These two fundraising successes in which IOLTA programs played a major role, (highlighted in the last two issues of Dialogue), illustrate a positive trend in resource development for civil legal aid. In recent years, IOLTA programs around the country have expanded their work to include forms of resource development that go beyond maintaining and maximizing their existing IOLTA operations. This article looks at trends in the development of IOLTA programs and in the evolution of funding for legal services over the past two decades to show why this is important. It also provides two more examples of exciting fundraising accomplishments spearheaded by IOLTA programs and their leaders.

IOLTA background
The first IOLTA programs in the United States began in the early 1980s. Running an IOLTA program required a unique combination of skills and knowledge, so in the early years IOLTA staff spent most of their time basically learning a new trade. They learned about working with banks and negotiating for better interest rates and lower fees. They developed skills as grantmakers and program evaluators. Many programs had either voluntary or opt-out participation by attorneys, and volunteers and staff spent considerable time converting those programs to either opt-out or mandatory status to increase attorney participation and interest revenues. Over time, as IOLTA directors became more experienced, some recognized that in addition to maximizing IOLTA revenue and making responsible grants, their programs were well positioned to help increase other resources for legal aid.

Funding background
When IOLTA programs started in the early 1980s, the Legal Services Corporation (LSC) was the primary source of funding for civil legal assistance. In 1981, when the Florida Bar Foundation started the first IOLTA program in the United States, LSC funding to programs in all 50 states and the District of Columbia was approximately $280 million, or about 85 percent of the total revenue for legal aid programs. In 2003, LSC funding to programs is close to $299 million, an increase of only seven percent,
The bad news is that the increase in other funding has not been distributed evenly throughout the country. In some states, revenue has increased significantly, while in others, particularly in the South and in the Rocky Mountain states, funding has been relatively stagnant. The highest-funded states have more than five times as much funding for civil legal aid as the lowest-funded states. The goal of equal access to justice is far from becoming a reality.

IOLTA Leadership

IOLTA’s role in fundraising success

There are many factors determining why some states have achieved greater resource development success than others. Some are beyond the control of legal services advocates. For example, lower funded states tend to have lower per capita incomes and higher poverty rates, which may have an impact on how much money can be generated.

However, other factors can be controlled, including the amount of time, money and leadership that states commit to resource development. While having a variety of funding sources promotes stability and increases services, it requires considerably more work, and legal services advocates in the higher-funded states have worked very hard over a long period of time to get where they are.

Most of those states with higher funding levels have staff people at the bar, within legal
From the Chair... 

by Darrell E. Jordan
Chair of the ABA
Commission on IOLTA

Following the Supreme Court's decision in Brown v. Legal Foundation of Washington affirming the continued viability of IOLTA, we can finally turn our attention to what lies ahead for IOLTA. As a start, we should look closely at how our programs are doing, and redouble our efforts to ensure they are doing all they can to facilitate equal access to the justice system. I hope that over the next several months—and certainly during the Summer IOLTA Workshops in San Francisco next month—we will have thoughtful discussions concerning how IOLTA programs can address the challenges of maintaining healthy organizations, increasing revenue, and helping to meet the persistent need for legal assistance.

The Commission on IOLTA and the National Association of IOLTA Programs should share the responsibility for this review, so I will start by describing one new initiative between the two groups. NAIP and the Commission have formed a Joint Rules Task Force to review the Brown decision and make recommendations regarding what changes, if any, IOLTA programs might consider regarding their IOLTA rules in light of that decision. In addition, the task

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are deaf or hard of hearing have difficulty accessing community services, finding employment and exercising their civil rights.

Recognizing the need to assist the underserved deaf population through a coordinated approach, Advocacy, Inc. established the Deaf Advocacy Project (DAP) in 1991 with the help of an IOLTA-funded grant from the Texas Equal Access to Justice Foundation (TEAJF). Dr. Mike Collier, deaf services specialist and DAP coordinator, assisted Advocacy Inc.’s former executive director, James Comstock-Galagan, in the creation of the DAP.

“I assisted him [Comstock-Galagan] in developing a better understanding of how people who are deaf or hard of hearing were often living in poverty, underserved and misunderstood as they tried to access basic community services and even employment,” said Collier.

Comstock-Galagan and Collier sought funding for the DAP from TEAJF. The foundation awarded IOLTA funds for the new project, quickly recognizing the importance of providing legal services to the vulnerable deaf population. TEAJF has continued to fund the DAP for the past 12 years.

In 1997, Advocacy, Inc. implemented the Deaf Mental Health Advocacy Project (DMHAP) as a complement to the DAP to improve access to mental health services for Texans who are deaf or hard of hearing. Collier says that as the DAP evolved, Advocacy, Inc. realized that people who are deaf or hard of hearing had extremely poor access to the public and private mental health systems in the state.

The DMHAP recently assisted in a case involving a deaf inpatient at a state hospital. Once she began to make good progress, she was eligible for ground privileges, which allows for a patient to move independently and freely around the campus. Hearing patients at the same level of recovery receive ground privileges. However, the hospital treatment team decided that because she was deaf, it was not safe for her to have this privilege.

The patient contacted Advocacy, Inc. for help. The DMHAP provided information to Advocacy, Inc.’s regional office team concerning deafness and safety issues and the deaf patient’s rights. The regional attorney contacted the hospital superintendent with the information the DAP had provided. The patient was quickly given ground privileges, and hospital staff was educated about deafness and safety issues.

Collier, through both projects, provides technical assistance to Advocacy, Inc. staff throughout Texas on deafness-related cases and issues. He reviews all related intakes and assists with the cases as needed. In 2002, Advocacy, Inc. handled more than 400 cases involving people who are deaf, hard of hearing, or deaf and blind.

Collier finds particular encouragement in a significant advancement for deaf advocacy, the development and implementation of video relay and interpreting services for deaf people whose first language is American Sign Language rather than English. Collier says that most people who are deaf prefer to communicate in a visual language.

“Deaf people who have access to a fast Internet connection and a personal computer with a camera can communicate via signs over the Internet. In the near future, if someone goes into a legal aid office or hospital in Laredo or Fort Stockton, these places that may not have interpreters readily available can call in for video remote interpreter services.”

Collier says that the next challenge is getting organizations to use and pay for the services. But he adds that through advocacy and training, more businesses and facilities are becoming accessible to people who are deaf or hard of hearing.

Advocacy, Inc.’s success

In 2002, Advocacy, Inc. handled approximately 4,500 cases statewide. The organization provided information and referral for more than 13,000 inquiries. It reached more than 32,000 individuals through statewide training sessions. And there were more than 600,000 hits to its Web site.

Much of the organization’s success can be attributed to the commitment of its staff to ensure that people with disabilities are treated with dignity and respect, and that the laws regarding their rights are understood and adhered to.

Faithfull says, “It [serving people with disabilities] is my life in many ways. It is wonderful to have a job where I can put my personal beliefs to work. The agency allows me to affect people’s lives everyday. I’m constantly amazed at the commitment, caring and belief the staff has in what they do. People work here because it’s their passion.”

Laura Figueroa is the communications manager for the Texas Equal Access to Justice Foundation.

To learn more about the Deaf Advocacy Project, email Dr. Mike Collier at mcollier@advocacyinc.org, or visit www.advocacyinc.org
services, and/or in the IOLTA program who see it as their responsibility to figure out how to increase access to justice in their states. These advocates use a variety of ways to push access-to-justice issues to the forefront:

• working with volunteer and staff advocates to convince bar organizations and the courts to develop blue-ribbon level commissions to address access to justice issues
• identifying strong volunteer leaders to organize committees and develop campaigns
• coordinating the work of the various legal aid and pro bono programs, the bar association, the courts, and other key players to make the best use of everyone’s time and avoid duplication
• assuming responsibility for any number of other organizing, coordinating, and developing tasks to ensure that activities aimed at increasing access to justice move forward.

There has not been a survey of IOLTA staff to determine how many play roles that go beyond managing their IOLTA operations. However, numerous IOLTA directors have been central in successful efforts to increase resources for legal services. In addition to the Illinois and Pennsylvania examples mentioned earlier, Arizona and New Hampshire also illustrate the important role IOLTA programs and staff can play in these campaigns.

**Arizona**

The Arizona Foundation for Legal Services & Education (AZFLSE, formerly the Arizona Bar Foundation) and the director of its IOLTA program, Kelly Carmody, have played a major role in helping to increase other state-level funding for legal services. Carmody worked with a coalition comprised of the AZFLSE, the State Bar of Arizona, Arizona Coalition Against Domestic Violence and Arizona’s legal services programs to mount a successful campaign to obtain state legislative funding for civil legal assistance for domestic violence victims and their children. As a result, legal aid providers in Arizona are receiving $1 million in TANF (Temporary Assistance for Needy Families) funds and $200,000 in general state appropriations to provide assistance, through a contract with the State of Arizona thatAZFLSE administers. The foundation also administers and coordinates a VAWA (Violence Against Women Act) grant from the U.S. Department of Justice, which provides an additional $488,000 to legal aid and domestic violence programs in Arizona.

Carmody is now providing assistance to the Access to Justice Task Force of the State Bar of Arizona, which is working to identify the civil legal needs of Arizona residents and recommend a system of providing access to justice for all of them. The task force is studying potential funding mechanisms and will make recommendations to the board of governors of the state bar within the next few months.

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IOLTA Litigation Update: Reviewing the Brown Decision; Texas Case Remanded

by Bev Groudine

The Spring issue of Dialogue brought news of the Supreme Court’s decision in Brown v. Legal Foundation of Washington, 538 U.S. ___ (2003), which was issued shortly before press time. Dialogue now offers a closer look at the details of the Court’s decision, as well as its subsequent order remanding Phillips v. Washington Legal Foundation, 02-01, back to the Fifth Circuit Court of Appeals.

On March 26, 2003, the U.S. Supreme Court issued its decision in Brown v. Legal Foundation of Washington, upholding the constitutionality of IOLTA under the Just Compensation Clause of the Fifth Amendment. Justice Stevens authored the 5-4 majority decision, which Justices O’Connor, Souter, Ginsburg and Breyer joined. In its ruling the Court held that even assuming that the interest generated on IOLTA accounts amounted to a per se taking, such a taking was for a valid public use and the amount of just compensation due was zero. As a result, the Court found that the operation of the IOLTA program in Washington does not violate the Fifth Amendment.

IOLTA a public use

The Court’s analysis began by setting forth that the text of the Fifth Amendment “confirms the state’s authority to confiscate private property”, so long as two conditions are met: “the taking must be for a ‘public use’ and ‘just compensation’ must be paid to the owner.” The Court quickly disposed of the ‘public use’ question by stating that “…the overall, dramatic success of these programs in serving the compelling interest in providing legal services to literally millions of needy Americans certainly qualifies the Foundation’s distribution of these funds as a ‘public use’ within the meaning of the Fifth Amendment.”

The Court then discussed the type of “taking,” if any, involved in the case. Petitioners alleged two takings claims based on, first, the requirement that certain types of client funds be placed in an IOLTA account and, second, the transfer of interest from an IOLTA account to the Washington IOLTA program. Applying a regulatory taking analysis, the Court concluded that the placement of funds in an IOLTA account was not a taking “because the transaction had no adverse economic impact on petitioners and did not interfere with any investment-backed expectations.” As to the alleged taking of interest, the Court indicated that the per se analysis was appropriate to the facts of this case and consistent with the finding in Phillips that the interest is the property of the clients. The majority assumed that the petitioners’ “interest was taken for a public use when it was ultimately turned over to the Foundation.” This assumption, however, did not end the Court’s inquiry.

No just compensation due

The Court held that, in any event, there was no constitutional violation because no just compensation was due. In essence, the Court found that the plaintiffs in the case lost nothing of value given the fact that transaction costs would have outweighed the small amount of gross interest their individual accounts would have earned. In reaching its conclusion, the Court applied a long line of Fifth Amendment cases on just compensation, stating: “[J]ust compensation required by the Fifth Amendment is measured by the property owner’s loss rather than the government’s gain.”

Finally, the Court addressed the plaintiffs’ argument that funds could have mistakenly been deposited in an IOLTA account when the interest generated would actually have exceeded the transaction costs involved, contrary to the law establishing the IOLTA program in Washington State. While recognizing that mistakes might occur, the Court pointed out that the responsibility for ensuring that only qualifying funds are deposited in IOLTA accounts rests with the entity making the deposits (in this case the limited practice officers handling real estate escrows). While the property owner might (continued on page 7)
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have a claim against the entity making a faulty deposit, that faulty deposit would not involve any state action subject to Fifth Amendment protection.

The dissents

Justice Scalia authored a spirited dissent, which was joined by Chief Justice Rehnquist and Justices Kennedy and Thomas. In it, IOLTA was likened to a "Robin Hood Taking, in which the government’s extraction of wealth from those who own it is so cleverly achieved, and the object of the government’s larcenous beneficence is so highly favored by the courts (taking from the rich to give to indigent defendants) that the normal rules of the Constitution protecting private property are suspended.” Justice Scalia argued that the fair market value of the interest earned by the clients’ principal should be the test of just compensation, rather than the net interest approach used by the majority.

Justice Kennedy also issued a brief additional dissent in which he raised First Amendment concerns regarding IOLTA. Kennedy wrote: “The First Amendment consequences of the State’s action have not been addressed in this case, but the potential for a serious violation is there... One constitutional violation (the taking of property) likely will lead to another (compelled speech).”

Texas case

Shortly after the Court granted certiorari in the Brown case in 2002, the Texas IOLTA program filed a petition for certiorari in its case, Phillips, et al v. Washington Legal Foundation, 02-1. That petition was filed following the denial of a petition for en banc hearing.

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From the Chair...

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force will gather and provide information on the issues that have been the subject of IOLTA rule changes in recent years to increase IOLTA revenue so that programs can determine what other, if any, changes they may want to explore. I expect the task force will issue a preliminary report in San Francisco.

Ideas for action by programs include the following:

• Conversion – This is a good time for programs that have either voluntary or opt-out attorney participation to consider converting their programs to opt-out or mandatory status. Increasing attorney participation by converting a program’s status is one of the most effective ways to increase IOLTA revenue. ABA policy has supported converting to mandatory status since 1988. More importantly, the Brown ruling has put to rest any claim against the entity making a faulty deposit, that faulty deposit would not involve any state action subject to Fifth Amendment protection.

• Fundraising – Highlighted on the cover of this issue of Dialogue, as well as in two previous editions, is the role that IOLTA programs can play in developing new sources of funding for civil legal assistance. The cover story focuses on the importance of IOLTA in statewide funding initiatives, whether the new funds are administered by IOLTA programs or other access-to-justice organizations. The recent successes in Arizona, Illinois, New Hampshire and Pennsylvania show that when they engage in statewide funding efforts, IOLTA programs can secure impressive gains. (The efforts in these four states will raise millions of dollars for legal services.)

• Banking relationships – Even in this dreary interest rate climate, attention to banking matters remains an essential part of any program’s operations. Amending rules to require banks to treat IOLTA accounts with parity may help shore up IOLTA revenues. As banks consolidate and become regional or national entities, communication and coordination between IOLTA programs is becoming a necessary counterweight and a means to help gain more favorable treatment of IOLTA accounts across state lines.

We will delve into these last two issues regarding banks when the IOLTA community meets for the Summer IOLTA Workshops. Other sessions will address loan repayment and assistance programs, grant making, grantee evaluation, funding racial justice initiatives, and legal needs assessments. In addition, the workshops offer an excellent opportunity for informal discussions about other topics of interest. I hope you plan to attend—this is an important time for IOLTA.
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review of a ruling against the Texas IOLTA program issued by a three-judge panel of the Fifth Circuit Court of Appeals, which found that IOLTA violated the Fifth Amendment. On March 31, 2003, the Supreme Court granted the certiorari petition, vacated the decision of the Fifth Circuit, and remanded the case to the Fifth Circuit “for further consideration in light of Brown.

What’s next?
First Amendment claims were raised in the original complaints filed in the Texas and Washington cases. While the lower courts have in part addressed those claims, whether the plaintiffs in either case will pursue the issue further in light of the Brown decision remains an open question.

In the Washington litigation, the Ninth Circuit Court of Appeals, after ruling that no Fifth Amendment violation existed, remanded the First Amendment issue to the district court to consider “what speech, if any, is at issue and whether the IOLTA program violates any rights Appellants may have emanating from the First Amendment.” In the Texas case, the district court found no violation of the First Amendment following a bench trial, and dismissed the claim. The Fifth Circuit, finding that a Fifth Amendment violation existed, decided that it did not need to address the First Amendment claim. Thus, while the First Amendment issue may be on a faster track in the Fifth Circuit, only time will tell if and when it will be further litigated.

Regardless of whether more litigation awaits IOLTA programs, the Brown decision is an important victory, both for affirming such a critical source of funding for legal services, and for recognizing the compelling importance of legal services for the poor. As American Bar Association President Alfred P. Carlton, Jr. stated: “The real beneficiaries of this ruling are the tens of thousands of poor people who receive legal assistance because of IOLTA.”

Bev Groudine is staff counsel to the ABA Commission on IOLTA.

IOLTA Leadership
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New Hampshire
For many IOLTA programs, the first step into statewide resource development efforts has been, as it was in Arizona, through a state legislative campaign. The New Hampshire Bar Foundation, the state’s IOLTA program, took a different route. In 1996 the bar foundation and its former executive director Tina Abramson sought to increase revenues significantly by embarking on an ambitious planned giving and major gifts campaign to increase its endowment. By 2000, the foundation generated $1 million, half in cash gifts and half in bequests, which is quite a success for a state with only 3,000 lawyers. The success of this effort led to a decision to develop a statewide annual private bar campaign, to be coordinated and directed by bar foundation staff, to raise regular operating funds for the three legal aid programs. The Campaign for Legal Services officially kicked off at the bar foundation’s annual dinner in June 2002 with $300,000 in leadership gifts from firms pledging to donate at the rate of $500 per lawyer. The campaign is expected to reach its three-year goal of $750,000.

In these states as well as others, the role of IOLTA programs and their directors in initiating, organizing, coordinating and managing state-level resource development work has led to substantial increases in funding for legal aid programs. Opportunities exist in other states, where there is insufficient state-level person power, for IOLTA personnel to step in and either fill a void or complement the work being done by others. In some states, active participation and leadership by IOLTA programs and their staff may be a necessity if access to justice is to be improved.

The ABA Project to Expand Resources for Legal Services (PERLS) offers assistance regarding state and local efforts to develop new sources of legal services funding. For more information, contact the author of this article, Meredith McBurney, at 303-329-8091 or via email at mm8091@aol.com

Meredith McBurney serves as director of the ABA PERLS Project. She is the former executive director of Colorado’s IOLTA program, the Colorado Lawyer Trust Account Foundation (COLTAF), and the Legal Aid Foundation of Colorado, the statewide private fundraising organization for legal services.

Dialogue/Summer 2003
Lawyer Referral

“Legalizing” Unbundled Practice: The Maine Experience

by Elizabeth Scheffee

Discrete task representation, also called "unbundled" legal services, is a method of legal service delivery that litigators borrowed from transactional lawyers. Commonly utilized when drafting a will, a deed or a contract, discrete task representation has not been used in litigation settings until recently. One of the great benefits of unbundling in a litigation context is that it is a successful way to provide a measure of legal services to those who can afford some, but not total, legal representation.

Why unbundling?

Lawyers are accustomed to prospective clients asking questions such as: "What are my rights?"; "Can you tell me if I should/should not sign this document?"; and "Do I need a lawyer?" These types of questions are common during an initial client interview, and also commonly are asked by educated clients who may need a "legal coach" rather than full service legal representation. Bar associations in many states are assessing the value and advisability making unbundled legal services a part of their local legal geography. Here is what happened in the State of Maine.

Maine’s population ranks among the highest taxed and also one of the poorest in the nation. The judicial system is under-funded and has a low number of judges per capita. Maine lawyers provide among the highest number of volunteer legal service hours in the nation. It was not surprising, by the late 1990s, there was a crisis in the delivery of legal services, particularly to middle income clients. The Maine State Bar Association and the judicial branch formed a task force—the Self Represented Litigant Task Force—to think of and adopt creative ways to resolve the crisis. Unbundling was the group’s first goal.

Amending the rules

In the best situation, both the civil rules and the ethics rules should be amended to fully authorize and empower lawyers and litigants to unbundle. The Maine task force included individuals either on or well connected to the Civil Rules Committee and the Advisory Committee on the Code of Professional Responsibility. It also included an active member of the Maine Supreme Judicial Court as well as an active president-elect (later president) of the bar association. The task force drafted proposed civil rules and ethics rules amendments, and the bar association and judiciary coordinated the public hearings necessary to implement them.

Almost all states have transactional lawyers who unbundle, and many states have domestic relations attorneys who litigate matrimonial cases and also unbundle their services. (A huge number of family law cases are conducted by middle-income, self-represented litigants.) The hardest obstacle to overcome was institutional inertia, expressed by

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From the Chair...

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their programs more with an eye toward simply gathering cases for their attorneys rather than toward providing a quality public service to their clients.

Clearly, if lawyer referral was to be operated primarily as a quality service to the public, standards were necessary to provide a target for which programs could aim. Moreover, in advocating for LRIS programs on national level, the Standing Committee was finding itself increasingly pressed to differentiate good programs from unscrupulous ones by a clear, objective measure. Standards solved this problem as well.

The adoption of model rules is no small feat within the ABA (nor should it be). Setting aside the arduous task of drafting a set of rules, those rules must then be vetted by all concerned entities within the ABA. Finally, the rules thus edited and refined must be approved by the policy-making House of Delegates.

Strong leadership was required, and fortunately it was not found wanting. The late Cindy Raisch chaired the LRIS Committee in those years and assembled a team to draft the rules and sell them to the ABA as a whole. In this process, she was ably assisted by former LRIS Committee Staff Director Sheree Swetin, who managed to contribute to the substance of the rules while ensuring that the committee stayed focused and worked steadily toward closure (never a given where a roomful of lawyers is involved). Prominent legal ethicists such as Richard Zitrin of California and the late Michael Franck of Michigan, along with Sheldon Warren, Cindy Raisch and Ron Abernethy, who had helped write California’s regulations, primarily drafted the rules. They were amply assisted by Lish Whitson and the other members of the committee, who vigorously debated each rule and comment, and modified the draft as necessary. The draft then circulated throughout the ABA, suggestions and criticisms were considered, and where appropriate, they were incorporated into the draft.

In August 1993, the proposed Model Rules came to a vote on the floor of the House of Delegates. I had joined the committee the previous fall and was present in New York, prepared to speak in favor of the rules on the floor of the House, should a debate be required. I could have stayed home. Other past and present committee members like Cindy Raisch (still very much involved although her term had ended), Lish Whitson (who had succeeded Cindy as chair), Mike Franck, and others had garnered overwhelming support in the House. No opposition materialized and the Model Rules passed by acclamation.

The LRIS Model Rules are part of the legacy I inherited when I became chair of the Committee. I owe it to all those who worked so hard a decade ago to draft and pass the rules to see to it that compliance with them in the LRIS community is the norm and not the exception.

The day fast approaches when a program not in compliance with the LRIS Model Rules will be in the minority.

We are well on our way toward that goal. At present, 108 programs, 35 percent of the total in the country, meet or exceed the requirements of the Model Rules. New programs are coming into compliance all the time. In addition, five states—California, Texas, Florida, New York and Ohio—have adopted rules that, in whole or in large measure, emulate the ABA Model Rules.

As the Model Rules begin their second decade, I ask every bar association executive director or director of a LRIS program not yet in compliance to ask two questions: Why not, and When? The day fast approaches when a program not in compliance with the LRIS Model Rules will be in the minority. Some programs may soon find that the competing lawyer referral program across town will upgrade its program, apply to the LRIS Committee, and become certified to use the ABA logo and slogan. From then on, every consumer who compares your Yellow Pages ad to the competing program’s ad will see that your competitor meets ABA standards. And that your program does not.

Who needs that, especially as many programs today are seeing their revenues decline as the recession drags on? And who couldn’t use the boost that adding the phrase, “Meets ABA standards” to all your marketing would bring?

As the 10th Anniversary rolls around this August, please take stock of your program and determine what it needs to satisfy the rules. We’re happy to help. Contacting Committee Counsel Jane Nosbisch at 312-988-5754 or jnosbisch@staff.abanet.org will put the ABA’s extensive resources at your fingertips.
Unbundling
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questions such as “Why do lawyers need a rule if they already unbundle?” Although there are very few, maybe two, cases involving malpractice in the context of unbundling, the legal malpractice lawyers in Maine vocally supported the proposed civil and ethics rule changes. When dealing with insurance carriers, we learned, it is better to have a rule than not have a rule.

Task force composition key
The second biggest obstacle was the magnitude of the job. Our task force wanted to thoroughly cover all types of lawyers and users of legal services, and including a broad variety of both was important for achieving that goal. The task force included civil litigators whose perspective included an understanding of the daily routine of litigation, both from civil rules and ethics standpoints. As a result, difficult issues—such as how representation may be limited, how to get in and out of an unbundled case, how to explain the scope of representation to the court, and how to directly contact a litigant represented for some parts, but not others, of a case—were identified and addressed with civil litigators’ experience and input.

The task force was also aided by the participation of the director of Pine Tree Legal Services, which provides assistance to low-income clients in Maine. Through that lens, the task force could address fully the needs of courthouse assistance programs, volunteer lawyers and hotlines in the rules changes.

The composition of the task force was critical to the success of our experience, but we also drew from the experience of other states and by attending conferences that included unbundling as the focus or a part of the programming.

The recipe for “unbundling in two years or less” is this:

- Include several well positioned, energized, committed individuals representing various interests of the bar and judiciary.
- Create an “unbundling rules” template the group can edit, expend, or change. This template also provides the agenda for what kind of unbundling is to be accomplished.
- Maine requires a public hearing before rules can be changed. Have one open forum with the bar for input (our annual meeting provided the venue) before undertaking a more formal public hearing.
- Be prepared for success and happiness. Lawyers who unbundle are sued less, are reported to ethics boards less, have lower accounts receivable, and experience higher client and personal satisfaction. Lawyers who begin by unbundling a little soon see a rise in an unbundling client base that can afford the legal expertise of their legal coach. While the acute legal problems remain just as sophisticated, they are solved in a manageable fashion that maintains the intellectual challenge all lawyers enjoy. To those who ask, “Why unbundle,” I answer, “Why not?”

Maine’s rule
Maine’s ethics rules explicitly permit unbundling. In addition to the following definition of limited representation, the rules include a model limited representation agreement form. The full text of the rules, including the agreement form, can be accessed online at www.cleaves.org/pdf/barrules.pdf

Limited Representation. A lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client provides informed consent after consultation. If, after consultation, the client consents in writing... an attorney may enter a limited appearance on behalf of an otherwise unrepresented party involved in a court proceeding. A lawyer who signs a complaint, counterclaim, cross-claim or any amendment thereto which is filed with the court, may not thereafter limit representation as provided in this rule.

—Maine Bar Rule 3.4(i)

Elizabeth Scheffee is a family law practitioner in Maine and a member of the ABA Standing Committee on LRIS.

For more information about unbundling, the ABA Standing Committee on the Delivery of Legal Services, operates the Pro Se/Unbundling Resource Center, which can be accessed online at www.abalegalservices.org/delivery/delunbund.html More information, including links to state ethics rules regarding unbundling, is online at www.unbundledlaw.org

2003 National Lawyer Referral Workshop
The 2003 National Lawyer Referral Workshop will take place at the Adams Mark Hotel in Denver from October 22 through 25. Brochures will be mailed in July. Registration information soon will be available online at www.abalegalservices.org/lris

Dialogue/Summer 2003
A Practical Guide to Adding a Brief Advice Panel

by Roseann S. Hiebert

The need to serve clients seeking only limited advice or legal information has vexed LRIS programs for years. For the Kansas Bar Association Lawyer Referral Service, the first effort to reach these clients came in the form of a Lawyer Advice Line (LAL), which used prerecorded messages to respond to frequently asked legal questions. The FAQ format survived for approximately five years. Although it was not without some merit, its inability to respond to the complexity of legal issues resulted in many callers returning to the main LAL number for further consultation on their specific legal issue. A steady decline in the number of calls received each year caused a reevaluation of the effectiveness of the LAL. The concept of a brief legal advice panel seemed a natural progression.

At the same time, lawyer referral panel attorneys complained about the number of referral callers who only wanted questions answered and did not consider hiring an attorney. Most LRIS attorneys were not collecting the fee for the initial consultation, and encouraged the LRIS to find an alternative method of dealing with these clients. A brief legal advice panel provides a service for those who need limited legal advice, not representation, or who are uncertain about their needs. The benefits of a brief legal advice panel are twofold: clients get the advice they need and attorneys do not lose a place in the rotation. Another benefit for the LRIS program is the prospect of additional income with minimal additional expenses.

Basic start-up needs

Operating a brief advice panel requires some planning and preparation that differs from operating other LRIS panels.

Telephone service

“Direct-connect,” a supplemental phone service, is needed to transfer callers to attorneys. The transfer capability is added to the existing telephone lines. It allows the LRIS program to transfer an incoming call to another phone number and then disconnect, leaving the other two parties still connected. It does not require a sophisticated phone system.

Contact your local telephone service provider to have this service added to any phone lines you choose. If you are planning to use a 900 number for additional billing options, you will need to have a dedicated line.

Attorneys and staffing

Your program will need to take advice line calls in a wide variety of subjects. Try to find several attorneys or firms to handle the calls, because the wider the range of the calls the LRIS can handle, the better service it will have. You will need an agreement between the lawyer referral service and the attorneys providing advice. Attorneys can be members of your service who volunteer to take a specific shift, or you may choose to pay outside attorneys. The only feasible payment arrangements are to pay a cut of the per-minute charge, or to pay a pre-established flat fee. (It is unlikely that the volume of calls will be sufficient to support the salary of an attorney who sits waiting for calls to come in.) A set schedule is important, whether you are using attorneys in their offices, retired attorneys, or attorneys working from home.

LRIS staff should be trained to take these calls and to sell the additional service because it is part of the LRIS service. Don’t require callers to self-select the brief advice program by calling a separate number or by asking them to call back.

Ethics and insurance

Check state ethics rules about the propriety of providing brief advice services. Limiting service by attorneys to advice only may raise ethical considerations, depending on the rules. In Kansas, a pre-existing ethics opinion on providing brief advice aided the lawyer referral program’s decision to start a panel. (See Kansas Bar Association Ethics Opinion No. 92-06.)

To comply with the opinion, the lawyer referral service had to draft specific rules, including a restriction preventing the advice attorney from actually representing the caller. This restriction is contained in the attorney agreement signed by panel attorneys, and helps the LRIS promote to callers that they are getting an objective opinion, rather than “a sell job” from an attorney wanting to get a new client. If the attorney feels the caller needs to hire an attorney, the attorney is required to refer back to the LRIS.

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It is also a good idea to review your malpractice insurance coverage. If the activity of a brief advice panel is not viewed as a “referral,” the current policy may not cover it. However, since it is the attorney giving advice, the malpractice coverage required of panel attorneys may suffice. If your errors and omissions carrier does require a rider on your office policy, it will create another expense.

Billing equipment and services

The Kansas Bar Association LRIS rejected charging a flat fee for the brief advice panel. Instead, the fact that clients only pay for the time used is a selling point.

The LRIS accepts payment by credit card or by calls through a 900 number. Accepting credit cards means having a credit card machine so numbers can be taken over the phone. (The Kansas Bar Association’s machine cost $375.) The processing bank also charges a percentage of the monthly amount collected. That fee may range anywhere from 1.5 percent to 3 percent of your credit card receipts. Supplies—paper products and printing ribbons for the machine—add to the monthly cost ($6.50 in Kansas).

Using a 900 service provider also requires paying a fee, at either a flat monthly rate or a percentage of the bill. The Kansas Bar Association uses Tele-lawyer, Inc., which contracts with a carrier and serve as an intermediary. This requires at least one specific telephone line dedicated to the 900 number. Contact a provider to get specific proposals to address the needs of your service.

Payments may also be collected through electronic checks. Programs may use their regular bank, with the attendant risk of bad checks because there is no guarantee funds availability. Alternatively, programs may use a service that will guarantee the check. Payment to the LRIS program is guaranteed, and the company will do the collection work on checks that do not clear. The monthly charge for this service can be prohibitively expensive, however.

Operations

Calls for brief advice start out as ordinary calls handled by intake staff members, who assess the callers’ needs. When callers say that they need legal advice or have a quick question for an attorney, they are offered the advice line. The benefits of the advice line should be stressed to callers. Callers who opt for the advice line are normally connected to an attorney almost immediately, and the average length of the call is usually just five to seven minutes long. It is important to ensure that the caller is appropriate for the line. A caller with more complex issues should be referred to an attorney for further services.

Afer it is determined that the call is appropriate for the advice line, basic information about the caller is still needed. Callers who will pay by credit card need to provide their full name, address, telephone number, billing address of the credit card, (if it is different than the home address), credit card number, expiration date, and the three-digit security code on the back of the card. Since there is no signed receipt, this information will be your only way of verifying the charges with the credit card company. The Kansas Bar Association LRIS runs a $50 pre-authorization on the credit card to ensure there is enough credit available in the event the call runs longer than the average length of a call.

Callers using the 900 service also need to supply the basic information, especially the caller’s telephone number. Last but not least, it is imperative to get the name of the adverse party for a conflicts check.

Callers are then transferred to the attorney, using the telephone transfer system. (Using a 900 number requires transferring the call to the 900 number or instructing the client to call that number directly.) The client’s information should be simultaneously sent to the attorney by fax or email.

The attorney must report back on the outcome and time spent for each caller, so staff can bill the actual credit card charges. Call times and the caller’s phone numbers are important for a number of reasons, including checking the attorney’s bills against the time he or she reported spending on the call, and checking the 900 provider billing statement against the time the attorney reported. Knowing the names of any callers who refuse the 900 charges (a charge back) enables limiting their future access to the service.

Money

Revenue

Financial viability is an important factor in deciding whether to start a brief advice panel. Income expectations depend on the number of calls handled. The Kansas Bar Association LRIS income projections for the brief advice panel were $10,000, but the income was actually $16,881.72.

In that time span the LRIS took approximately 15,000 LRIS calls with 928, or 6.2 percent, choosing (continued on page 14)
Ask Dr. Ethics: Malpractice Coverage and Misbehaving Panel Attorneys

Dear Dr. Ethics:

Boy, have we got problems! Last week we learned that one of our panel members just dropped his errors and omissions insurance. We’re removing him from the panel, since malpractice coverage is a requirement (and we like that little “Meets ABA Standards” logo). But he has four open cases that we know of with LRIS clients. What can we do to protect them, since his coverage is—like most malpractice coverage—on a “claims made” basis? We understand that means if one of our clients complains next week about something that happened last year, the attorney won’t be covered.

Another panelist is under investigation by the state attorney discipline board. She’s still on the panel. What should we do about her panel status? And what should we tell people who call and are referred to her? Should we refer anyone to her at all?

A third panelist has been accused by two women we referred to him of making improper comments to them. One said the attorney called her “Sweetie,” and that he liked her hair and lipstick. The other woman said the lawyer told her “You look good enough to eat.” Ugh! What can we do about this guy?

—Longwinded in Longmeadow

Dear Long-Long:

Yes, you do indeed have problems! And guess what? I can’t solve them all, at least this time, but I may be able to help for the next time around. Let’s start with the insurance issue. The secret here is in your contract with your lawyers—you know, the pledge you make them sign when they reapply each year. By now, pretty much every LRIS has turned its yearly application into a new contract with its lawyers. This is what requires the panelists to have errors and omissions insurance in the first place. In many states, lawyers are able to pick up relatively inexpensive insurance riders that only cover their LRIS clients.

Why not amend your rules to require that if panelists drop their insurance, they are required to buy a “tail” that covers those existing cases forever, so that even if a claim is made later, it’s covered? “Tails” are very common; lawyers buy them frequently, such as when they switch carriers. You may even be able to work with whoever provides low-cost LRIS insurance to develop a special LRIS “tail” plan.

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the advice line.

Operational expenses
The panel does not require a large investment. The Kansas LRIS staff spends approximately 10-15 minutes per call, so you can figure your staffing costs. Fees such as additional insurance and 900 call charges can be negotiated. The per-minute charge for attorney time and the percentage fee on credit card billings are not paid unless the panel is being utilized and generating revenue. Most of the marketing costs can be combined with current LRIS advertising in the phone book and elsewhere.

Announce the start of a brief advice panel with press releases sent to local media outlets. It is also a good idea to market at each local courthouse with posters, brochures and/or business cards. When individuals come in to file pro se motions and have a legal question about the process, the clerks can give out the advice line phone number. Provide panel attorneys with contact information—such as on a magnet—for both the LRIS and advice line information. When someone calls the attorney’s office seeking legal advice, the attorney’s office can refer the caller to the advice line. Send information about the advice line to non-LRIS attorneys for the same reason. It’s a benefit for attorneys because they are not spending time on a client who is only seeking quick legal advice and not actually looking to retain legal counsel.

The Kansas Bar Association has maintained a brief advice panel since 1998. It has proven to be a valuable component of the LRIS program.

Roseann Hiebert is director of lawyer referral for the Kansas Bar Association.
From the Chair...  

by Mary K. Ryan  
Chair of the Standing Committee on the Delivery of Legal Services

One of the ways the Standing Committee on the Delivery of Legal Services advances its mission to promote affordable access to justice for people of modest means is through its initiative to examine and scrutinize the ways policies influence access. How do the cultural and institutional values of the courts, the legal profession, the organized bar, and legal education impose barriers or facilitate the ability of people to obtain legal services? At the 2002 ABA Annual Meeting, the Delivery Committee held a hearing on access to justice to explore these issues. Fifteen people representing a wide variety of perspectives testified and responded to the committee’s call for an analysis of policies that facilitate or prevent people from effectively using the courts and services of lawyers to resolve their legal matters.

The committee has now completed a report of the hearing, available online at www.aba-legalservices.org/delivery. The Report on the Public Hearing on Access to Justice presents findings from the hearing, provides summaries of the presentations and includes appendices of the written submissions.

The findings comment on the scope of legal problems, institutional responses to the demands for legal services and barriers impeding those responses. The report also offers a series of 13 solutions to the barriers. Many of those who testified commented on the importance of recognizing the continuum of legal needs. Some people, perhaps most, can effectively address simple matters by themselves. As matters become more complex, however, people need resources that can be provided by a variety of sources, including law libraries, publishers and Web site hosts. Of course, people need the services of lawyers in many complicated matters or when they cannot effectively advocate for themselves, for whatever reason. We believe the concept of the continuum of personal legal services needs is central to our quest to provide access to justice.

The committee also learned more about the work of the courts in meeting the needs of self-represented litigants. Although public perceptions of the level of service in the courts are frequently low, the courts are employing a series of innovations to make court services more accessible. While these innovations need to be scrutinized and evaluated, we learned that the courts are approaching the delivery of personal, civil legal services more cohesively than the legal profession. In fact, the legal profession embraces traditions that serve to cohesively than the legal profession.

We need to understand and embrace this continuum of legal needs. We need to reconsider a philosophy of “one-size-fits-all” and question the extent to which our profession is providing the services that “consumers” want. We need to consider the role of diagnostic evaluations, somewhat like the medical profession, and work to assure that people receive the level of legal care appropriate for their situation, no more and no less. We need to be willing to unbundle our services to collaborate with our clients and meet their needs in affordable ways.

We need to take a look at our policies from the point of view of access to lawyers. Specific issues include ghostwriting, limited appearances, fee sharing and client development. Our willingness to make changes that permit us to serve clients in ways that are consistent with their needs and wants will become the measure of our dedication to access to justice. I encourage you to read the committee’s report and consider how you can adopt and advance the solutions to assure meaningful access to justice.

This column marks the end of my 5-year tenure on the committee, which has been highly rewarding both professionally and personally. During this time, two of the committee’s projects have culminated in resolutions adopted by the ABA House of Delegates, the first adopting Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information, and the second, adoption of Best Practice Guidelines for Legal Information Web Site Providers.

Each year the committee has recognized innovative programs that foster the commitment to affordable legal services to those with moderate incomes through the Louis M. Brown Award for Legal Access. In the last two years the committee instituted the Blueprints Project to facilitate (continued on page 16)
From the Chair...
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replication of the programs it has so recognized. The committee has been intimately involved in planning and participating in national and state pro se and equal justice conferences, including the National Conference on Pro Se Litigation held in Scottsdale AZ in 1999. In 2002, the committee revisited a project that it had first undertaken in 1983 by publishing an online booklet on Innovations in the Delivery of Legal Services: Alternative and Emerging Models for the Practicing Lawyer. The committee played a significant role in the development of www.findlegalhelp.org, the ABA’s own Web site for assisting consumers navigating the legal system and seeking a lawyer, and is responsible for maintaining the site.

I thank each of the dedicated committee members with whom I have had the pleasure of serving, as well as Staff Counsel Will Hornsby, who has provided superb staff support at all times. I am confident that under the leadership of Judge Lora Livingston of Austin Texas, whom ABA President-elect Dennis Archer has named to be the new chair, the Delivery Committee will continue to be the national leader in fostering innovative routes connecting people of moderate income to the legal help they need.

Dr. Ethics
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What can you do about this lawyer this time? Well, read your application contract carefully, and see whether it might be interpreted to require the lawyer to keep insurance in force for his LRIS clients. If you can, make the argument that he’s required to do this. Perhaps he can buy a “tail,” or maybe he has even done so already.

The more dicey issue is what to do about informing the clients that he no longer has insurance. This is more a policy matter than an issue for Dr. Ethics (said he, ducking and passing the buck.) I’m a bit reluctant to recommend informing the clients, since it might interfere with a healthy attorney-client relationship. Looking to the future again, you could add into your application the fact that if this happens the lawyer is required to inform the client, and if he or she doesn’t, you will. But even this last idea should be considered as a policy matter by you and your board or LRIS committee.

The disciplinary issue you raise is also a dicey one, and also depends on policy decisions about what you want to require in your contract with your lawyers. Some LRIS programs require notification of any investigation that the lawyer is aware of, while others wait for actual disciplinary action. Panel suspension for an accusation—or an investigation, which is only the possibility of an accusation—is very different from suspension for actual discipline. You and your board and LRIS committee should try to make a careful determination about where to draw the line, making some phone calls to other LRIS programs to learn from their experience.

Ahhhh, panelist number 3. You’re not making this easy, Long One. You’re probably pretty well convinced this guy is sexually inappropriate. My initial reaction is to agree; in fact, I’d want to get this guy off the panel ASAP. But that may be more easily said than done. Two accusations do not make for an airtight case. You’d like to investigate by asking other clients, but if you do this, it may, again, interfere with healthy attorney-client relationships. Not only that, most contracts with panelists contain due process requirements for removal. These requirements may govern the day.

Removing panelists for any kind of “discretionary” matter (such as sexual inappropriateness, failure to return phone calls and belligerence) is far more difficult than removing them for specific violations: if they drop insurance, are being disciplined, or commit a crime. The best we can do is to develop procedures and rules that are fair to the attorneys while seeking first and foremost to protect our clients. And the hardest part of doing that is to ensure that in our investigation into the accusations from Client 1 and Client 2, we are extremely careful if and when we decide to contact Clients 3 and 4.

Now, how ‘bout an easy one next time?
—An Exhausted Dr. E.

Dr. Ethics is otherwise known as Richard Zitrin, director of the Center for Applied Legal Ethics at the University of San Francisco.

Dialogue/Summer 2003
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

Change is in the air. Legal assistance is poised to take its rightful place in military legal practice. Legal preparedness might soon be included among other individual readiness-related requirements, such as medical, dental, and physical fitness. Hallelujah! Everyone—commanders, judge advocates, all service members and their family members—have cause to celebrate. Commanders will truly be “taking care of their own,” judge advocates will be fulfilling their mission of comprehensive legal support, and service members and their families will be better prepared for the many and varied uncertainties of military life.

The legislative process has begun to amend 10 United States Code Section 1044 to guarantee legal assistance for military personnel. The Army, which is often the most progressive of the Armed Services in personnel policy matters, has once again taken the lead and mandated that every soldier have an appropriate estate plan (often the only requirement for being legally prepared). The Army, in another example of forward-thinking leadership, has embraced the concept of legal

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Naval Air Station Pensacola,
the Cradle of Naval Aviation

by LT Jim Ouellette, JAGC, USN

In late January 2003 the LAMP Committee held its quarterly meeting and CLE program at Naval Air Station, Pensacola, Florida. Naval Legal Service Office Central (NLSO Central), under the command of Captain Tom Greene, JAGC, USN, hosted the meeting and the CLE. In attendance were 92 military and civilian attorneys and paralegals from local commands and the surrounding area, as well as others who traveled from as far away as California, Hawaii and Alaska.

CLE
The CLE session featured a variety of speakers from the local area and afar. The program was organized in a joint effort by Major Lori Kroll, USAR, and Lieutenant Philip Mueller, JAGC, USNR, a legal assistance attorney at NLSO Central. Welcoming remarks were given by LCDR Betsy Miller of NLSO Central, and were followed by the program introduction delivered by General David Hague, LAMP Committee chair.

The program began with a very timely and practical presentation by Lori Kroll, concerning the ethical pitfalls that face legal assistance attorneys. The lectures that followed added a local flair to the CLE. Attorney Kathleen Anderson of Pensacola gave a presentation on a wide range of family law issues, including divorce, child custody, support agreements and the division of military retirement pay in court decrees. Another local attorney, Arby Van Slyke, gave a wonderful presentation on Florida consumer law, which addressed the Fair Debt

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assistance as an entitlement.

On May 8, 2003, the members of the LAMP Committee visited 13 senators and representatives to urge action on three policies adopted by the ABA House of Delegates:

• Return equitable capital gains treatment for service members under Internal Revenue Code Section 121 (IRC §121) upon the sale of their principal residences.
• Pass the comprehensive revision of the Soldiers’ and Sailors’ Civil Relief Act (SSCRA) that is currently before the Senate and House.
• Amend 10 USC §1044 as described above (and to include language that explicitly authorizes military lawyers to provide legal assistance without regard to geography, state of licensure, or domicile of client).

Bills to change IRC §121 and revise the SSCRA have been passed in the Senate and House but relatively minor differences prevent final action. We were therefore urging that the differences be resolved so that the bills can move forward for signature by the President. Unresolved differences have prevented final passage of similar bills in past sessions of Congress.

Our discussion about 10 USC §1044 was much more animated, and, since amending the statute is a new initiative (that is so compelling), it generated considerable interest and enthusiasm. We will maintain contact with the Congress and continue to work closely with the Armed Services in the furtherance of all three legislative objectives. The onus, however, is on the Armed Services, with their exceptionally able Judge Advocates General and Staff Judge Advocate to the Commandant of the Marine Corps.

The Armed Services require a unified strategy that employs their worldwide network of legal assistance providers, programs, and other assets to ensure all military personnel and their families have basic estate plans and other essential legal support. They must:

• Focus on fundamentals, which are the delivery of legal services to all military personnel and their families in the core areas of estate planning, family law and consumer protection.
• Streamline their organizations to make full use of all resources, including active duty and reserve judge advocates, GS legal assistance attorneys, paralegals, legal support staff, and the network of retired and volunteer legal assistance providers.
• Develop their client bases with a systematic approach that combines advertising of legal services, continuing education about individual and family legal readiness, and periodic evaluation of legal preparedness.

Only then will commanders have fully discharged their duties, the military legal community fulfilled its mission, and the Armed Services—entities that believe people are their most valuable resources and espouse covenant leadership—be truly ready.

Change is also occurring in the LAMP Committee. I will conclude four years as Chair of the LAMP Committee this summer. David Clement (Commander, Judge Advocate General’s Corps, U.S. Navy, Retired, with Smith Anderson, Blount, Dorsett, Mitchell & Jerrigan, L.L.P. in Raleigh, North Carolina) completes his three-year term on the committee this summer. David has been a mainstay of the committee providing wise counsel and leadership and many hours or creative endeavor. We expect to hear shortly regarding the colleagues who will take our places in the committee ranks.

Four members, who share David’s passion and commitment for legal assistance and understand its profound relationship to military readiness, will continue to serve. They are: Dan Bean, Traci Jones, Lori Kroll and Christo Lassister.

A constant in our lives for which we are all thankful is the continued leadership and support provided by the LAMP Committee staff: Jane Nosbisch, Glenn Fischer, Colleen Glascott, Marsha Boone and Edna Driver. The committee is a potent and diverse force with seven members, an ABA Board of Governors Liaison, six staff members, liaisons from the Department of Defense; the five Armed Services; state bar associations in North Carolina, Texas, Virginia and Washington; the Army and Air Force Judge Advocate’s General Schools; the Naval Justice School; the National Federation of Paralegal Associations, and the ABA Family Law Section, Governmental Affairs Office, Law Student Division, and Young Lawyers Division.

Being a part of the team has been for me a personal and professional delight. Thanks.
2002 LAMP Distinguished Service Award Winners

The ABA Standing Committee on Legal Assistance for Military Personnel is proud to announce the six winners of the 2002 LAMP Distinguished Service Awards. Established in 1980, the award recognizes outstanding military legal assistance effort and performance and promotes the quality and effectiveness of the legal assistance programs of the Armed Forces.

The criteria for the award, which can be presented to either groups or individuals, include exceptional achievement, developing a major legal assistance innovation, and demonstrating superior effort. The LAMP Committee received nominations for 21 outstanding programs and individuals for the 2002 award, and faced the difficult task of limiting the award to the six recipients it can recognize each year.

Legal Assistance Office, Marine Corps Recruit Depot, San Diego, California. The legal assistance office provided exemplary legal assistance services to its constituents while developing innovative approaches to service delivery worthy of emulation. The accomplishments include: saving clients approximately $210,000 in tax preparation and filing fees, while filing almost $2.3 million in returns; the development and distribution of an interactive legal assistance preventive law CD-ROM; the development and implementation of a mobile legal assistance team to address legal assistance needs outside of the immediate vicinity of the Depot; (continued on page 22)
Are You Ready for Mobilization? Advice for Reservist Attorneys in Private Practice

by Paul Conrad

Many Reserve component attorneys have been mobilized since September 11, 2001 for anti-terrorism operations, homeland defense, Afghan War duties, and most recently, Operation Iraqi Freedom. While most of these attorneys are serving in their respective services’ Judge Advocate General’s Corps or departments, a good number are serving in non-JAG positions in their Reserve components or National Guard units. Sizeable minorities of these citizen-soldiers are attorneys in private law practice in their civilian lives.

Not much has been written to assist mobilizing private practice attorneys with the tough decisions involving whether they should shut down their practice, or temporarily hand off their clients to their business partners or fellow professional service corporation shareholders. This article outlines some practical suggestions on how to plan for the relatively high probability of mobilization faced by active Reserve Component officer-lawyers, and identifies some helpful federal law provisions and programs that can help lawyers regain their financial footing upon demobilization.

Be upfront
First, the most important aspect of preparing for mobilization is to level with your fellow lawyer/business partners regarding the fact that you are a member of the Reserve component, and that you could be called up for active duty for a year or more upon relatively short notice. While your law partners may be comfortable with your Reserve responsibilities to attend monthly weekend drills and two-weeks annual training every year, they are probably unaware of the possibility of mobilization. The impact of mobilization should be discussed frankly as to how it affects a law firm’s profits, costs, clients, support staff utilization, accounts receivable, and possible future representation conflict of interest ethical concerns.

Plan ahead
Second, you should work with your law firm partners to develop a written mobilization plan to cover those important aspects of your mobilization, such as your financial obligations to the firm, your share of firm profits while mobilized, what happens to your dedicated support staff, the possibility of hiring a temporary attorney to handle your case load while you are on active duty, and so on. The plan should identify your most important clients and should include notifying them immediately if you are mobilized so that their cases are protected, in spite of your activation. The plan should also cover what should be done if you are permanently disabled or killed in action. This plan should be flexible and reviewed at least annually to account for any changes in circumstances. Major aspects of your plan—such as how you are to split profits and expenses when mobilized, and how you will vote by email or proxy on matters of firm governance while mobilized—should be referenced in your firm’s partnership agreement and/or corporate bylaws. Such detail is not normally covered in most limited liability partnership agreements or corporate bylaws. You should test and fine tune your mobilization plan by implementing on a small scale during annual training, and see if it works.

Prior to your activation, you should have designated an administering attorney(s) to handle your caseload in your absence, and, if necessary, be responsible for shutting down your practice. Make sure the individual designated is a trustworthy member of the firm, knowledgeable about your area of law, and that you have briefed him or her on a regular basis about your major clients and the status of your cases. Upon your notice of activation, you should work with the administering attorney and your support staff to notify your clients of your pending activation, and give them a choice whether they wish to continue to have your case handled by the firm. The administering attorney should assist the clients with their decision as to further representation, and/or transfer of the case file to another firm attorney or other counsel.

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Mobilization
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The administering attorney should work with your support staff to identify any possible conflict situations, court filing deadlines, statutes of limitation deadlines and other case-specific information that would need his or her immediate attention while you are gone. This arrangement should be formally documented in a written power of attorney and accompanying written agreement, covering issues such as malpractice coverage, trust fund access, reviewing mail, seeking extensions of time for trials or hearings, assisting the malpractice insurer on any potential claims made while mobilized, and settling billing disputes. Copies of the agreement and power of attorney should be provided to the bank maintaining your trust account, and your malpractice insurer.

Financial planning
Finally, you should meet with your financial advisors to determine if your military pay and benefits will be significantly less upon mobilization than the compensation you currently receive from your law firm as a partner or shareholder. If your military salary is significantly less than your civilian monthly earnings, you may want to make some sort of arrangement with the firm to “catch up” on any partnership contribution payments to the firm after your return from active duty without any additional interest or penalties. You may want to determine whether your firm’s disability insurance and/or life insurance does not cover military service death or disability, and whether you would want to continue any health benefits you currently receive through your firm’s group policy. You may want to determine if your mobilization will have any negative or positive tax ramifications, especially if you die on duty. You should review your will and trust agreement, especially if your firm is family owned and there may be estate planning tax ramifications upon your death.

You may be eligible for financial benefits provided by the Soldiers and Sailors Civil Relief Act (SSCRA) and similar state laws. If you signed a pre-active duty personal guaranty for a business loan for the firm, you may seek to reduce the loan interest rate to a maximum rate of 6 percent for the length of the deployment, and any interest for the period of mobilization above 6 percent is forgiven. You may be able to extend any payments owed on personal debt or obligations equal to the time mobilized, without any late fees or other penalties, even if you are not currently in default. You may receive additional time to meet deadlocks and other case-specific requirements to maintain your law license, and not be subject to state continuing legal education requirements.

Estate planning
You may seek to reduce the loan interest rate to a maximum rate of 6 percent for the length of the period of mobilization above 6 percent is forgiven. You may be able to extend any payments owed on personal debt or obligations equal to the time mobilized, without any late fees or other penalties, even if you are not currently in default. You may receive additional time to meet deadlines and other case-specific requirements to maintain your law license, and not be subject to state continuing legal education requirements.

Restrictions on practice
While you are deployed on active duty, you are subject to several rules that impact on your future as a private practice attorney. Pursuant to Army regulations, Reserve component Judge Advocate officers on active duty must obtain the prior written permission of The Judge Advocate General of the Army to practice law while on active duty. Generally, if you are on active duty, you will not be allowed to continue your private practice. That means you may not go back to your office and work on cases and bill hours to clients while on active duty mobilized status. In addition, federal ethics statutes and regulations apply to mobilized Reservists, and include a prohibition against Reservists being assigned to military duties that conflict with their civilian job. Reservists may not appear before U.S. Government officials or lobby U.S. Government officials on particular matters involving specific parties in which the Reservist participated while on active duty, and Reservists may not participate in a government procurement actions upon return from active duty when their actions or relationships while on active duty created an organizational conflict of interest.
Award Winners

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the development and implementation of a mentoring program, the development and implementation of a mediation program for multiple areas of law including consumer disputes and contested divorces; the creation and maintenance of a legal assistance Web site; and a demonstrated proficiency at handling complex consumer protection and family law matters. The office worked toward these accomplishments at the same time it performed other duties such as recruiting support and non-legal support for the Depot.

Captain Brandy Falk, United States Air Force. As chief of legal assistance and preventive law at the Air Mobility Command’s largest base legal office at Scott Air Force Base in Illinois, Falk provided outstanding and innovative oversight to a program whose scope far exceeded routine legal assistance duties. She instituted novel programs resulting in pervasive installation and community outreach, while providing zealous, but compassionate, representation to her legal assistance clients. Falk was specially commended for developing invaluable relationships with local civilian attorneys and organizations to help assist military personnel with matters outside the scope of military legal assistance. She developed and coordinated comprehensive indoctrination and orientation of incoming personnel, while also attending to her legal assistance duties which resulted in consultations with over 560 clients, preparation of 150 wills in a three month period, and assembly and oversight of 80 VITA representatives who filed 2,426 tax returns (saving $364,000 in fees and producing over $3.1 million in refunds).

Naval Legal Service Office Southeast, Jacksonville, Florida. NLSO SE is an exemplary legal assistance office, which has recently developed several innovative programs to train legal professionals and deliver high-quality legal services. These innovations include: a new paralegal training program to promote and increase greater utilization of paralegal resources both within the office and fleet-wide; seminars on family law and other substantive topics (such as probate law, consumer law and landlord-tenant law) concerning the legal rights of service members and their families; developing widely used research and form tools; continuing development of an Expanded Legal Assistance Program (ELAP); providing speakers and resources to regional continuing legal education programs and educational seminars sponsored by the Armed Services as well as the civilian bar; and maintaining a close liaison with members of the local civilian and military bar. During the entire time, the office continued to provide assistance to its constituents in support of ongoing mobilization activities and legal readiness efforts for reservists and active duty personnel in relation to Operation Enduring Freedom.

Colonel George Hancock, United States Army. Colonel Hancock was one of the first to reach out to the field through the Staff Judge Advocates and draw attention to legal assistance through a variety of means, including regular messages on the SJA and Legal Assistance online forums, and most notably, the development of the legal assistance online newsletter For Counsel. Colonel Hancock was instrumental in converting the Army to use of the DL Wills standardized estate planning tool, enabling more comprehensive training and quality control over will preparation. Additionally, he spearheaded the development of standard, but customizable, legal assistance forms using the QuickScribe system. Colonel Hancock’s technology innovations culminated in the development of a public legal services Web site, www.jagcmnet.army.mil/legal, which provides an informa-

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Pensacola

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Collection Practices Act, landlord-tenant law, and small claims court procedures. Colonel John Odom, U.S. Air Force Reserve, concluded the CLE with his now famous presentation on the Soldiers and Sailors Civil Relief Act (SSCRA). The program was well received and elicited many questions from attendees throughout the day.

LAMP Committee meeting

The committee meeting was held at the Museum of Naval Aviation. Inside the museum is the Cubi Bar Café, the walls of which are adorned with all the memorabilia removed from the Cubi Point Officers Club in Subic Bay when the Navy closed its base there in 1992. Reminders of the numerous men and women who served overseas in service of the United States surrounded the committee members. It was a perfect setting to discuss the agenda as it related to provision of legal assistance and its necessity as a condition of military readiness.

The main topic of discussion was the proposed language to be included in H.R. 101, which would revise the statute outlining the scope of the military legal assistance program. If passed, changes to the current statute, 10 U.S.C. §1044(a), would clarify the current scope and mission of the military legal assistance program.

After a lively discussion, the committee heard presentations from the heads of the three military law service academies as well as updates from the legal assistance chiefs of the Army, Navy, Air Force, Marines, and Coast Guard. NLSO Central’s Legal Assistance Department Head, Lt. Jim Ouellette, JAGC, USN, gave a brief overview of the practice, policies and concerns of the local legal assistance attorneys at his command. He also spoke to the committee about how the issues discussed would practically affect the legal assistance department in Pensacola. After the meeting adjourned, the committee members and invitees were treated to a personal tour of the Museum of Naval Aviation.

NLSO Central

Naval Legal Service Office Central is responsible for providing legal and defense services to clients in a nine-state area of the south central United States. Two major commands are headquar-

Award Winners

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tion and knowledge portal for service members and legal assistance workers worldwide. It is indicative of Colonel Hancock’s drive and commitment that this site was created during his off-duty hours.

Mr. Stephen Lynch, Ninth Coast Guard District, Cleveland, Ohio. Lynch, in less than thirteen months, successfully leveraged state, local and federal resources to create the Ninth Coast Guard District’s first full-time legal assistance program, serving over 2,500 service members (over 20 major commands, 10 cutters and 40 isolated stations). He established an innovative and effective outreach program to inform and educate his constituents—service members, state and federal agencies and lawyers, community leaders and others throughout the district. This was accomplished even though he was the only legal assistance attorney in the district, and while personally providing outstanding service to hundreds of legal assistance clients by preparing readiness related wills, powers of attorney and advance medical directives, as well as other services.

Captain Samuel F. Wright, Reserve Forces Policy Board, Washington D.C. Captain Wright demonstrated exceptional effort in providing legal assistance to reservists by providing counsel on the Uniformed Services Employment and Reemployment Rights Act (USERRA) above and beyond the call of duty, and working tirelessly in support of absentee voter rights. Capt. Wright served as ombudsman for the Reserve Officers Association until funding for that position was cut, after which Capt. Wright provided his valuable counsel, and the benefits of his knowledge and experience, for free. He continued to take calls from reservists seeking to enforce their rights under USERRA, assisting them if possible, as well as writing a monthly column in the publication The Officer, all pro bono. Capt. Wright was instrumental in securing valuable benefits and security for several individuals who sought his assistance with USERRA-related issues.
Mobilization

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When you demobilize and return home, you should have a plan prepared to reopen your practice. You need to notify your partners/fellow shareholders, your malpractice insurer, employees, trust account administrators, state licensing board, the courts, and your clients of your return, and your desire to pick up where you left off with your civilian job. You may want to notify people of your return through speaking engagements, press releases, newspaper advertisements, email, and television ads.

These are just a few examples of what sort of thought process needs to occur as the private practice attorney thinks of joining today’s Army Reserve. Every person and every firm has its own unique situation, but long range planning helps make any transitions caused by military mobilization less painful for Reservists and their law firms.

End Notes

1 See the U.S. Army Reserve Small Business Mobilization Planner (1992); North Carolina State Bar Military Law Committee, “The Call To Arms…’, An Outline for Small Firm Survival”, Mark E. Sullivan, COL, JA, USAR, (currently available online at the ABA LAMP Committee Web site, at www.abalegalservices.org/lamp

2 An excellent article, “Military—Help for Lawyer Reservists/Mobilization Readiness Advice for the Solo Attorney/Reservist”, Mark C.S. Bassingthwaighte, J.D., is also on the ABA LAMP web site at www.abalegalservices.org/helpreservists/lamphelpforlawyerreservists.html

These articles are also helpful for other private practice professionals such as doctors, dentists, veterinarians, and consulting professional engineers.


5 Major Kevin Jones, Lieutenant Colonel Paul Conrad, & Colonel George Hancock, Note, Professional Liability Protection for Attorneys Ordered to Active Duty, ARMY LAW., August 1999, at 44.

6 Military Reservist Economic Injury Disaster Loan Program (MREIDL), codified at 13 C.F.R. Part 123, Subpart F (2002). See also the SBA Web site at www.sba.gov


8 Major Kevin Jones, Lieutenant Colonel Paul Conrad, & Colonel George Hancock, Note, Professional Liability Protection for Attorneys Ordered to Active Duty, ARMY LAW., August 1999, at 44.

9 Military Reservist Economic Injury Disaster Loan Program (MREIDL), codified at 13 C.F.R. Part 123, Subpart F (2002). See also the SBA Web site at www.sba.gov


10 U.S. DEPT of ARMY, REG. 27-1, para. 4-3c, JUDGE ADVOCATE LEGAL SERVICES (3 February 1995). The other military services have similar restrictions on the practice of private law for activated Reservists while on extended Active Duty.

12 U.S. DEPT of DEFENSE, REG. 5500.7-R, JOINT ETHICS REGULATION, para. 3-408.


Paul Conrad is Colonel, JA, U.S. Army Reserve (AGR-Active Guard Reserve). He present serves as director of Reserve Training & Mobilization Issues, Integration and Mobilization Division, Office of the Judge Advocate General, U.S. Army.

This article is solely the work and opinion of the author, and is not the official policy of the U.S. Army, the Army Judge Advocate General’s Corps, or the U.S. Department of Defense.

Pensacola

(continued from page 23)

tered in Pensacola, including the Chief of Naval Education and Training (CNET). Additionally, there are several tenant commands on base and in the Pensacola region, including units from every one of the Armed Forces. NLSO Central’s main office in Pensacola services those commands, as well as others as distant as Panama City. NLSO Central provides legal assistance to active duty military, dependents and military retirees regardless of service affiliation, as well as to reservists recalled to active duty.

The Pensacola region has the highest concentration of military retirees in the country with more than 29,000 living in the area, 2000 of whom are disabled veterans. Understandably, retirees make up a large percentage of NLSO Central’s client base, along with the 16,000 active duty sailors and marines stationed on base and their dependents. NAS Pensacola is best known as the home of the world famous Blue Angels. NLSO Central also provides legal services from five branch offices located in Gulfport, Mississippi, New Orleans, Memphis, Corpus Christi and Fort Worth. Last year alone, the command provided legal assistance to more than 9000 clients in addition to the 1200 reservists who were recalled to active duty and mobilized onboard NAS Pensacola. The command also ran a regional Volunteer Income Tax Assistance (VITA) program, which assisted clients by filing almost 8000 federal and state income tax returns for free.

LT Jim Ouellette, JAGC, USN is the head of the Naval Legal Service Office Central.
From the Chair...  

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

According to Lucy Helm, her position as assistant general counsel with Starbucks is never dull, partly because of Starbucks’ dynamic growth and partly because her “clients” are a mostly young, highly caffeinated population. She describes a culture of equality (every employee does a stint in a store making coffee) and commitment to the community. Helm is the founder of a joint pro bono project between her office and the King County Bar Association. The Housing Justice Project provides legal assistance to King County (Washington) residents facing the loss of housing due to evictions and gives Starbucks lawyers the opportunity to make a significant difference in their community.

At the 2003 ABA/NLADA Equal Justice Conference, Helm served as the keynote speaker for the Partners for Justice Forum, sharing with attendees how and why Starbucks lawyers became involved in doing pro bono work. The Partners for Justice Forum is a conference-within-a-conference which brings together the judges, bar leaders, private lawyers, law school administrators and faculty, corporate counsel, government attorneys and others who support and can influence the expansion of the legal services delivery system.  

The Impact of Legal Services Program Reconfiguration on Pro Bono

by Meredith McBurney

The ABA Center for Pro Bono commissioned a study in 2002 that was designed to examine how the changes in corporate structure at many legal services programs—resulting from the emphasis of the Legal Services Corporation (LSC) on mergers and reconfiguration—have impacted private attorney involvement and pro bono delivery systems. The term “private attorney involvement” (PAI) is used here only to describe work related to the LSC requirement (45 CFR §1614) that programs expend an amount equal to 12.5 percent of their LSC grant on work with the private bar. The term “pro bono” is used in this report to mean any activity that uses volunteer lawyers to provide legal assistance to the poor.

Background

With the implementation in the early 1980s of LSC’s 12.5 percent PAI requirement, the number of pro bono programs increased greatly. In 1980, ABA records show there were 88 pro bono programs. By 1985, there were over 500 pro bono programs and by 1990 there were 900. In the mid-1990s, LSC began promoting the development of statewide, integrated equal justice communities. The development of statewide planning entities, with representation from all stakeholders, was encouraged. A significant result of this movement was a reduction in the number of LSC-funded programs in each state, creating statewide programs where possible, and regional programs in the bigger states. As of September 2002, there were reconfigurations in 28 states, resulting in approximately 170 LSC-funded programs, compared to 260 in 1998, a one-third reduction.

Study methodology

The study examined 18 reconfigured programs, including both staffed and pro bono delivery models. Some were statewide mergers, some multi-program but not statewide, and some involved only two programs coming together. The study included a mix of urban and rural as well as geographic diversity. Programs at different stages of reconfiguration and ones that would provide a range of pro bono models were selected.

The first step in the research was to review the state plans and, where available, the self-evaluations LSC had required state planning entities to produce. Telephone interviews followed. For most programs, conversations were held with two people, usually the executive director of the reconfigured program and someone connected with the pro bono program. Depending on the structure, the pro bono contact was
From the Chair...

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Helm’s remarks focused on Starbuck’s story of pro bono commitment and involvement and illustrated the power of partnerships in action. She spoke of how difficult it can be for corporate lawyers to identify pro bono opportunities that coordinate with their skills, work schedules and the demands of an ever-present client. It was important that Starbucks identified a partner who could provide training and materials, mentoring and structure. The King County Bar Association filled those needs, providing the guidance and leadership to enable Starbucks to launch its pro bono program and make a significant impact on the low-income residents of Seattle and surrounding communities. The program has been so successful internally that Starbucks employees outside of the legal department are asking to be involved in appropriate ways.

After Helm answered questions about the design of Starbucks’ pro bono work, the Hon. Ellen Rosenblum, Multnomah (Oregon) Circuit Court judge and secretary of the ABA, stepped in as facilitator of the second portion of the program. At the request of the program planners, Rosenblum did not present a prepared speech. Rather, her role was to extract from the audience examples of challenges they had faced in their communities, and the partnerships that were developed to help resolve them.

When you plan a program like this, there is always a fear that no one will speak. In fact, to avoid that potentially painful silence where everyone looks at their shoes, we pre-identified some “plants” in the audience whose mission was to offer a story to get the program rolling. As it turns out, it only took one such person to ignite the lively and energetic discussion that followed.

So, what did we hear?

• The legal services committee of the Denver Bar Association established a legal clinic to address the civil legal needs of the poor, but faced the challenge of meeting the needs of the large population of Spanish-speaking clients with only a small number of Spanish-speaking attorneys. They are forming a partnership with translators and interpreter associations to expand their ability to serve these clients.

• In Chicago, the immigrant population has increased significantly over the years, and includes many seeking to become naturalized citizens of the United States. In order to meet this need, Abbott Laboratories, Baker & McKenzie, and the Midwest Immigrant and Human Rights Center (MIHRC) formed a partnership to help immigrants obtain citizenship. MIHRC screens the cases, the Abbott lawyers meet clients at a Saturday clinic where they complete the necessary INS paperwork, and Baker & McKenzie staff and attorneys review the applications and become the attorneys-of-record.

• Montana has only 3,000 licensed lawyers but is the third largest state in geographical size. The vast majority of the attorneys are concentrated in the cities. The state bar and legal services organizations have partnered to use the state bar’s teleconferencing and videoconferencing facilities to bring legal services to underserved areas.

• In Washington, D.C., the many legal services programs struggle to keep their training materials current while dealing with the pressing day-to-day needs of their clients. They have partnered with students at Georgetown University Law Center, who provide high quality research on discrete legal issues to update training materials for the programs. The students get to put their newly acquired skills to practical use and the programs and clients benefit from their pro bono work.

The old adage “two heads are better than one” is particularly apt for the legal services community, where resources are often scarce. These partnerships offer varying skills and perspectives to the benefit of the client community. We applaud them and the dedication that fortifies them.

ABA Publishes Web-based Law School Pro Bono Directory

The Directory of Law School Public Interest and Pro Bono Programs is now available online at www.abaprobono.org/lawschools. Developed by the ABA Standing Committee on Pro Bono and Public Service and its project, the Center for Pro Bono, the directory provides current information on law school public interest and pro bono programs and curricula. The directory is designed to help prospective law students interested in public interest and pro bono programs find the law school that best matches their interest. It is also designed to assist individual law schools seeking to develop stronger pro bono and public interest programs.
Reconfiguration
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either an in-house staff member
or a person employed by an
outside pro bono project.

The difficulty of
reconfiguration
The study found that one of the
most important factors related
to reconfiguration is that
reconfiguration is very difficult.
There was near unanimity among
the interviewees on this point.
Also, in the face of so much
difficulty, pro bono appears to be
among the least pressing issues
addressed during the first phases
of the reconfiguration process.

“Least pressing” is not meant
to suggest “unimportant,” rather
just low on the priority list. The
study did not ask specifically
about program priorities, but
many interviewees volunteered
information about what was
 consuming their time, and the
matters mentioned most often
were computer, database, and
similar system consolidations and
purchases; union issues; salary
and benefit inequities; problems
dealing with merging cultures;
and general resistance to change.

Improving pro bono did not
appear on anyone’s list of the
most immediate problems, even
in programs where leaders were
determined to improve their pro
bono function. Increased costs
were noted as a general problem
with reconfiguration, and to the
extent that improving pro bono
requires additional expense, it
may be put off if other priorities
require new expenses as well.

Differences in
pro bono models
There are three general ways
that PAI work is accomplished
in LSC-funded programs and,
within those three systems, there
are a wide variety of structures.
The three models are:

1. In-house pro bono programs:
The LSC-funded program has
its own project that handles
most or all of the pro bono
activities such as recruiting
attorneys, doing intake, screen-
ing and assigning cases, training,
and developing and coordinat-
ing recognition activities. In
many programs, the in-house
project is supported by a bar
program, often in the areas of
attorney recruitment, training
and recognition.

2. Independent pro bono pro-
grams: Usually run through a
state or local bar association,
but sometimes as a stand-alone
entity, the independent pro-
grams take referrals from LSC-
funded programs. Frequently,
though, the LSC program does
intake and determines which
cases should be assigned to the
separate pro bono program,
and then manages the referral
to the program internally. Some
independent programs receive
some or all of their funding
from the LSC program, with
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2003 ABA Pro Bono Publico Awards

The Standing Committee on Pro Bono and
Public Service has selected the following as
recipients of the 2003 ABA Pro Bono Publico
Award:

• Kimball Anderson, Winston & Strawn,
  Chicago
• Mary Pat Toups, Laguna Woods, California
• Latham & Watkins, LLP
• Pfizer Inc. Legal Division, New York
• Jacqueline Valdespino, Valdespino & Associ-
  ates, Coconut Grove, Florida (Recipient of
  the Ann Liechty Pro Bono Award, a special
  award given to honor a lawyer who has
  provided outstanding pro bono legal services
  to children in custody cases.)

The Awards will be presented at the Pro
Bono Publico Awards Assembly Luncheon at
the ABA Annual Meeting in San Francisco. The
luncheon and presentation will be held at noon
on Monday, August 11, 2003. For information
about purchasing luncheon tickets, visit
www.abaprobono.org

Details regarding this year’s Pro Bono
Publico Awards recipients will be provided in
the next issue of Dialogue.
Reconfiguration
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the LSC program fulfilling some or all of its PAI require-
ment through a sub-grant to the pro bono program.

3. Contract work with the private bar: Here, LSC programs pay
members of the private bar reduced rates to take cases.
Although this is most often used in rural areas with few lawyers
and no legal aid office, it also is seen in some urban areas.

Most LSC programs use a combination of two or three of
these methods to fulfill their PAI requirement.

Reconfiguration and pro bono
The study identified two factors that seemed to have an impact
on whether pro bono is seriously considered during the reconfig-
uration process. One factor is the initial compatibility of the merg-
ing pro bono systems. Only two of the programs interviewed in-
cluded a major change in their pro bono system as part of the early
reconfiguration process. Both of these programs had incompatible
pro bono systems coming together, and both situations demanded a
conversion to more compatible pro bono programs.

The other and more important factor was the interest of key
personnel. Pro bono figured more prominently in the programs
where the executive director or another high-level staff person
had a very strong commitment to pro bono. This seemed to be
particularly so in reconfigurations where the new executive director
came out of a smaller program where he or she had had personal
involvement with pro bono. In a

few programs, some changes in pro bono occurred because bar
staff or volunteers made the
outpour. Particularly in statewide
mergers, it appears that pro bono
is more likely to be recognized in
the process if the bar association
has a pro bono state support staff
person and/or a strong, demonstrat-
ed pro bono commitment.

The study also showed that the more difficult the reconfiguration
process, the less likely it is that pro bono will be discussed and acted
on in a thoughtful way. Several
surveyed programs noted that
serious management problems
overwhelmed the attention
available to focus on the pro
bono systems or their delivery.

Recommendations
Ideally, management staff in
reconfiguring programs would
look critically at their pro bono
systems early in the reconfig-
uration process. They would analyze
possibilities; decide what changes,
if any, might make a better pro-
gram; and develop a plan for
implementing those changes.

The following are suggested
strategies for having a positive
impact on a reconfiguring pro
bono program without a lot of
up-front work:
• Set the stage for potential
changes in the pro bono struc-
ture during the early phases
of reconfiguration, and then
implement the change when
the time is right. As noted
earlier, pro bono is not going
to be among the first issues
to be considered in most
reconfiguring programs. The
problem with waiting to think
about pro bono is that certain
options may be precluded by
other decisions. So, consider pro
bono early and design the
program with these potential
changes in mind.

• Strongly consider developing a
system that puts overall manage-
ment and responsibility for PAI
in the hands of a deputy direc-
tor-level manager who has had
pro bono experience and enjoys
working with volunteers.

• Where possible, designate at
least one person whose only
responsibility is pro bono. Staff
who do pro bono part-time
often find that their other
responsibilities take over,
and pro bono suffers.

• Include representatives of the
private bar and/or pro bono
programs on the transition/
reconfiguration planning and
implementation committee.
People who are not board or
staff members of the recon-
figuring programs can bring
fresh ideas to the table, keep
the focus on how to best meet
the needs of clients; and help
mediate disagreements.

• Establish a pro bono committee
of the program’s board to reflect
the importance of pro bono in
the program’s overall delivery
structure. This advisory commit-
tee could help to articulate and
sustain a vision for the pro
bono component including its
staffing, operation and integra-
tion within the program.

Developing pro bono models
The study sought models of strong
pro bono components within
reconfiguring programs. The
most successful current overall
pro bono delivery model within
a reconfigured program may be
the one found in New Hampshire,
Connecticut and the Volunteer
Lawyers Project of the Boston Bar
Association—all programs that
went through reconfigurations
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Reconfiguration
(continued from page 29)

before the late 1990s. This model operationally separates intake, advice and referral from the full representation components of the delivery system, yet at the same time it fully integrates these functions into the system. In New Hampshire and Boston, the pro bono function is operationally separate from the overall program. And in Connecticut, the recruitment, retention and recognition pieces are separate. It appears that when these elements are operationally separated out and put into the hands of a skilled executive director, there is more time, energy and willingness to focus on improving these functions and figuring out how to best collaborate with the private bar. The staff of the intake and advice systems in these reconfigured programs appear to have closer working relationships with the staff of the pro bono programs than in virtually any other program reviewed in this study.

Talking to the staff in the New Hampshire, Connecticut and Boston programs is quite different from talking to staff in currently reconfiguring programs. Although they identify problems, they sound as though they have the time and energy to solve, or at least ameliorate, them. They seem to have developed sophisticated, successful pro bono programs, and they are working on how to make good programs into great ones. Because the goal of these reconfigurations was to design programs that could function without the restrictions of LSC, and all three service areas had sufficient non-LSC funding to do this successfully, these programs are unlike any of the current reconfigurations. Some of their success very likely is due to the small geographical size of these programs, and it would be hard to replicate if there was a separate intake and advice program in a larger geographical area. However, the search to develop a big program model might begin with a further investigation into these early reconfigurations that seem to be working well.

Conclusion
It is apparent to everyone involved that reconfiguration is hard. The process is certainly ongoing and will likely take many years to complete. To better serve the needs of clients, it is imperative that reconfiguring programs seek ways of bringing the vital pro bono function off the back burner and develop new strategies for incorporating pro bono into each program’s larger set of priorities. Ultimately, reconfigured programs will not succeed as high quality deliverers of legal services to the poor without a strong pro bono capacity.

Meredith McBurney is director of the ABA Project to Expand Resources for Legal Services.

For more information, view a longer version of this article online at www.abaprobono.org

ABA Pro Bono Staff Update

Catherine Dunn recently joined the ABA Center for Pro Bono as an assistant staff counsel. Although her main concentration will be on supporting pro bono program managers, she will also focus on small and mid-size law firms, community economic development, and law schools, and participate in planning for the Equal Justice Conference. Dunn, a graduate of the University of Michigan Law School, is a former associate with Schiff Hardin & Waite in Chicago and was very active in the firm’s pro bono activities. While at Schiff, Dunn worked on a number of pro bono domestic relations and asylum matters. She also clerked for a Supreme Court Justice in Wisconsin. You may reach her at 312-988-5775 or dunne@staff.abanet.org

Marilyn Smith recently became assistant committee counsel to the ABA Standing Committee on Pro Bono and Public Service. She is assigned to special projects including pro bono policy, pro bono reporting, pro bono professional service rules and judicial involvement in pro bono. She will also participate in planning the Equal Justice Conference. Smith received her law degree from Columbia University School of Law, and is a former associate with Arnold & Porter, a former assistant counsel at Shorebank Corporation, and works with the Illinois Equal Justice Foundation. You may reach her at 312-988-5748 or smithma@staff.abanet.org
First let me thank all of you who have devoted your lives to this special mission of equal justice. The work you do, the people you serve, and the commitment that you demonstrate symbolizes the highest calling of the legal profession. In good and bad times you are present for those whom this society makes invisible. You see the hurt daily that many of us experience only through news reports and at a distance. Your programs provide support when people are hanging off cliffs of hopelessness. Your civil and criminal advocacy for the poor is what separates this society and this profession from the abyss of greed and callous indifference.

The justice our clients and their communities need is covered over by centuries of inequality, hatred and indifference which have produced physical, psychological, political, educational and economic barriers and burdens. If we think law alone can destroy these mountains of inequity and resistance, then we are deluding ourselves. If we come into the lives of our clients bearing only the tools of our legal trade, then we will not be their healers; we will be their wizards. We will lead them to believe that we have answers, when at times all we can do is tell them what we and the law can’t do for them.

But when we partner with other agencies, organizations and individuals we greatly increase our chances of not only meeting their need, but assisting in the transformation of their lives. We must see our clients as individuals who have multiple needs that are so intertwined that it is impossible to tease them apart, and often meaningless to address only one part. If we are to be client-focused, then we must focus on the whole client, and the whole situation the client confronts.

This does not mean that our legal skills are not important; it only suggests what many of you have known for years—that our legal vision and insights are limited and often blurred. When we partner for justice we abandon our tunnel vision, and we begin to see the challenges of life and not just the challenges of law.

We can do great things, but we cannot do them alone. Our license does not empower us to perform magic, but it does empower us to heal. Healing is a collective process that first involves those we serve, and those who can directly and indirectly impact their situation and lives. The power of partnerships is not just the enhanced power and possibility to transform the lives and conditions of our clients; but it is also the enhanced power and possibility to transform the practice of law and lawyers.

There is one other power of partnership I want to discuss with you. Lawyers who serve the poor on a daily basis are very vulnerable. You give a lot, and the material rewards are small. You give a lot, but your clients need much more than you can give. If you are to continue to fulfill this calling in your life; if you really want to make a difference in their lives, you must partner with others. Our calling is to serve those who cannot serve themselves. We must partner with those who serve them.

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Equal Justice
(continued from page 30)

lives, and in yours, then you need to also form a partnership with the spiritual power that dwells within you and the spiritual power of this universe. . .

Our profession is not suffering from a lack of knowledge and information. It suffers because of a century-old drought of values and spirit. We have erected walls between our legal work and our spiritual lives. But many lawyers today are taking down these walls one brick at a time.

I recognize that some of you believe that these walls must remain, because our profession, like the state, should be free of any hints of religion, divinity or spirituality. I deeply respect that position and the concerns and the dangers that it is intended to avoid. There is tremendous harm to society when we try to impose religious or spiritual beliefs on free minds. But I am also aware of the harm that these walls have created inside of us and within the legal profession.

So I am not asking you to accept a particular religious belief, but I am asking that we grapple with the concept of spirituality in the practice of law in the same way we grapple with other challenging and uncomfortable concepts. For it is through our grappling that we may figure out how to extract the blessings from this partnership and avoid the pitfalls. This quest to explore the intersection of law and spirituality is not just an organizational, political or economic strategy. It is also a spiritual command. Yet, this is not a call for us to abandon our legal expertise in exchange for meditation, prayer and healing circles. But it is a serious recognition that there is no limitation to the power of divinely inspired human beings to change hearts, social structures and reality. We

rationalizes. This quest is intended to unleash the full power of partnerships, by inviting us all to tap into the full spiritual power and potential that lies within, for we cannot heal if we are broken.

Partnering for equal justice is not just an organizational, political or economic strategy. It is also a spiritual command. Yet, this is not a call for us to abandon our legal expertise in exchange for meditation, prayer and healing circles. But it is a serious recognition that there is no limitation to the power of divinely inspired human beings to change hearts, social structures and reality. We

celebrate Dr. Martin Luther King’s birthday, but we often ignore the fact that it was his deep spiritual beliefs that empowered him and so many others to transform segregated cities of hate, into integrated hamlets where love could be born. Some of us honor Malcolm X, but we forget that his faith allowed him to speak truth to power and transform himself in the process. We revere Ghandi, but we downplay the fact that his deep spiritual power propelled this lawyer to dismantle British colonialism through non-violence and love. The list is endless of lawyers and non-lawyers who mounted up on spiritual wings in their pursuit of social justice.

So if in the years to come you see lawyers meditating or praying, don’t be alarmed. If you see them performing miracles in the courtroom with their heads and with their hearts, don’t object. If you see them mounting up on wings to transform communities as they serve their clients, know that they are not leaning on their

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**LRAP Update**

**ABA releases tool kit**
The ABA Commission on Loan Repayment and Forgiveness recently issued the *State LRAP Tool Kit: A Resource Guide for Creating State Loan Repayment Assistance Programs for Public Service Lawyers*. The tool kit contains a wealth of information about creating loan repayment assistance or forgiveness programs (LRAPs) for lawyers pursuing public service legal careers.

Many of today’s law graduates finish law school owing in excess of $80,000 in law school loans. Graduates who aspire to public service jobs are challenged by meeting their monthly educational loan obligations while earning traditionally lower salaries. Many find that they cannot make ends meet on a public service salary and are forced to forgo a career in public service. Many who do accept public service legal jobs find they must leave after two to three years of service to accept higher-paying employment.

LRAPs help bridge this gap for graduates working for public service organizations or agencies. By providing much-needed assistance to these public service lawyers, LRAPs help public service employers attract and retain gifted and committed young lawyers, which in turn benefits the communities in which they live.

Currently, there are eight statewide LRAPs. The LRAP Commission designed the tool kit to encourage the creation of additional programs. The tool kit includes information about the existing programs, sample LRAP legislation with an analysis, guidance on creating an independent nonprofit organization to administer a program and other resources to assist in the creation of these programs.

The tool kit is available in a print version (while supplies last) or as a free download at www.abalegalservices.org/lrap. For more information, contact Dina Merrell at merrelld@staff.abanet.org or 312-988-5773.

**Major expansion of Fordham LRAP**

Fordham University School of Law Dean William Michael Treanor recently announced dramatic changes to Fordham Law’s LRAP, which provides financial aid to Fordham Law alumni who are working as public interest lawyers at nonprofit employers.

While the majority of Fordham Law graduates take jobs at large law firms throughout the country earning salaries that allow them to pay their educational loans, graduates who take public interest jobs with average starting salaries of $35,000 find it difficult to repay their student debt while meeting their basic living expenses. Fordham’s average loan indebtedness of $72,000 is less than the national average for law students, but still requires about $900 in monthly payments over a ten-year period.

Fordham’s LRAP awards low cost loans to recent graduates who earn low salaries while working full time in non-profits such as legal services. Unlike many other law school LRAP programs, Fordham forgives these loans in full after each year of eligible employment. The changes, which are anticipated to double the budget of the Fordham LRAP, include full forgiveness each year for up to five years of eligible service, an increase in the loans that are eligible for inclusion in the program (federal as well as private educational loans). The changes also incorporate family friendly initiatives such as the recognition of leaves of absence for disability or childbirth, the recognition of spousal educational debt in the formula, and income adjustments for dependents.

For more information, visit http://law.fordham.edu or contact Director of Financial Aid Stephen Brown at sbrown@mail.lawnet.fordham.edu

**Equal Justice**

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legal expertise alone. Know that they are resting on the majestic and divine wings of justice; being propelled by the power of partnerships, and the winds of a loving, healed and whole client community. And the only question they will ask of you is, do you want to come along for the ride? Please join them, for it is a beautiful ride and a powerful partnership for justice.
From the Chair...

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

Access-to-justice commissions in the states have become an important component of the system for improving and delivering legal services to the poor. The Standing Committee on Legal Aid and Indigent Defendants is proud of its role in stimulating and supporting development of these important entities. We do that work through the efforts of our SPAN—Improving Access to Justice project, and our companion Project to Develop Resources for Legal Services (PERLS). The original SPAN project, designed to help states with “state planning projects” spurred by state planning directives from the Legal Services Corporation, ended a few years ago. In the last two years, SPAN has had new life and new direction assisting the development of access-to-justice groups nationwide.

More than 40 states now have some kind of formal access-to-justice structure. Whether or not a formal structure exists, every state has launched initiatives involving partnerships among the bar, the courts and legal aid providers aimed at expanding and improving civil legal assistance.

Access-to-justice structures and initiatives have continued to grow (continued on page 34)

The ABA President at the Equal Justice Conference

ABA President Alfred P. Carlton, Jr. addressed the 2003 Equal Justice Conference in April. The following is an excerpt of his remarks, which began by recognizing two generations of equal justice advocates: the 50 Equal Justice Works fellows and Americorps lawyers who attended the conference, as well as the many Reginald Heber Smith Fellows in attendance. Carlton then turned his attention to the state of equal justice in 2003.

We gather here at a time of both great triumph and of great challenge for those of us committed to the principle of equal justice under the law. At this moment, we are flush with success—yet at times it may feel like we are on the ropes struggling to have our voice heard.

Just a few weeks ago, we were victorious in the Supreme Court (by one vote) as it affirmed IOLTA as an appropriate source of much-needed funding for legal aid programs. [Brown v. Legal Foundation of Washington, 123 S.Ct. 1406 (2003)] Because of that victory, hundreds of millions of dollars will continue to be available.

We should also consider it a victory that the Legal Services Corporation (LSC) has not fallen victim to budget slashers. With budget deficits and fiscal conservatives looming about—the fact that LSC has seen no decrease in its appropriation is a triumph of the highest order. I am proud of the ABA’s leadership role in this effort. It has been an association priority for almost 20 years. I do not meet with a senator, member of the House or Bush administration official without raising the subject of LSC funding.

But despite this good news, there are some dark clouds ahead as well: The war on terrorism, the war in Iraq, an economic environment that just can’t seem to shake the blues... All mean that the message of equal justice must compete within an ever-complicated listening environment with ever-briefer attention spans.

But the ideal of equal justice can and will compete. While each of these preoccupations can seem unrelated and disconnected, they are all, fundamentally, related to our ideals as a nation, and most importantly, to equal justice.

We must protect ourselves from terrorism and extremism while not sacrificing our liberties and fundamental American values in the process. We witness the ravages of war and are eager to help the good people of Iraq build a society based on freedom and opportunity. Within our own economy, we must look inward, asking some very difficult questions about fairness and corporate accountability. We believe in capitalism, yes, but capitalism with transparency, capitalism with accountability, and capitalism with good corporate governance. Consumer confidence is, and always will be, the key to economic prosperity. But consumer confidence can only flourish in an economic structure that values equality of opportunity and a determined rooting-out of corruption.

Law and ideals

All of these issues that face us today really come down to who we are (continued on page 34)
From the Chair...
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dramatically around the country in the past year:
• New access-to-justice commissions have been created by supreme court rule in Colorado and Puerto Rico
• The Arkansas Access to Justice Work Group has approved a recommendation, endorsed by the state bar, that the state supreme court create a permanent Arkansas Access to Justice Commission.
• The Alabama State Planning Group has been expanded into the Alabama Commission on Access to Justice.
• New or newly expanded bar access-to-justice committees have become active in Oklahoma, Mississippi, and Pennsylvania.

Over 70 state leaders gathered in Portland, Oregon this past March, when we sponsored the second "National Meeting of State Access to Justice Chairs," including over 40 chairs or other members of access-to-justice entities and several state bar presidents and state supreme court justices. These leaders used this opportunity to share learning and experience on strategies and models for expanding legal services resources and delivery.

In conjunction with the meeting of access-to-justice chairs, SPAN prepared a new, updated edition of the SPAN Report: Access to Justice Partnerships, State by State. This edition allows readers to easily observe and compare access strategies used in each state. (Copies are available from SPAN Project Director Bob Echols at echols@suscom-maine.net or 207-833-7869.)

SPAN also seeks to foster greater involvement by the judiciary in improving access to justice for the poor. SPAN will sponsor an educational session on state access-to-justice commissions at the July 29, 2003 meeting of the Conference of Chief Justices.

SPAN operates in close coordination with PERLS, which acts as a national support center for state efforts to expand and broaden the resource base for civil legal services. Our research shows that, when inflation is taken into consideration, federal funding for civil legal aid has declined significantly over the past two decades. During the same period, IOLTA and other state and local government funding, along with non-governmental funding, have all increased dramatically. The PERLS project assists state leaders in developing a variety of funding sources for legal services. (For more information contact Project Director Meredith McBurney at MM8091@aol.com or 303-329-8091.)

As my term as SCLAID chair draws to a close this summer, I hope that this excellent and important work that must be led by the American Bar Association can and will continue. I want to convey my gratitude to and admiration for the many bar leaders who continue to seek equal justice under law and the full delivery of legal services to the poor at the state and national level. And on behalf of all of us in the organized bar, let me lead a rousing cheer for all those who are employed, often at minimal salaries, in the vital work of providing legal help to our nation’s poor!

President’s remarks
(continued from page 33)
as a people – who we are as a nation. It is our founding ideals that guide us. Our dedication to these ideals is not just rhetorical. These ideals are put into practice through our laws. The law is where we “put our money where our mouth is.”

Our law strives to provide justice without regard to wealth or status. Is it as perfect in practice as it is in the ideal of our mind? Of course not. But the ideal is always there in front of us, guiding us, showing us the way. This is what equal justice is all about. This is what all of you have dedicated your lives to protect. And despite the seemingly impossible odds — there is so much good that is being done. Each of you, I’m sure, could tell a story of progress and hope.

I want to hear your stories. I want our story to go forward and inform, educate, motivate, and yes, inspire, an entire profession. But, as John Adams said, “facts are stubborn things,” and we must face the facts:

• Today, there are twice as many lawyers — on a per capita basis — in the United States as there were when I finished law school in 1975.
• The great American public is over-lawyered and under-represented.
• 80 percent of legal needs of the poor go unmet and even the great middle class finds it difficult to get the help it needs when it needs it.
• The number of pro bono hours provided by lawyers continues to be stagnant — despite a recent small up-tick.

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President’s remarks
(continued from page 34)

- Law schools continue to give too little attention to equal justice issues.
- Funding of equal justice efforts continues to come up short. Looking to the future we should aim high.
- We should strive for a civil right of representation because we know that our civil courts affect lives just as surely as our criminal courts do. Ask those who lost their entire life savings because of the fraud at Enron whether their lives have been affected.
- On the criminal side, we need to find new resources outside government for public defender offices and others involved in the representation of those who can’t afford equal justice.
- We need to push all levels of government, as well as law schools, to strengthen loan forgiveness programs so that young lawyers who have crushing law school debt yet still feel the calling for public interest work can respond to that call. These young men and women deserve to represent the very highest ideals of our profession and they should be given the support to follow their chosen path.
- We must also find ways to simplify the delivery systems where appropriate. We must understand technology and the challenge of how it can both help and hinder the delivery of legal services. This is why I think it is important that we must define what are legal services that need to be delivered by a trained lawyer, and what can be delivered by non-lawyers or by technology. This room is a great demonstration of what lawyers and non-lawyers can accomplish when they work in concert together.

2003 Harrison Tweed Award Recognizes Bar Efforts in New York and California

The New York County Lawyers’ Association (NYCLA) and the Santa Clara County Bar Association in San Jose, California, will receive the 2003 Harrison Tweed Award for achievement in preserving and increasing access to legal services for the poor.

The award, given annually by the Standing Committee on Legal Aid and Indigent Defendants and the National Legal Aid and Defender Association, recognizes 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.

New York County Lawyers’ Association
The NYCLA successfully sued the state and city of New York on behalf of indigent litigants, claiming that the low rates paid to assigned court lawyers were unconstitutional. In February 2003, the court granted a permanent injunction setting an hourly rate in New York City of $90 for all in-court and out-of-court work. The rates formerly were $25 per hour for out-of-court-work and $40 per hour for in-court-work.

Santa Clara County Bar Association
Two leaders of the Santa Clara County Bar Association started the Silicon Valley Campaign for Legal Services (SVCLS), a collaborative campaign for seven legal services programs in Santa Clara and San Mateo counties. In addition, eight former SCCBA presidents have lent support to the campaign, which has been critical to its success. In 2002, SVCLS doubled the number of volunteer lawyers providing pro bono services in the two counties, raised more than $400,000 for legal services to the poor, and leveraged an additional $750,000 in county-level funds for legal services in the Silicon Valley area.

The 2003 Harrison Tweed Awards will be presented at a luncheon during the ABA Annual Meeting on August 8. For more information, please visit www.abalegalservices.org/sclaid

I believe a closer examination of what constitutes the practice of law will unleash all kinds of access streams to the people who need it most. I commend to you the report of our presidential Task Force on the Model Definition of the Practice of Law, which will be coming before the ABA House of Delegates in August.

We know the road is long, and there are mountains in our way—but as that great, 20th century philosopher Bruce Springsteen, a.k.a. the “Boss,” once said: “The greatest challenge of adulthood is holding on to your ideals after you lose your innocence.”

I know there is not an innocent one among us…but I also know that you haven’t lost your ideals—and that we will keep climbing together. Each of you, by your work each day, brings America closer to the ideal of equal justice. One person, one story at a time. Keep up the good work—and keep the faith!

Dialogue/Summer 2003
ABA Recommends LSC Funding Increase for 2004

The ABA is advocating for an increase of $51 million in the appropriation for the Legal Services Corporation (LSC) for FY 2004, which begins October 1, 2003. Earlier this year, Congress increased FY2003 funding for LSC to $338.8 million (from $329.3 million) to forestall deep reductions that would have otherwise occurred in many states as a result of shifts in poverty population revealed by the 2000 census. Senators Harkin (D-MO), Smith (R-OR) and Domenici (R-NM) sponsored the amendment seeking increased funding in the Senate’s version of the FY 2003 appropriation bill.

Even with this increase, 80 percent of the legal needs of the poor will continue to go unmet. Therefore the ABA submitted testimony in the House and the Senate seeking the $51 million increase. The ABA estimates that, with inflation, the amount needed to merely bring LSC to pre-1996 levels would be $490 million, and believes that Congress should restore LSC funding to $490 million. In view of other pressing needs, the ABA recognizes that this cannot be accomplished all at once, and therefore seeks an increase in three installments beginning with the recommended $51 million increase for FY2004. At a minimum, the ABA urges that LSC receive the $352.4 million requested by the Legal Services Corporation—an increase correlating to the increase in the poverty population reported by the 2000 census.

LSC Board Changes
Nine new members have recently joined the LSC board. Frank B. Strickland, a partner with Strickland, Brockington and Lewis in Atlanta, will serve as the chair of the board. Other new members include:

- Lillian R. BeVier, professor of law at the University of Virginia
- Robert J. Dieter, clinical professor of law at the University of Colorado
- Thomas A. Fuentes, senior vice president of Tait & Associates and Chairman of the Republican Party of Orange County, California
- Herbert S. Garten, president of the law firm Fedder and Garten in Baltimore
- David Hall, professor of law and former provost of Northeastern University in Boston
- Michael McKay, managing partner of McKay & Chadwell in Seattle
- Thomas R. Meites, a partner at Meites, Mulder, Burger and Mollica in Chicago
- Florentino Subia, a client-eligible member of the Board from San Antonio

Two members of the previous LSC board, appointed by President Clinton in 1993, continue to serve until their replacements are named by the President and confirmed by the Senate. They are Maria Luisa Mercado and Ernestine Watlington.