tucson, Arizona, who has demonstrated dedication to the development and delivery of legal services to the poor through his work with the Volunteer Lawyers Program over the last 14 years, personally assisting more than 315 clients. As a member of the VLP Advisory Board, he has worked tirelessly to recruit and increase lawyer participation in the program throughout the legal community. In addition, Ochoa has contributed significant work toward developing an innovative approach to serving unrepresented litigants in the U.S. Bankruptcy Court.
- Denver lawyer **Rebecca Rundgren**, who has displayed dedication and commitment to representing children at risk in a variety of cases. Rundgren is the first recipient of the ABA Ann Liechty Pro Bono Child Custody Award, which is presented in memory of a former ABA Pro



Michael Miller



Luis Ochoa

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Conference

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Making connections

One important facet of the Equal Justice Conference is the forum it provides for advocates from across the entire spectrum of the legal profession. In individual workshops, affinity group meetings, and informal discussions, pro bono coordinators found themselves in dialogue with judges, and legal services attorneys talked to members of the private bar. The cross-pollination of ideas and experience in these discussions is among the most valuable elements of the conference. Participants make connections that they take home and use



Reece Smith presents the William Reece Smith, Jr. Special Services to Pro Bono Award to Steve Reyelts.

to achieve equal justice in their local courts, bar associations and legal services communities.

Keynotes

Among the emotional highpoints

of the conference were the keynote addresses by Dean Nichol, dean of the University of North Carolina School of Law, and ABA President Robert Hirshon. The changing legal landscape in the United States after September 11 was a common thread running through both speeches.

Hirshon called on the legal profession to step up to the challenge of shaping the nation's philosophy in a changing world, stating that lawyers must not be timid or silent. He highlighted the need to advocate for unpopular cases and people, noting "we're going to be graded on this at some point in history."

Describing "a world much-changed," Nichol said, "it is vital

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Pro Bono Awards

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Bono Publico Award recipient to honor lawyers who have provided outstanding free legal services to children in custody cases. A commercial litigator, Rundgren has devoted a



Rebecca Rundgren

substantial portion of her pro bono efforts to assisting children and navigating governmental agencies in multiple states to enforce

child support obligations and collect payments. Through the Rocky Mountain Children's Law Center Pro Bono Attorney Project, Rundgren has provided direct representation to children in domestic violence cases and

other matters involving the resolution of where the children will live at the end of the proceedings.

- **Morrison & Foerster, LLP**, a law firm of approximately 1,000 lawyers in 18 offices around the world, which has been synonymous with pro bono service for decades. Morrison & Foerster lawyers have contributed hundreds of thousands of billable hours to assisting children in poverty, people with HIV and AIDS, and working on school education issues, civil rights, international human rights, domestic violence and housing and homelessness.

In response to the events of September 11, lawyers in its New York office were the primary authors of "Helping Handbook: Legal Resources for Families of Victims of the World Trade Center Disaster," distributed to more than 30,000

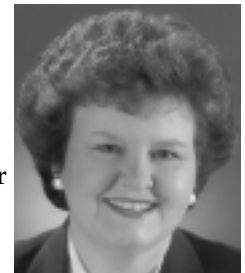


Anthony Press of Morrison & Foerster

people at relief and resource centers in the New York area. Morrison & Foerster lawyers provide pro bono services in major impact

cases and to individual clients in both routine and complicated matters.

- **The Ohio Attorney General's Office**, which under the leadership of Attorney General



Betty Montgomery

Betty Montgomery established a Pro Bono Program in May 2002 to meet with seniors in their

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Conference

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to be fully engaged,” and called on advocates to focus their attention on changing a legal system with serious defects for poor people. “Equal justice under law does not approximate the way the system operates in reality.” Decrying the “flight from equality,” Nichol stated, “we can’t escape responsibility for the system of justice we

create.” But he recognized the contributions of equal justice advocates, noting that they “move at the forefront of this profession, acting to make real the promises we so often ignore.”

David Holtermann is the editor of *Dialogue*.

The 2003 Equal Justice Conference will be held in Portland, Oregon April 10-12, 2003. Look for more details to be posted on the Web at www.equaljusticeconference.org



Elma Moreno of the National Association of Pro Bono Professionals presents the Pro Bono Coordinator of the Year Award to Phyllis M. Thornton. The award was also presented to Judy Williams (not pictured).

From the Chair...

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though, no mere ABA committee could likely claim the mantle of success. But we can claim something very important—that we made a difference, a substantial difference, in the amount and quality of pro bono legal services provided to the poor, in the pro bono culture of the ABA, and many bar associations, law schools and law firms.

The committee, along with the ABA’s Family Law Section, secured a \$1 million grant to establish a Pro Bono Child Custody Project. That project is up and running, improving and expanding the legal services available to children in custody and adoption proceedings. The committee also obtained a \$290,000 grant to establish a Rural Pro Bono Project. That project developed and promoted models for providing legal services to poor people who live in areas far removed from almost all the lawyers available. Over \$100,000 was distributed in the form of mini-grants to programs to help them explore innovative delivery strategies.

In addition, the committee published a brochure for law students, titled “The Path to Pro Bono.” The brochure emphasized the crucial importance of pro bono work in the private practice of law, and it armed the students with questions about pro bono that they can ask firms during interviews. Our premise was that if a critical mass of law students asked these questions, law firms would recognize that pro bono was an important issue in recruiting. The competition for the best and brightest young lawyers would thus impel firms to strengthen their pro bono efforts. Although we do not have rigorous statistical proof, anecdotal evidence suggests that the brochure has had this salutary effect in some firms. And, the brochure has been quite popular with law students.

Further, in my view, we have been successful in raising the profile of pro bono in the ABA and in bar associations. In this regard, we have been fortunate to have a series of ABA presidents who were deeply committed to access to justice. In particular, Bob Hirshon made this a central theme of his presidency. We have seen an upsurge in the commit-

ment of numerous ABA entities to pro bono programs and goals. In addition, the committee and its project, the Center for Pro Bono, have assisted state and local bars in enhancing their commitment. These efforts have produced concrete results for clients in need.

We should be especially proud of our profession, and the ABA, for their response to the tragedy of September 11. The committee staff played an important role in helping to coordinate these efforts.

There is much more I could discuss. I do not mean to provide a scorecard. Rather, I want to highlight a fact that should motivate those involved in pro bono in the ABA and other organizations—you can make a difference. You can change the lives of the least fortunate among us. You can educate and persuade your colleagues about the responsibilities we all have to those who need our help to protect their rights, and about the profound rewards of providing that help.

The task at hand remains daunting, but I am confident that dedicated people will continue to battle for equal justice. In the words of Lord Tennyson, “’Tis not too late to seek a newer world.”

American Bar Association Awards First-Ever Child Custody Pro Bono Mini-grants

The Child Custody Pro Bono Project of the American Bar Association is pleased to announce the six recipients of the first-ever Child Custody Pro Bono Mini-grants. A total of \$40,000 is being awarded to programs around the country to increase the number of children receiving pro bono representation in private custody cases. These recipients were selected by the Child Custody Project Advisory Committee's awards subcommittee, from a pool of almost 30 applicants. All of the project funds will be used for volunteer attorney direct representation of children in divorce, parentage, guardianship or adoption proceedings.

The largest award, \$11,000, is to the Children's Law Center in Covington, Kentucky. The Children's Law Center has provided staff representation directly to children since 1989, and in 1992 began representing children in custody and visitation cases. The Children's Law Center will use the grant to hire a part-time pro bono coordinator to start and manage a new pro bono component to its custody and visitation casework. The coordinator will recruit, train, and provide case support to at least 20 new volunteers during the pilot year of the project.

Pine Tree Legal Assistance and the Maine Volunteer Lawyer's Project are receiving a \$10,000 award. Staff at the two projects will use their combined experiences with pro bono guardians ad litem ("GAL") for children in custody cases and with evaluating Maine's family law guardian ad litem system to develop the following

resources under the grant: (1) a resource listing for GALs working with low-income families; (2) a GAL best practices manual; and (3) a new GAL mentoring program that will allow more attorneys to serve as GALs.

Also receiving a \$10,000 award is the Legal Aid Society of Northwest North Carolina. The society is partnering with the Winston-Salem law office of Kilpatrick, Stockton to start a new pro bono guardian ad litem program for children in divorce and unmarried parent custody disputes. The grant money will be used to hire a part-time social worker coordinator, who will work with the court and the volunteer attorneys on placements, training and case support.

There are three awards in the amount of \$3,000. The first is to Chicago Volunteer Legal Services Foundation, which will add a volunteer component to its current staff representation project for children in contested or complex private guardianship proceedings in the Cook County probate court. The second is to West Tennessee Legal Services Pro Bono Project, to recruit and support volunteer attorneys in a new family law GAL program. The final \$3,000 grant goes to the Franklin County Bar

Association's Bar Advocates for Children, in Massachusetts, to establish a mentoring program to increase the number of attorneys capable of representing children in custody cases.

In addition to making grants, the Child Custody Pro Bono Project has many other resources to support efforts to represent children in private custody cases. The project has an extensive Resource Library with over 200 custody-related documents; runs a Listserv for persons working or volunteering to represent children in custody cases; helps programs recognize exceptional volunteers through an annual ABA Ann Liechty Child Custody Pro Bono Award; provides technical assistance to state and local programs, committees, and judicial system reform efforts; and sponsors numerous trainings on child custody representation. The project is co-sponsored by the ABA Standing Committee on Pro Bono and Public Service and the ABA Family Law Section.

The Child Custody Project plans to award another \$40,000 in early 2003. Interested persons can contact the project's director, Linda Rio, at lrio@staff.abanet.org for more information about the grants and the project.

Pro Bono Awards

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homes, nursing homes, senior centers and other locations, to provide one-on-one consultations concerning wills, living wills, durable powers of

attorney for health care and general powers of attorney. Since the program's inception, staff lawyers and paralegals have served nearly 500 clients by traveling across the state to speak with senior citizens and prepare documents for them.

Merrell Becomes Director of Center for Pro Bono

The ABA's Standing Committee on Pro Bono and Public Service is pleased to announce that Dina Merrell has become director of the ABA Center for Pro Bono. The Center for Pro Bono is a project of the Pro Bono Committee and its principal purpose is to provide technical assistance in the development, expansion and improvement of pro bono programs.

Merrell joined the center in April 1999 as assistant staff counsel. In this capacity she provided technical assistance to a broad constituency of pro bono advocates and supporters, including pro bono program managers and law school pro bono and public services

staff. For the past year Merrell has also served as counsel to the ABA Commission on Loan Repayment and Forgiveness. She will continue her work for the commission during the coming year.

Merrell is a 1995 graduate of Chicago-Kent College of Law. Most of her previous professional experience was in the public sector including positions with the Legal Assistance Foundation of Chicago, the Cook County Legal Assistance Foundation, and the Illinois Department of Children and Family Services (Office of the Guardianship Administrator).

She can be reached at merrelld@staff.abanet.org or at 312-988-5773.

Disaster Recovery

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The Bottom Line

No matter the size of your community, preparation for disaster services will make your job easier and contribute more to the community. LRIS program staff can feel a connection to the rest of the community and a sense of preparedness that increases confidence in doing a great job. Attorneys will be able to find specific ways to help and members of the public will get crucial help quicker, so the community can move ahead with whatever rebuilding is necessary.

*Former LRIS Committee member **Joan Andersen** contributed to this article, using information supplied by **Grace Fonseca**, senior referral counselor of the Association of the Bar of New York City Lawyer Referral Service, and the Bar Association of San Francisco's Disaster Response Handbook. Fonseca's first-hand account of the September 11 recovery effort can be viewed online at www.abalegalservices.org/lris. Copies of BASF's Disaster Response Handbook may be requested by writing to Maya Blyth, LRIS, Bar Association of San Francisco, 465 California Street, Suite 1100, San Francisco, CA, 94104. Email requests should be sent to mblyth@sfbar.org*

Award Nominees

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Middle East. This year the center operated the largest Volunteer Income Tax Assistance (VITA) program in both the Air Force and the European Command, assisting over 7,600 clients.

Boasting the busiest legal assistance program in the Air Force, the legal office at **1st Fighter Wing, Langley AFB, Virginia** was instrumental in helping a grieving service member receive badly needed financial assistance for burial expenses for his deceased wife. The office also created the JAG Alliance program, consisting primarily of an ongoing email service and a comprehensive Web page with pertinent and useful legal assistance information for military attorneys.

Army nominee

Working pro bono, **Captain Adam Seigler**, a reserve attorney with the 311th COSCOM in California, successfully resolved a "lemon law" issue for a client. Seigler and his law firm devoted over 400 hours to the case, which culminated in a weeklong jury trial, a favorable jury verdict, and a satisfactory financial settlement for the soldier.

Traci Jones is a member of the ABA LAMP Committee. She is an attorney for the U.S. Navy Office of General Counsel, and also serves as a reservist attached to the Navy Reserve Legal Service Office Southwest 119.

Marine, Coast Guard and Navy nominees will be featured in the next issue of Dialogue.

Read about the winners of the 2001 Distinguished Service Award by logging on to www.abalegalservices.org/dialogue/02spring/lamp.html#article2

2002 Harrison Tweed Award Winners Announced

The Atlanta Bar Association, the Association of the Bar of the City of New York, and the State Bar of Texas will each receive a 2002 Harrison Tweed Award for achievement in preserving and increasing access to legal services for the poor.

The award, given annually by the American Bar Association Standing Committee on Legal Aid and Indigent Defendants and the National Legal Aid and Defender Association, will be presented during the ABA Annual Meeting in Washington, DC, at a joint luncheon of the National Conference of Bar Presidents, National Association of Bar Executives and National Conference of Bar Foundations.

The Harrison Tweed Award was created in 1956 to recognize the extraordinary achievements of state and local bar associations that develop or significantly expand projects or programs to increase access to civil legal services for poor persons or criminal defense services for indigents.

Atlanta Bar Association

The Atlanta Bar Association is being honored for its Truancy Intervention Project (TIP), which was created in 1991 by Glenda Hatchett, then chief judge of the Fulton County Juvenile Court, and the Atlanta Bar leadership, in response to the overwhelming number of children appearing in juvenile court with truancy violations. The program is now a partnership among the Atlanta Bar, the Fulton County Juvenile Court, and Kids in Need of Dreams, Inc., a nonprofit organization established to coordinate the resources needed by TIP



Harrison Tweed

volunteers and children.

"This innovative program has saved the county more than \$3 million in court appointed legal fees, and has succeeded in keeping kids in class and out of trouble," said L. Jonathan Ross, chair of SCLAID. "By pairing volunteer lawyers with students who are chronically absent, the TIP program has provided these children with free legal services and the caring guidance they need to avoid repeat trips to juvenile court."

ABCNY

The Association of the Bar of the City of New York is being honored for the work of the ABCNY Fund, Inc., which, along with other bar associations, legal service organizations and an outpouring of individual lawyers offering their services, began mobilizing a remarkably comprehensive emergency pro bono legal assistance project within 48 hours of the collapse of the World Trade Center.

The Association of the Bar of the City of New York demonstrated exceptional leadership in respond-

ing to the terrorist attacks on the World Trade Center," Ross said. "Within hours of the attacks, ABCNY lawyers were working to establish an extraordinarily comprehensive and collaborative program to provide legal assistance to the victims of the attacks. As a result of the ABCNY's swift action, thousands of clients were served in a remarkably organized and humane fashion."

State Bar of Texas

The State Bar of Texas is being honored for its achievements in improving access to justice for the poor in both criminal and civil matters. The State Bar played a critical role in the enactment and implementation of the Texas Fair Defense Act, the sweeping reform of the state's indigent defense procedures that was signed into law in June 2001. It has also been at the forefront of efforts to increase funding for the provision of civil legal services to poor people.

"For many years, the State Bar of Texas has been at the forefront of efforts to ensure that the state's low-income residents have access to the justice system," Ross said. "As Texas has seen cuts in funding for civil legal services, the State Bar has redoubled its efforts to bolster access to justice for the poor, and has led a historic effort to reform the state's indigent criminal defense system. Through these efforts, the State Bar of Texas truly has demonstrated its commitment in word and deed to the principle of equal justice under law."

For more information about the Harrison Tweed Award, please visit www.abalegalservices.org/sclaid/home.html

From the Chair...



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

A few weeks ago, I had the pleasure of attending the annual dinner of the New Hampshire Bar Foundation, which served as the official kick-off for our first statewide Campaign for Legal Services. This campaign, to benefit the three legal aid providers in New Hampshire, has a minimum three-year goal of \$750,000. We are well on our way—leadership gifts from firms, at the rate of \$500 per lawyer and totaling \$300,000, were announced. I reflected on how far we had come in terms of resource development at the state and local level in my over 30 years of involvement with legal aid.

The New Hampshire campaign builds and expands on work that has been done elsewhere in the United States. We might have figured out all by ourselves that the best way for us to raise private funds was to do a joint effort through an established entity like the bar foundation, and that we could raise \$750,000, but having access to information about what was being done in other states made our job much easier, and we have probably reached higher and will achieve more because of this assistance.

After the dinner, I emailed
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Access to Justice Leaders Share Insights at First National Meeting

by Bob Echols

Over 60 state Access to Justice leaders from 35 states participated in the first-ever National Meeting of State Access to Justice Chairs, held on April 20, 2002, in Cleveland, in conjunction with the Equal Justice Conference.

The meeting was designed to allow leaders of state-level Access to Justice entities to learn from the experiences of leaders in other states and to discuss their questions and concerns with their peers. Three-quarters of the states now have some kind of formal structure dedicated to expanding and improving the state's civil legal assistance system. Over the past decade, these groups have had a profound impact on the civil legal assistance delivery system in the United States.

The meeting was convened by SPAN, a joint project of the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) and the National Legal Aid and Defender Association (NLADA). SPAN's mission is to support state Access to Justice partnerships.

Following a welcome from ABA President Robert Hirshon, a distinguished panel of experienced leaders discussed insights that they have developed from their Access to Justice work. The panelists included Chief Judge Robert Bell of the Maryland Court of Appeals; Jack Londen, immediate past chair of California's Access to Justice Commission; Sarah M. Singleton, co-chair of the Legal Services and Programs Committee of the New Mexico State Bar; John R. Jones, chair of the Texas Access to Justice Commission; and Robert N. Weiner, chair of the Pro Bono Committees of both the DC Bar and the ABA. SCLAID Chair L. Jonathan Ross was the moderator. In the afternoon, the participants broke up into small, self-selected discussion groups, defined according to the characteristics of each state's Access to Justice structure.

The key points made by the panelists and participants in the meeting provided confirmation and support for the "twelve lessons from successful state Access to Justice efforts" that SPAN has developed based on input from state volunteer leaders and staff and set out in an evolving document currently being circulated in the Access to Justice community. While no two states are alike, and every state's effort must be addressed to local circumstances, the same basic characteristics can be discerned in the Access to Justice efforts that have been most successful around the country over the past decade. SPAN's effort to distill those characteristics into twelve lessons is as follows:

Lesson One: Successful Access to Justice efforts are founded upon a strong partnership among the bar, the judiciary, and legal aid providers. Each institutional partner brings a particular set of strengths to the table. The bar brings its volunteer base and professional structure; providers

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SPAN Meeting

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bring their direct experience with the civil legal needs of low-income people, their expertise in developing and implementing effective delivery models, and their links to low-income communities; the judiciary brings its unique credibility and rule-making authority, as well as direct experience in

responding to the growing number of self-represented litigants. In many states, law schools are also key partners.

Lesson Two: Formal structures that are accountable to more than one partner can be more secure than informal structures or structures accountable to only one partner. For example, a state Access to Justice commission that is staffed by the bar but created by Supreme Court

rule and made up of representatives appointed by different institutional constituencies is less likely to be vulnerable to funding or staffing cuts as the results of a change in bar leadership than is a bar Access to Justice Committee. A bar-based effort is more likely to be secure if it receives contributions from other partners for staffing and expenses. Similarly,

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From the Chair...

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information about our campaign to PERLS, one of the national entities that helps keep those of us involved in legal services fundraising informed and moving forward. PERLS, the acronym for the Project to Expand Resources for Legal Services, is a project of SCLAIID and is funded by the Open Society Institute. Through PERLS, we gather fundraising information from programs all over the country. We maintain a resource development clearinghouse, do research on fundraising ideas, and provide technical assistance and training.

Recently, the PERLS Project Director, Meredith McBurney, has been analyzing the data that has been gathered to look at trends, comparing where we were 10 and 20 years ago to where we are today, in terms of total dollars raised and the sources. She is looking at which regions, states, and communities have done especially well and why. We are working with the National Legal Aid and Defender Association (NLADA) and The Fundraising Project of Management Information Exchange (MIE), our national level partners in resource devel-

opment support efforts, to identify ways to assist those who have been less successful.

Here are a couple of examples of current fundraising activities that are generating significant revenue for civil legal aid providers:

Legal services advocates in Arizona just completed the first year of their first joint lawyer fund drive for the three service providers there. The three year goal is to have 40 percent of the lawyers in Arizona contribute \$3,000,000. As of June 30, the end of their first year, they had received \$500,000 and had pledges for \$1,000,000 more. Staff and volunteers in Arizona received valuable assistance from their Utah neighbors. Not only did the Utah people provide good advice based on their own recent experience starting a similar campaign, but one of the Arizona campaign co-chairs is a partner in the same law firm as the first Utah campaign chair.

Speaking of Utah, after several years of success with an annual lawyer fund drive, legal services advocates are doing great work on a capital campaign to buy a building to house five legal aid organizations. Of the \$4 million needed for this project, they have already generated \$2.53 million. Major funding has come from

many sources, including foundations, IOLTA, the state bar, and the legislature.

We have come a long way in developing funding for legal aid. IOLTA, which did not exist in 1980, is the second largest funding source nationally after LSC. In 1990, there was state legislative funding in only 13 states; today, there are only 10 states without it. Contributions from the legal community have grown considerably. Other sources have increased as well.

As our resource development skills have increased, we have become more confident of our ability to move toward access to justice for all. However, we have a long way to go, and getting there will be easier if we work together. The time saved and power gained by not reinventing the wheel is great. It allows each new effort to build on the efforts of others, modifying the work of others to our own situations and using our creative energies to make each new effort a little better. So, if you have had a recent fundraising success, pass information about it on to Meredith. If you would like help with your next fundraising activity, contact her. She can be reached at 303-329-8091, or mm8091@aol.com.

SPAN Meeting

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a provider-dominated group is less likely to win credibility and long-term support with the other partners.

Lesson Three: Judicial leadership—especially at the state supreme court level—greatly increases the effectiveness of Access to Justice initiatives. In addition to raising the visibility and credibility of the Access to Justice mission as a whole, judicial leadership can greatly enhance the effectiveness of efforts to increase state funding for civil legal assistance, to increase pro bono activity, and to make the courts more accessible to low-income people.

Lesson Four: New partners can bring new resources, new perspectives and increased support. A few states with well-established structures have been very successful in bringing in more diverse partners, including legislators, government executives, and representatives of the business, labor, education, and religious communities. By successfully making the case that equal justice should not be the concern or responsibility of the legal profession alone, they have obtained access to new resources, new ideas and perspectives, and broader support for their goals. Newer Access to Justice efforts should pursue broadening their membership as a long-term goal.

Lesson Five: Access to Justice structures should carefully consider how best to obtain meaningful input from client communities. While there is no single model or easy method for doing so, each state Access to Justice entity should carefully consider how it will ensure that client points of view are heard and considered.

Lesson Six: Access to Justice

structures should be open and inclusive and place a priority on developing trust among the partners.

Dedication to the shared goal of equal justice may not be enough to prevent misunderstandings from arising among the partners. Processes that are perceived as closed or exclusive can exacerbate the danger. To move forward effectively, all the partners need to work hard to build relationships of trust with one another. No one partner should dominate the structure or the other partners.

Lesson Seven: Each partner must build support within its own institutional base. Access to Justice leaders should make clear to their constituencies what they are doing and why it is important. They should take as much care in crafting the message that they are sending to their own institutional base as the one they are sending to the state legislature, key decision-makers, and the public.

Lesson Eight: Assessing and publicizing accomplishments is a key task. Assessing results and charting accomplishments is important to building support within the Access to Justice structure and the institutions that support it. It's easy to assume that everyone knows what has been accomplished—but too often that is not the case, even within the membership of the Access to Justice group itself.

Lesson Nine: Access to Justice leaders should chart a compelling vision but avoid creating unreasonable expectations. Setting a boldly ambitious goal can be an effective way to motivate participants in a campaign. At the same time, creating unreasonable expectations can be dangerous, leading to discouragement and a sense of failure when they are not fulfilled. Access to Justice leaders need to find a balance between these two

competing concerns. This can be accomplished by setting reasonable interim goals while charting a bold long-term vision.

Lesson Ten: New and emerging Access to Justice leaders should be cultivated. An Access to Justice effort that initially includes all of the strongest supporters of the mission may find that when the original leaders are ready to move on, there is no one ready to take their place. Creating clear terms of office, with rotating leadership, can help to avoid this problem, while promoting activity and accomplishment. Terms need to be long enough to build expertise and relationships. Three-year terms for officers, with longer terms for committee members, have generally worked well. A good mix of long-term supporters and new blood is ideal.

Lesson Eleven: An effective staff capacity is essential for a successful Access to Justice effort. While volunteers can fill leadership roles, staffing is necessary for adequate support, continuity, communications, and continued momentum. Ideally, the staff person(s) should have Access to Justice as a sole, or at least primary, job responsibility, and should report directly to the Access to Justice leadership. Finding the right staff person can be difficult—the job requires significant interpersonal, communications, and political skills, the capacity to work effectively with a diverse group of volunteers, knowledge of the legal system and an understanding of the legal needs of low-income people. Above all, it is essential that the staff person have the full trust of all the institutional partners.

Lesson Twelve: Partners should place a priority on promoting

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Loan Repayment and Forgiveness Update

ABA Board of Governors Extends Commission for 2002-03

During its June 2002 meeting, the ABA Board of Governors approved the extension of the ABA Commission on Loan Repayment and Forgiveness for fiscal year 2002-03. ABA President Robert Hirshon created the Commission in August 2001 to explore the impact of educational debt on law graduates' ability to pursue and remain in public service legal careers. During its second year, the commission will continue its work to promote loan repayment assistance programs (LRAPs) provided by law schools, state and federal governments and other sources through a variety of initiatives, including educational efforts, lobbying at the federal level, and developing resources designed to support the expansion of LRAPs at the state level.

Chicago Bar Foundation Announces \$100,000 Gift to Help Law Graduates Pursue Public Interest Careers

In May 2002, Chicago Bar Foundation (CBF) Second Vice President Kimball Anderson and his wife Karen donated \$100,000 to the CBF to create a 10-year public interest law fellowship. The Anderson Fellowship will honor and assist one recent law school graduate each year who



Kimball and Karen Anderson

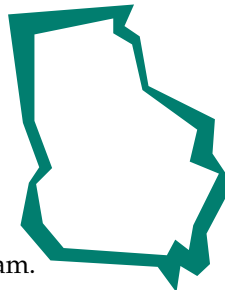
elects to work in the field of public interest law in the Chicago area.

The \$10,000 annual award will assist law school graduates with repayment of their law school debts, which have monthly repayment obligations that often exceed their rent or mortgage payments. In recent years, the combination of debt and modest public interest salaries has created a dynamic where many law school students cannot even consider a career in public interest law. The first recipient of the Anderson Fellowship will be announced at the CBF's July 2003 Pro Bono and Public Service Awards Luncheon.

Georgia Governor Signs Bill Establishing Loan Forgiveness Program

Georgia Governor Roy Barnes recently signed into law legislation creating a loan forgiveness program for attorneys working for the public interest, such as prosecutors, public defenders and civil legal aid attorneys. The original bill resulted from the work of the Georgia Legal Loan Forgiveness Task Force, a special body created by Barnes to study the issue

of creating a loan forgiveness program for Georgia lawyers entering public service. The Georgia legislature did not appropriate any funds to support the program.



A subcommittee of the Georgia Access to Justice Committee is exploring funding options. To access a copy of the legislation, visit www.ganet.org/services/newleg (Go to "legislative searches" and search for SB 465).

For more information about the commission, contact Dina Merrell, at merrelld@staff.abanet.org or 312-988-5773 or visit the commission's Web page, www.abalegalservices.org/lrap

SPAN Meeting

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cooperation and consensus within their own community and strive to speak with one voice in public. Disputes, lack of adequate communication, and failures of cooperation within partner communities can seriously damage Access to Justice efforts. Leaders should try to keep the "big picture" of achieving Access to Justice as a whole front and center at all times.

A more detailed version of these "twelve lessons," along with state-by-state information on Access to Justice structures, initiatives, and resources, is available on the SPAN Web site, which can be reached through the sites of either of SPAN's two sponsors: www.abalegalservices.org/sclaid or www.nlada.org/Civil (from either site, click on *SPAN: Access to Justice Partnerships*). For additional information, contact span@nlada.org or SPAN Coordinator Bob Echols at 202-452-0620.

