

# Dialogue

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## Marketing in a Competitive World: LRIS Programs Embrace Change

by Tricia Desilets McCoy

Over the past 20 years, the legal marketing industry has come into its own. From international organizations with hundreds of lawyers to single-office operations in suburbia, law firms have focused increased attention on marketing their services to potential clients.

As the industry has matured, even small firms have hired professionals to increase market share and strategically bolster business development. In this competitive environment, resource-strapped lawyer referral and information services (LRIS) must employ creativity and ingenuity to attract new clients and educate the public about their services.

A number of LRIS programs around the country are doing just that. Whether their marketing budgets are zero or tens of thousands of dollars, they are investing significant effort into boosting name recognition and market share. Those with fewer dollars to spend are forced to be more resourceful than those with healthy promotional budgets but all are intent on staying competitive to win their target clients: middle-income, fee-paying working people. Their efforts range from running focus groups to printing low-cost brochures, and all agree that an LRIS program cannot afford to rest on its laurels given the heavy competition from law firm marketers.

### Phone directories

Advertising remains the mainstay of most LRIS marketing efforts. And telephone directories top the list of outlets for those ads. Ken Matejka of the Bar Association of San Francisco LRIS says that advertising in commercial directories such as the Yellow Pages is a staple of most lawyer referral marketing. In fact, he said, 22 percent of the approximately 65,000 callers who contact the San Francisco program each year cite the Yellow Pages as their referral source. "The Yellow Pages are the bread and butter of lawyer referral advertising," Matejka explains.

To fully leverage the approximately \$55,000 that San Francisco spends each year on Yellow Pages advertising, Matejka says, the LRIS recently adopted a new approach to its ad strategy. Rather than take a single, large ad at the front of the "Lawyers" section of the phone directory, San Francisco chose to place nine smaller ads throughout the section in practice-specific areas that include personal injury

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LRIS marketing efforts range from the high budget world of television advertising to lower cost efforts—such as printed magnets—to increase visibility.

## DIALOGUE

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## Marketing

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and labor and employment law—two of the more lucrative referral areas, according to Matejka.

With different markets come different approaches. Jeannie Rollo of the Lawyer Referral Service of Central Texas, which serves the Austin area, says that Yellow Pages advertising bolsters her primary marketing strategy of “raising name recognition.” Rollo said she has found having a large ad at the front of the “Lawyers” section is desirable.

“We have our ad at the front of the attorney section, and we’ve had to fight to stay there because there is a lot of competition for that space,” Rollo said, adding that she has worked aggressively with directory publisher SBC to stay at the front of its section. Other companies, however, would not work with her on reserving that space. Rollo spends about \$12,000 of her approximately \$150,000 annual marketing budget on phone directory advertising. In addition to the SBC phone book, she places advertisements “in a few other small phone books.”

### Adapting with color

Charlie Klitsch of the Philadelphia Bar Association’s LRIS says that the service placed a large ad in the city’s phone directory for more than a decade, until phone provider Verizon, following a national trend, changed the title of the category under which the ad ran, moving it to the back of the section for lawyers. Klitsch reacted by shrinking the size of the ad, while running it in color. “Color makes all the difference,” Klitsch notes. As a result, the LRIS program’s Yellow Pages ad is still

cited by a large percentage of its callers—an annual average of 40,000 a year—as their source of referral.

When Donna McBride arrived at the Fairfax Bar Association in Virginia, the LRIS program had no marketing budget. The sole promotional activity in which the service engaged was a half-page phone directory ad. Like Klitsch, McBride revised the ad, trimming it down to an eighth of a page—about the size of a business card—and made it color with a white background. The change in strategy reduced the annual expenditure from \$18,000 a year to \$7,500 a year.

“I would recommend that people take a good look at their ads and if they’re not effective, change them. Since we made the changes, our ad now pops out at you,” McBride adds.

### Marketing on a shoestring

During her five years with the Fairfax Bar program—which averages about 18,000 incoming calls and about 3,000 referrals annually—McBride has become an expert in “grassroots marketing.” She has devised creative, low-cost methods to promote the service, which competes with the state bar association’s LRIS program as well as two other local referral services.

One of her most successful endeavors was a joint one undertaken with the local legal aid agency. The organizations shared the cost of printing glossy bookmarks in various colors with LRIS information on one side and legal aid contacts on the other. They distribute the bookmarks monthly in courtrooms, judges’ chambers, libraries, community centers, consumer credit counsel-

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## From the Chair...



by Ron Abernethy  
Chair of the ABA Standing  
Committee on Lawyer Referral  
and Information Service

Ever do a Web search and wonder how Internet search engines choose to display Web sites? Ever wish there was something you could do to move your LRIS program's Web site closer to the top of the listings the various search engines display? An understanding of the first question sheds light on why there is something we—as members of the greater LRIS community—and you—as an individual LRIS program—can do about the latter.

It turns out that search engine order of placement, aside from the sites that pay for premium placement, is neither random nor based on longevity. Instead, placement is the result of complex and ever-changing algorithms intended to provide the most relevant results when a user searches for something.

Search engines keep their formulas secret, but it has been found that search engine placement improves when a lot of other sites link to your site. To see how many sites on the Internet are linking to your Web site, go to [www.google.com](http://www.google.com) and enter "link:<http://www.YourBarName.org>" (without the quotes, of course, replac-

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## LRIS News

### New Bankruptcy Law Clarifies Sharing of Referral Fees with LRIS Programs

With a few simple words, the Bankruptcy Act Public Law 109-8 passed on April 20, 2005 resolved a long-standing concern for bankruptcy attorneys who believed they were prevented from sharing any fees received through referrals from bona fide lawyer referral programs. The issue arose from ambiguous language in the previous bankruptcy law that some interpreted as preventing the sharing of such referral fees with public service lawyer referral programs.

The simple language that clarified this issue took almost 10 years of work to achieve. The problem first came to the attention of the ABA LRIS Committee in October 1996. Recognizing the revenue impact that this issue had on programs across the country, the LRIS Committee took the first necessary step of obtaining ABA approval to address this issue and gained it through a resolution passed by the House of Delegates in February 1997. That began an odyssey of language development and education with various Congressional entities on the part of the LRIS Committee and the ABA Government Affairs Office.

Particularly instrumental in this process was ABA Legislative Counsel Larson Frisby, who insured that the relevant provision survived numerous Congressional committee mark-ups through the two attempts to pass this massive reform bill. The legislation became effective October 17, 2005. Following is the relevant text from the bill.

#### SEC. 326. SHARING OF COMPENSATION.

Section 504 of title 11, United States Code, is amended by adding at the end the following:

"(c) This section shall not apply with respect to sharing, or agreeing to share, compensation with a bona fide public service attorney referral program that operates in accordance with non-Federal law regulating attorney referral services and with rules of professional responsibility applicable to attorney acceptance of referrals."

### Denis Murphy Memorial Fund Established

It was with great sadness that the LRIS community heard in May of the untimely passing of Denis J. Murphy, former chair of the ABA LRIS Committee and long-time Program of Assistance and Review (PAR) consultant.

The Columbus Bar Foundation in August announced the creation of the Denis Murphy Memorial Fund to support the Columbus (Ohio) Bar Association's pro bono effort. Carlile Patchen & Murphy, the Columbus law firm that Denis co-founded, and a matching gift by the Columbus Bar Association created the fund to honor his years of commitment to providing legal services for the poor. As a visible recognition of the special needs of this indigent population, the Murphy Memorial Fund's first gift will be to support the new one-of-a-kind YWCA Family Center for homeless families in Columbus.

For additional information about the Denis Murphy Memorial Fund contact Marion Smithberger at 614-340-2070 or [marion@cbalaw.org](mailto:marion@cbalaw.org).

## From the Chair...

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ing "YourBarName.org" with your URL). This will pull up a complete list of sites that have been indexed by Google that link to you. Another thing that search engines consider is how many other sites your Web site links to.

Fortunately there is something you can do that will, over time, increase the placement of your Web site. Moreover, it takes very little time on your part and can be done at no cost to your LRIS. The concept is simple and is synergistic: if you link your Web site to other LRIS Web sites, everyone to whom you link will begin to receive credit for the link from your site. Thanks to Ken Matejka of the Bar Association of San Francisco (BASF) and others, the LRIS world has embarked on

a communal project to increase everyone's Web visibility.

The process is relatively simple. Carol Woods, Ken and the folks in San Francisco have created a page linking to all LRIS Web sites. It can be found at [www.sfbar.org/LRIS/lawyer\\_referral\\_services.html](http://www.sfbar.org/LRIS/lawyer_referral_services.html). Here's the process: First, copy the lawyer\_referral\_services.html page from BASF and publish it on your Web site. Second, create a link on your Web site to the lawyer\_referral\_services\_html page you have just added. You can put the link anywhere on your site, and you can call it anything (such as "Other LRIS programs" or "Need a Lawyer Somewhere Else") or even leave it invisible to people accessing your site. The point is that you must link it in order for the search engines to follow the links when indexing your site. If you are, like me, visual by nature you can look

how this is done by going to the BASF website at <http://sfbar.org/lrs/general.html> and scrolling down to the ABA logo.

Ken suggests that you leave the name of the page you copy as it is (i.e. "lawyer\_referral\_services.html"). He points out that search engines will sometimes rank a page higher if the page name carries the exact words of the user's search. Leaving the name will catch all of those people who are searching for a lawyer referral service. Finally, do not add the URL directly to any of the search engines. Let the indexers contained in the search engines find the pages on their own.

Thanks to Ken and the others who have been working on this project. It's up to the LRIS community to take advantage of this opportunity to increase the Internet presence of all of our lawyer referral services.

## Marketing

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ing offices, and county government offices.

"The bookmark has consistently been one of our top sources of referrals. Overall, it's been extremely effective, particularly considering the low cost involved in production," McBride explains.

The service has also published a brochure titled "Hiring an Attorney: A Client's Guide," which outlines how to prepare for a consultation, factors to consider in retaining an attorney, and how fees and costs typically work. The distribution for the brochure, according to McBride, is similar to that of the bookmark.

### Marketing by mail

Direct mail is another grassroots tactic McBride and others have used to raise awareness. McBride has written letters to executive directors and managing partners at area law firms to educate the recipients about the service. Rollo of the Central Texas LRIS says that she uses a low-cost sticker with contact information to "get the word out" by placing it on all brochures the service gives out, even on pamphlets providing information on other organizations. In the past, the San Francisco LRIS has distributed a Rolodex insert with the service's information and distributed it to those who refer clients to the service, Matejka says.

Since the Fairfax LRIS transitioned to a percentage-fee

system two years ago, McBride explains, the service has more than doubled its revenue, allowing her to explore more costly forms of marketing. The service recently prepared three cable television ads to run on popular networks such as Court TV, MSNBC, CNN Headline News and Lifetime. McBride was able to keep production costs low by "borrowing" (with permission, of course) ads filmed 15 years ago by the Missouri Bar Association and over-dubbing them.

McBride plans to further diversify her marketing mix this fall when the LRIS will run its first newspaper ads, touting its services in the areas of divorce, personal injury and general legal advice.

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## Marketing

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### More options with large budgets

Larger lawyer referral services with bigger budgets have a wider array of options when it comes to marketing. Marion Smithberger of the Columbus Bar Association, which takes more than 40,000 calls a year and sees about 3,000 of those each year result in fee-generating cases, has explored a number of those options.

Smithberger takes a business-oriented approach to marketing, ensuring that his promotional strategies are driven by an overall business plan for the lawyer referral service. A comprehensive business plan with defined objectives allows a service to avoid investing time and effort in disjointed marketing efforts, he believes. The objective that governs all of the Columbus LRIS marketing efforts, he said, is to ensure that the service is—and is perceived as—friendly, helpful and a resource to consumers.

As a basis for determining his marketing strategy, Smithberger has run focus groups to determine the awareness level among potential clients, and found that only 10 to 20 percent had an awareness of the service. “We went to TV because we have an awareness problem. TV is the most credible place to advertise to those making referrals to us,” Smithberger explains, adding that pastors, social workers and other members of the community are key contacts in ensuring that clients are referred to the service.

Smithberger said that he runs similar ads that will always “hook back to the old ad” over



Marketing on television can employ traditional advertising forms such as that used by the Bar Association of Metropolitan St. Louis (left) or use other vehicles, such as a call-in program sponsored by the Columbus Bar Association Lawyer Referral Service on end-of-life issues encountered in the Terry Schiavo case.

lengthy periods of time in order to “penetrate the consciousness” of the marketplace. The Columbus LRIS runs its ads during news programs and the Oprah Winfrey show. In addition to television advertising, the program has run radio ads. “But television gives us the most reach via cable,” according to Smithberger. “We can reach into rural areas where there is less competition. Our message is always that we are friendly, approachable and free. Our focus groups showed that the word

‘free’ needs to get in there.”

While Smithberger spends an annual average of \$150,000 on advertising, he does work to make his efforts as cost-effective as possible. Some television stations will run LRIS ads as “public service announcements” (PSAs) and will offer good time slots as a goodwill gesture. Others will offer discounts, and now that Smithberger does the media buying himself instead of using an agency, he saves 15

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## Need Help with Marketing?

One of the many challenges facing individuals running lawyer referral and information services is that most administrators don’t come from a marketing—or even a business—background. Devising a marketing plan for an LRIS can seem a daunting task to those who entered the field because of their training in the law or their interest in public service rather than a desire to craft a business development strategy. Even the terminology involved—ROI, SWOT—may seem confusing.

Fear not. There is help out there! “Marketing isn’t brain surgery. In fact, it’s quite straightforward and cut-and-dried,” assures Julie A. Amos, president-elect of the Metropolitan Philadelphia Chapter of the Legal Marketing Association. “A successful marketing effort generally just requires a few key ingredients—planning, implementation and measurement.”

The first step in developing a marketing plan is to complete a SWOT analysis—an acronym for “Strengths, Weaknesses, Opportunities and Threats”—that will give you a solid overview of where

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## Marketing

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percent off of the placement costs.

Cable advertising and call-in legal information shows are marketing tactics also used by the Philadelphia Bar's LRIS, Klitsch said. By working with the local cable company, he says, the LRIS

is able to maximize its reach by advertising on a number of popular networks, such as TNT, ESPN, Court TV and Lifetime.

Legal advice call-in programs are an effective way to highlight the knowledge of LRIS panel members and range of services provided. "Panel attorneys are happy for the 'face time' on television," Klitsch explains,

"and using them has the added value of making panel attorneys feel more loyal to LRIS." The weekly program featured a changing topic each week and three panel members to discuss the topic and field caller questions, while the LRIS telephone number ran continuously at the bottom of the screen. "Having panel attorneys discuss specific areas of the law and answer questions from consumers—who are potential clients—is a wonderful way to highlight the breadth of knowledge that we are able to offer to individuals who call the service," Klitsch elaborates.

## Help

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your service stands in the marketplace. With a SWOT analysis completed, defining objectives and identifying and implementing the most effective tactics to achieve those goals become much easier.

Measuring your marketing plan's effectiveness is perhaps the most difficult aspect. Understanding the ROI ("return on investment") of your efforts is crucial if you are to avoid squandering time and resources on unsuccessful tactics. Certainly, change—or hopefully, success—is harder to measure if you don't know where you began. Prepare for the measurement stage by gathering key information prior to implementation. Know your average call numbers and your top cited referral sources. Once you've mounted your marketing campaign, track cited referral sources and call volume closely.

If thinking about ROI and SWOT make you feel as if you're swimming in alphabet soup, don't worry. Several resources available online offer information and useful, pre-drafted marketing and SWOT forms that you can employ to begin the process of formalizing your marketing efforts into a strategic plan. These include the Legal Marketing Association ([www.legalmarketing.org](http://www.legalmarketing.org)) and another legal marketing site with many free resources, [www.lfmi.com](http://www.lfmi.com). The American Marketing Association site ([www.marketingpower.com](http://www.marketingpower.com)) is another useful place to visit, as is [www.marketingteacher.com](http://www.marketingteacher.com).

And, as Amos—who is also chief marketing officer for Wolf Block Schorr & Solis-Cohen LLP—points out, you shouldn't forget the "human" resources in your community. "Many law firm marketers and LMA chapters likely would be willing to provide advice and basic information on marketing and business development to bar association referral services," she says.

As always, assistance from the ABA Standing Committee on LRIS and the committee's staff is just a phone call or mouse click away. The Lawyer Referral Public Relations and Marketing Guide, published by the LRIS Committee, is a 115-page manual with ideas for marketing and samples of publicity materials. The guide can be purchased for \$35 by calling 312-988-5786 or writing to [lr@staff.abanet.org](mailto:lr@staff.abanet.org).

### Going online, going in-house

Matejka says the San Francisco Bar has tried a number of marketing tactics over the years, including television and radio spots, billboards and newspaper ads. He has also investigated online advertising, such as "per-click" hits through search engines such as Google. The ultimate objective is "to reach the broadest possible audience in our demographic," according to Matejka, and thus far, he has found that television advertising is very effective. The San Francisco program currently spends \$140,000 on advertising, which is twice the budget from 2004.

Matejka's program has a diverse mix of advertising, however, and it includes an inexpensive ad in the archdiocese newsletter that has a strong return on investment. Matejka said that his advertising costs are mitigated by utilizing the in-house advertising staff at the association for ad design.

Public outreach is another marketing tactic that many referral services rely on to garner

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by Gen Earl E. Anderson, USMC (Ret.)  
Chair of the ABA Standing  
Committee on Legal Assistance  
for Military Personnel

This is my initial message to the military legal assistance community since my appointment as chair of the ABA LAMP Committee. Much has been achieved by the Committee under the sure leadership of my long-time friend, Admiral John Jenkins. I thank John for leaving this Committee in such a strong position. It is respected within the ABA for its values and its accomplishments, and by its partners in the military legal offices for its unflagging support for the legal assistance interests of all service members and their families.

It falls upon us now as a Committee to build upon that position of strength in challenging times. I plan to address the Committee's opportunities going forward in my next column, but in light of recent events I believe it is fitting to devote this space to a brief discussion of the extraordinary needs that have emerged in the wake of Hurricane Katrina.

I am quite sure the military legal assistance community will answer the terrible challenge of Katrina with determination, innovation and overflowing compassion for the lives torn asunder by this great storm. We must assume that a host of novel and complex demands will be

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## LAMP Practice Guide Survivor Benefits: Preparing for the Unthinkable

by Lori Kroll



No matter how much a family plans, it is never really prepared to hear the news that a loved one has been killed in the line of duty. When that happens, the next of kin will be assigned a casualty assistance officer (CAO, Army), casualty assistance representative (CAR, Air Force) or casualty assistance calls officer (CACO, Navy and Marine Corps) to help with the arrangements and entitlement paperwork. Often, a legal assistance JAG officer is an integral part of this assistance. To aid these legal assistance officers, this article outlines the sources of benefits for survivors, and highlights some recent changes in laws affecting those benefits.

### Department of Defense benefits

**Death Gratuity:** This gratuity assists survivors with their immediate expenses in the absence of the service member's steady income. It is usually paid within a few days of the service member's death. The death gratuity has been indexed to the annual percentage increase in basic pay and is tax-free. Thus, for 2005, the death gratuity is \$12,420. For active duty deaths occurring as the result of wounds, injuries, or illnesses that are incurred in an operation or area designated as a combat operation or combat zone, the amount has been increased to \$100,000.

**Burial Benefit:** Of all of the benefits provided, this one is probably the most widely known. The Department of Defense (DoD) will process, transport and inter remains. This means that a casket, vault and headstone for interment in a government cemetery will be provided or, if the family chooses to make private arrangements, DoD will reimburse up to \$6,900. Transportation for the immediate family to the burial is provided at no charge or may be reimbursed at a set rate. Before making any arrangements, family members should be sure to consult with the casualty assistance officer. Specific information about burial benefits and military honors can be found at [www.militaryfuneralhonors.osd.mil](http://www.militaryfuneralhonors.osd.mil).

**Servicemembers' Group Life Insurance (SGLI):** Effective September 1, 2005, the maximum amount of SGLI increased from \$250,000 to \$400,000. All service members will receive the maximum amount unless they decline. The Secretary of Defense has not yet set the premium amount, but DoD will pick up the increased cost of premium for those members serving in a combat zone or combat operation, for as long as they are serving in that operation. **It is important that the service member be sure to update his or her beneficiaries.** If no beneficiary is designated, then by law the proceeds are paid to the surviving spouse; if none, to any children (natural, adopted or born out of wedlock)

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## From the Chair...

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placed upon our military's legal assistance resources in Hurricane Katrina's aftermath, and the civilian legal community must and, I am confident, will step forward to help meet those demands, if and when called upon.

As this column goes to press, plans to deliver legal assistance to survivors and otherwise ensure that they are restored to a semblance of normal lives are in the formative stage. Yet the ABA has moved resolutely to see that the American legal community is front and center in relieving the suffering of our neighbors from the Gulf Coast. Under President Mike Greco, the ABA is soliciting lawyer volunteers to render legal aid to Katrina's victims. In the days after the storm, President Greco also appointed the ABA Task Force on Hurricane Katrina, which includes representatives of all key constituencies necessary for a comprehensive response to the disaster. President Greco asked me to serve on the task force as a representative of the military. I am doing my utmost to see that those interests are adequately considered in task force delibera-

tions, and I welcome any thoughtful input for those purposes.

On the volunteer side, the ABA has assembled, through its Web site, a list of volunteers prepared to render legal assistance to hurricane victims. As of this writing, volunteers not admitted to the bar in Louisiana and Mississippi may donate their services to the disaster assistance programs operated by FEMA, the ABA Young Lawyers Division and the respective bars of Mississippi and Louisiana. There is no practice restriction on lawyers living elsewhere who are licensed in the affected states. There is no question that the pro bono legal needs of persons who suffered the brunt of Katrina will be enormous going forward, and we must marshal every legal resource available to address those needs.

The ABA is working closely with the bars and other organizations in the affected states to ensure that the best and most effective possible use is made of volunteer resources.

If you wish to volunteer, go to the Hurricane Katrina disaster relief page on the ABA Web site at [www.abanet.org/katrina/](http://www.abanet.org/katrina/). From there follow the links to the online

volunteer application form. We have made sure that the form includes a check box for volunteers with military legal assistance experience.

Going forward, the LAMP Committee will coordinate and support existing Operation Enduring LAMP programs and other pro bono programs in affected areas as much as possible to ensure that new volunteer resources available for military legal assistance are deployed effectively.

I believe it is worth noting that while the horror and tragedy of September 11 will forever occupy a unique place in our national memory, in many respects Katrina may prove to be a far more devastating event, at least in terms of geographic scope and properties destroyed. The needs of those affected are unprecedented and overwhelming, and surely they will take several years to resolve. But resolve them we will, through a confluence of legal and other resources also unprecedented and overwhelming, in their intensity and in their scope. The critical piece of the response to Katrina will be the work of volunteers, whose selfless and tireless commitment will embody what is great about our country.

## Survivor Benefits

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in equal shares; if none, to the parents (natural or adopted).

### **Military Health and Dental Care**

**Benefits:** All otherwise eligible spouses and children remain eligible for military health coverage (TRICARE) at the active-duty dependent rate for up to three years following the service member's death. Dental coverage

will be premium-free during this three-year window, provided the family members were enrolled in the dental program prior to the service member's death. Three years following the date of the service member's death, the dependents remain eligible for TRICARE but at rates equal to those for retirees. Please note that a spouse's eligibility for health care terminates upon remarriage and may not be reinstated unless the marriage is annulled. For

more information on these TRICARE benefits, go to: [www.tricare.osd.mil/factsheets/viewfactsheet.cfm?id=175](http://www.tricare.osd.mil/factsheets/viewfactsheet.cfm?id=175). For information on TRICARE Dental, visit: [www.ucci.com/was/uccweb/tdp/tdp.jsp](http://www.ucci.com/was/uccweb/tdp/tdp.jsp).

### **Survivor Benefit Plan (SBP):**

Surviving spouses of service members who die on active duty are entitled to SBP benefits. SBP payments equal 55 percent of what the member's retired pay

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## Survivor Benefits

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would have been had they been retired at 100 percent disability. If the spouse remarries before reaching the age of 55, SBP payments cease. Payments may be reinstated if the marriage ends in divorce. Spouses remain eligible for commissary, exchange and MWR activities privileges indefinitely, unless they remarry. Children remain eligible for these benefits until age 18 or 23, if still enrolled in college.

### Department of Veteran's Affairs benefits

The Department of Veterans Affairs (VA) annually publishes a booklet titled "Federal Benefits for Veterans and Dependents" that contains up-to-date dollar amounts for each benefit and in-depth explanations. You may obtain the booklet by calling your local VA office or via the Web at [www.va.gov](http://www.va.gov). The VA also has recently launched a new Web site for surviving spouses of military members who died on active duty and surviving spouses of veterans who died after serving their country. You can visit it at [www.vba.va.gov/survivors/](http://www.vba.va.gov/survivors/)

**Transition Assistance:** Dependency and Indemnity Compensation (DIC) is paid to surviving spouses and children (and some dependent parents) as a flat-rate monthly payment, independent of the pay grade of the member. The 2005 spouse DIC rate is \$993 per month. Additional amounts are authorized for surviving spouses with minor children. A separate reimbursement formula applies to children of a deceased member who had no spouse at the time of death. DIC terminates for spouses who remarry before the age of 57.

If the marriage ends in divorce, the DIC may be reinstated.

### Survivors' and Dependents' Educational Assistance Program:

Surviving spouses and children are eligible for up to 45 months of education benefits to pursue an associate, bachelor, graduate degree or courses leading to a certificate or diploma from a business, vocational or technical school. This benefit may also be used to assist children over the age of 14 with a mental or physical impairment that impairs their ability to pursue a regular education. As of October 1, 2005, the current monthly benefit is \$824.

**Home Loan Guaranties:** An unremarried surviving spouse is eligible for GI home loans.

**VA Grief Counseling:** Grief counseling is offered to the family of members who die on active duty. For more information call, 202-273-9166 or email [vet.center@hq.med.va.gov](mailto:vet.center@hq.med.va.gov).

### State, local and other benefits

Don't forget to research the state law where the surviving spouse and children reside. Many states, such as North Carolina, have passed laws providing for additional benefits and privileges. Some additional benefits include hiring preferences for spouses of deceased service members. Military exchanges forgive debts on the Military Star credit card for families of members killed in combat.

**Social Security Benefits:** Monthly benefits are paid to a spouse or a divorced spouse, regardless of their age, with children of the deceased service member if the children are under the age of 16 or disabled. Monthly payments are also made to children until age 18, or 19 if a full-time student. An additional \$225 lump sum is paid to surviving spouses who were

living with the member at the time of death. For more information on the amounts and types of entitlements, visit [www.ssa.gov](http://www.ssa.gov).

### Other resources

**Tragedy Assistance Program for Survivors, Inc. (TAPS):** TAPS is a national non-profit organization made up of, and providing services to, all those who have lost a loved one while serving in the Armed Forces. Their peer network is an outstanding resource for survivors. TAPS offers counseling referrals, caseworker assistance and crisis information. Call TAPS at 1-800-959-TAPS (8277) or visit [www.taps.org](http://www.taps.org).

**Gold Star Wives:** This group is a congressionally chartered non-profit service organization that provides services to the active-duty and service connected military widow. Call 1-888-751-6350 or visit [www.goldstarwives.org](http://www.goldstarwives.org).

**Armed Forces Services Corporation (AFSC):** This organization is renowned for its expertise in government and military survivor benefits and the survivorship services provided to their military members and families. Its Web site is [www.afsc-usa.com/benefits.html](http://www.afsc-usa.com/benefits.html).

**National Military Family Association, Inc. (NMFA):** This nonprofit organization was started by widows to ensure that surviving spouses were educated about their benefits. The organization provides resources and information sheets on a variety of topics. Visit their Web site at [www.nmfa.org](http://www.nmfa.org).

**Lori Kroll** is an assistant attorney general with the North Carolina Department of Justice and is a former member of the ABA Standing Committee on Legal Assistance for Military Personnel.

## 2005 LAMP Essay Contest

# Back to the Future: A Return to First Principles

by Capt Charles G. Kels, USAF

*The essay of Capt Charles G. Kels, USAF, has been awarded first place in the 2005 Legal Assistance Essay Contest, sponsored by the ABA Standing Committee on Legal Assistance for Military Personnel. An excerpt of Kels' essay appears below, condensed and edited for publication in Dialogue. The first place award is accompanied by a prize of \$1,000.*

*The essay contest was conceived to promote open and thoughtful discourse on timely legal assistance topics. Kels' essay and the other submissions this year commendably fulfilled that objective. Kels' essay and the second place submission, written by Davis G. Ye, may be read in their entirety on the LAMP Committee's Web site, [www.abalegalservices.org/lamp/](http://www.abalegalservices.org/lamp/). The views expressed in the award-winning essays do not reflect the views of the LAMP Committee.*

On May 27, 2003, the *New York Times* published a controversial op-ed piece by author Robert Coram alleging that the Air Force planned to decommission its fleet of A-10 Warthogs. According to Coram, the reason "why the corporate Air Force so deeply loathes the A-10" is its "philosophical aversion to the close air support mission," a "humiliating" and "bitter reminder" of the service's Army roots and its former subservience to Army commanders.

Whatever the accuracy of Coram's hotly rebutted arguments, his distinction between the "muddy boots" nature of close air support and the high-technology, high-altitude sleek-

ness of the interdiction mission provides an apt analogy for the unglamorous role of legal assistance in the military justice/operations law-centric world of the Air Force Judge Advocate General's Corps. The 50th anniversary edition of *The Reporter* (Vol. 26, Special History Edition, 1999) dedicated 18 pages to Military Justice and 46 pages to Operations Law. Legal assistance did not make an appearance. The "JAG Corps Vision Document" does not bestow legal assistance with the elevated status of a core competency, but rather lists "legal and income tax assistance" under the broad heading of "Robust Legal Programs." Most telling of all, perhaps, is the fact that "Chief of Legal Assistance" is a title most commonly held by newly-minted judge advocates in their first job rotation during their first base assignment. The message is simple and unmistakable: If you're going to mess up, let it be in legal assistance.

### Legal Assistance at the Crossroads

In reaction to these perceived slights, the tendency among well-intentioned reformers has been to critique the current state of military legal assistance by decrying its failure to sufficiently transform since its inception during World War II. The charge leveled against legal assistance by its most dedicated advocates is that the program, as is, constitutes a noble but emasculated relic badly in need of a tune-up. BrigGen David C. Hague, USMC

(Ret.), former chair of the LAMP Committee and a visionary proponent of a more robust legal assistance paradigm, believes that "we are applying a mid-20th century template on 21st century warriors," largely because "the World War II mindset prevails with regard to personal preparedness." ("From the Chair," *Dialogue*, Summer 2002, Vol. 6, No. 3).

As is bound to happen, however, innovative ideas, if left unchallenged, can quickly become the conventional wisdom. The perceived deficiencies of legal assistance so often and so forcefully have been phrased in terms of the need for evolutionary expansion that we largely have overlooked the possibility that the exact opposite holds true: Perhaps JAG has been evolving too much, beyond our historically circumscribed role as uniformed attorneys supporting military commanders. My contention in this essay is that the future of legal assistance should be a return to its past. In particular, I intend to make the case that legal assistance should become a statutory entitlement, but not for the reasons or in the ways most often cited by supporters of the entitlement option. By narrowing the scope and eligibility of legal assistance in a manner that comports with the original intent of the program, we will simultaneously increase competency in our core legal assistance practice areas and provide a better quality of service to the client.

Runaway expansion of the

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## Essay Contest

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legal assistance program as part of every service member's "total compensation package" threatens to let our compassion for the client undermine our organizational purpose as JAGs. Indeed, it is hardly a new argument in the field of political theory that the exponential growth of any bureaucratic entity becomes a self-fulfilling prophecy when it continually strives to maximize its turf and justify its area of assigned responsibilities. Today's judge advocate has become the staff officer of last resort. "Why don't you run that by legal?" is so common a refrain that "JA," as the saying goes, now stands for "Just Ask." As judge advocates, part of us relishes this role at the same time that it overwhelms us, because it imbues us with an elevated status as the overarching gateway for a wide variety of initiatives—no Staff Summary Sheet is complete without a visit to JA. The danger of mission creep, however, is very real.

The legal assistance program, while oftentimes frustratingly restrictive when we are trying to help a client, is simultaneously an expansive and amorphous endeavor. For example, there is no clear reason why the income tax assistance program—a behemoth in its own right—should be a JAG function at all. If the tax center rationally belongs to anyone, shouldn't it be finance? Moreover, on a day-to-day level, it is no rarity for the legal assistance attorney to see several clients in a row before encountering the first one with an actual "legal" issue. To blame the problem on ineffective client screening is to unfairly

focus on one symptom of systemic confusion.

The arguments of those who advocate an expanded, statutorily guaranteed legal assistance program often rest on an analogy drawn between, on the one hand, medical and dental care, physical fitness and weapons training, and, on the other hand, service members' "legal health." For judge advocates to fulfill "their mission of comprehensive legal support," BrigGen Hague wrote, legal assistance should be included "among [these] other individual readiness-related requirements." ("From the Chair," *Dialogue*, Summer 2003, Vol. 7, No. 3). This analogy is powerful because it strikes at the heart of legal assistance practitioners' sincere desire to help heal their clients' legal ills. But the analogy, on closer inspection, is not particularly apt for the basic reason that the judge advocate practicing legal assistance—unlike the physician treating patients, the health-and-wellness officer overseeing physical fitness tests, and the weapons expert conducting 9mm training—is not serving in the function for which his billet was originally conceived. What the legal assistance expansionists are really proposing is not only a reworking of 10 USC § 1044, but a fundamental reformulation of what it means to be a judge advocate.

There is no indication that any of the JAG Corps, or the DoD in general, is ready to accept such a sea change. Moreover, the days of JAG billets remaining constant as the military downsizes will not continue indefinitely, regardless of what administration is in office. As far as senior leadership is concerned, a congressional mandate takes the power to

prioritize scant resources out of their hands.

### The Path Ahead

There is, however, a way to cut the Gordian knot. First, we should push to enshrine as an entitlement those aspects of legal assistance that are critical to operational readiness. BrigGen Hague's legitimate complaint that "Congress has authorized estate planning and other legal support of military personnel but failed to demand and fund it" could be resolved in a way that preserves the discretionary use of resources by JAG senior leadership. ("From the Chair," *Dialogue*, Fall 2002, Vol. 6, No. 4). The key is to make only readiness-related legal assistance for members on active duty an entitlement, and to define the scope of that entitlement narrowly.

Since service members are asked to risk and sacrifice their lives every day, the preparation of basic wills should not be subject to "the limits of available resources." (*DoDD 1350.4*, Para. 4.1.2, 28 April 2001). The LAMP Committee's 2003 draft revision of 10 USC § 1044 effectively attempted to resolve this gap by substituting the word "shall" for "may" in subparagraph (a). Creating a statutory entitlement to readiness-related legal assistance should be acceptable to senior leadership because it essentially reduces to writing what the various JAG Corps are already committed to in practice, despite the current discretionary language in 10 USC § 1044. Yet it is too drastic a step to statutorily require legal assistance for all "personal civil legal affairs" without regard to subject matter, as the LAMP Committee's draft revision purports to do.

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## Essay Contest

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Moreover, if our top legal assistance priority is defined by statute as the preparation of readiness-related documents, then we can make sure to concentrate our resources on doing that well, without cutting corners. A recent version of the Air Force TJAGC Online News Service (May 25, 2005) praised one base legal office for a self-service power of attorney program in which a stand-alone computer in the office lobby allows clients to walk in and create a custom document anytime. The lone quality-control check is the requirement to talk with a member of the legal office staff before having the power of attorney notarized. One need not be a slippery-slope hysteric to cringe at the thought of a truly “creative” legal assistance program comprised of user-friendly soft-

ware and an automaton with a notary stamp. A narrowly drafted statutory entitlement could clear the haze and result in a better product for clients.

Having conservatively defined and statutorily protected readiness-related legal assistance, the second step should be to refine the scope of discretionary legal assistance in a way that returns to the program’s founding principles. The development of legal assistance into “a sophisticated provider of a panoply of legal services” is invariably defined as “progress,” whereas mutation might be a better description. (Daniel Bean, “Celebrating the 60th Anniversary of Military LA,” *Dialogue*, Fall 2003, Vol. 7, No. 4). The legal assistance program created by War Department Circular No. 74 was never intended to be touted alongside pay and benefits as a retention tool. Its goal was to improve morale,

and therefore effectiveness, by enabling the service member to concentrate on the mission.

Third and finally, the eligibility for legal assistance should be narrowed in terms of rank so as to serve those service members who need it most. The use of legal assistance and tax preparation programs by those who clearly can afford comparable outside services puts further strain on already overburdened resources.

The legal assistance program, much like the SSCRA that developed alongside it, is a noble program designed to “protect those who have been obliged to drop their own affairs to take up the burdens of the nation.” (*Boone v. Lightner*, 319 U.S. 561, 575 (1943)). In order to secure the program’s future, the best strategy is to look to its past.

**Capt Charles G. Kels, USAF** is chief of adverse actions at Los Angeles AFB.

### Lawyer Referral

## Marketing

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name recognition and promote their attorneys to the marketplace. The LRS of Central Texas and the Columbus Bar have used lunchtime programs at local employers to promote their services. Getting on the radar screens of human resources departments and employee assistance programs are other ways to ensure that LRIS programs reach the people who refer the individuals who then call LRIS for assistance from a lawyer.

Perhaps because of the emphasis on advertising, many referral services overlook public relations as a marketing tool that can often be a low-cost way to promote their

panel attorneys. Often, neighborhood newspapers, local television news programs and community newsletters are hungry for consumer-oriented legal content that they can feature.

For instance, Philadelphia’s Klitsch says that weekly newspapers in the city often run a “tax tips” piece the association sends out in the weeks before the April 15 filing deadline.

“Developing relationships with local, smaller media is a good idea. If you can send out a ‘canned’ article on a legal topic that has a timely flavor—such as tax advice in April—they will often run it or, at least, use it as a basis for a story,” he explains. “Also, our public relations department looks to LRIS panel attorneys first when local media outlets are

seeking ‘talking heads’ to comment on certain legal issues.”

Whether through public relations, advertising or direct mail, lawyer referral services are boosting their efforts to reach their target market of middle-income consumers of legal services. Although the evolution of referral service marketing is progressing at a slower pace than it is in the broader legal marketing industry, the efforts of these referral services clearly demonstrate that when an LRIS finds creative ways to invest in promotion, the program can stay competitive.

**Tricia Desilets McCoy** is public relations manager at Wolf Block Schorr and Solis-Cohen LLP, and is a founder and secretary of the Metropolitan Philadelphia Chapter of the Legal Marketing Association.

## From the Chair...



by L. Jonathan Ross  
Chair of the ABA Standing Committee on Pro Bono and Public Service

I am honored to be the new chair of the ABA Standing Committee on Pro Bono and Public Service. I am indebted to prior chair Debbie Segal for the significant committee accomplishments during her term. Under Debbie's leadership and with her vision, the Pro Bono Committee helped to develop a law firm Listserv, created a series of online CLE training seminars, authored an article on the history of pro bono in the United States, and co-hosted four successful Equal Justice Conferences. One of Debbie's greatest achievements was the undertaking of the committee's national pro bono survey, which was released in August.

The pro bono survey report, titled *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, is the result of a one-year study developed and supervised by the Pro Bono Committee. The committee's main goals were (1) to produce a national survey that captured the amount of pro bono work being done by lawyers in the United States, and (2) to obtain a clearer understanding of why attorneys do or do not volunteer their time to provide legal assistance to people of limited means. The survey, conducted at the end of 2004,

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## Pro Bono Profile

*A Conversation with ABA President Michael S. Greco*

by Marilyn Smith

**A**BA President Michael S. Greco has been a trial lawyer, mediator and arbitrator for 32 years and an active member of the ABA since 1974. Throughout his career, he has taken a special interest in issues of pro bono and public service.

Greco has a long and distinguished record of service to the bar. He has been a member of the ABA House of Delegates since 1985, and Massachusetts state delegate since 1993. In addition to serving as chair and member of many committees, he was appointed to the ABA Task Force on Terrorism and the Law in the wake of the terrorist attacks of September 11, 2001. That task force helped develop ABA policy on the government's use of military tribunals and its treatment of detained persons and prisoners. In Massachusetts, Greco was president of the Massachusetts Bar Association (MBA), the New England Bar Association, and the board of trustees of Massachusetts Continuing Legal Education.

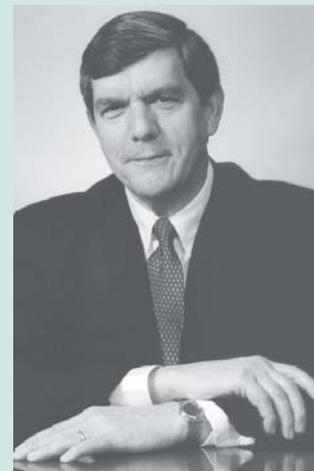
Greco's experience extends beyond service to the bar, however, and reveals a long-standing commitment to legal services to the poor and pro bono work. As MBA president, he and then-Governor Michael Dukakis appointed a blue-ribbon Commission on the Unmet Legal Needs of Children. The report and recommendations prepared by that commission led to the enactment of new laws protecting the legal rights of children in the state. He also chaired the first-in-the-nation Massachusetts Legal Needs for the Poor Assessment and Plan for Action, and was co-founder and co-chair of Bar Leaders for Preservation of Legal Services for the Poor, a national bar leader grassroots organization that helped preserve the Legal Services Corporation in the 1980s.

Now, as Greco navigates the early months of his term as ABA president, *Dialogue* talks to him about his connection and commitment to pro bono and public service.

### *Dialogue: Why do you do pro bono work?*

**Greco:** I do pro bono work for several reasons. First, I strongly believe that it is the professional responsibility of every lawyer to provide legal representation to people who are in need, regardless of their ability to pay. Lawyers enjoy a privileged position in society and thus have a responsibility to give back to their communities. But more fundamentally, I do pro bono work because it gives me a chance to make a difference in the lives of those who need—in some cases

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## From the Chair...

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consisted of telephone conversations with 1,100 lawyers throughout the country in private practice, corporate counsel government and academic settings. The survey examines practicing attorneys' pro bono contributions over the period from November 2003 to November 2004. The committee asked how much and what kind of volunteer legal services these lawyers provide, in what substantive areas they focus their efforts, and why they do or do not engage in pro bono. Lawyers were selected randomly to create a representative sample of full-time practicing attorneys from all 50 states in the United States.

Although previous studies have looked at free legal work performed through pro bono programs, law firms, or individual states, this survey is the first attempt to empirically quantify pro bono contributions in the legal profession throughout the country.

The Pro Bono Committee undertook this project to enable the ABA to better support existing pro bono efforts around the country and to expand new opportunities and pro bono infrastructure. Part of my task

as the incoming chair is to focus the committee's efforts on where to go next with the results of our survey. Some initiatives that have been discussed include (1) developing a data collection toolbox that can be shared with state and local entities hoping to learn more about pro bono activity in their area; (2) creating targeted recruit-

ment materials based on key pro bono motivators and de-motivators highlighted in the survey; and (3) expansion of the survey to focus on specific demographic groups, such as retired, inactive and part-time attorneys.

We hope you will take time to review the survey report at [www.abaprobono.org/report.pdf](http://www.abaprobono.org/report.pdf).

### Key Findings of Supporting Justice: A Report on the Pro Bono Work of America's Lawyers

- ✓ Two-thirds of respondents (66 percent) reported doing some level of free pro bono services to people of limited means and/or to organizations serving the poor
- ✓ Attorneys surveyed reported providing an average of approximately 39 hours of free pro bono service to persons of limited means or organizations serving the poor
- ✓ Forty-six percent of the lawyers surveyed met the ABA's aspirational goal of providing at least 50 hours of free pro bono services
- ✓ There was a direct correlation between age and incidence of providing pro bono, with older attorneys more likely to report doing pro bono than younger attorneys
- ✓ The prime motivator for attorneys who have done pro bono is the combined sense of professional duty and personal satisfaction derived from the work (as reported by 70 percent of those surveyed)
- ✓ The second largest motivating factor was recognizing the needs of the poor and responding to specific requests for assistance (43 percent of those surveyed)
- ✓ The main discouragement from doing—or doing more—pro bono, is a lack of time (69 percent), followed by employer-related issues such as billable hours expectations (15 percent) and the lack of specific expertise or skills in the required practice area (15 percent)

## Pro Bono Profile

(continued from page 13)

desperately—legal assistance to vindicate their rights or protect their families, health, or businesses. And the satisfaction that comes from providing pro bono representation helps me remember why I became a lawyer in the

first place—to serve the public, to solve problems, and to help those with limited resources and nowhere else to turn.

### Dialogue: How did you first get involved in doing pro bono work?

**Greco:** The first pro bono case I worked on as a first-year associ-

ate demonstrated to me the power of lawyers committed to righting wrongs. It was a class action lawsuit brought against the Commonwealth of Massachusetts on behalf of hundreds of mentally retarded young people living in substandard, often inhumane, conditions in

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## Pro Bono Profile

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state-operated institutions.

In the years I worked on that case, I came to know many of those young people and their families, and to understand their suffering. The successful conclusion, which resulted in the commonwealth expending millions of dollars to improve these institutions, and other reforms, was a great victory for the people we represented. But it was also highly satisfying for the lawyers who had worked on the case. It was as memorable and rewarding as any large verdict secured on behalf of a regular client.

### **Dialogue: Who or what influenced you to do this kind of work?**

**Greco:** I knew as early as junior high school that I wanted to become a lawyer. I saw that the lawyers in our town were the problem solvers, the respected counsellors, the community's leaders, because they took the time to be engaged in the life of the community, to serve on town boards and committees, and to help people with legal problems even if they did not have the ability to pay.

When I entered Boston College Law School, Father Robert Drinan, former member of Congress and recipient of the ABA Medal, was dean. Father Drinan viewed the law as an instrument of social justice, and he and the excellent law school faculty instilled that view, and a spirit of public service, in the students.

### **Dialogue: What are you most proud of accomplishing through**

### **your pro bono work?**

**Greco:** The knowledge that I have used my legal training to relieve fellow human beings of suffering or hardship, and to see justice done.

### **Dialogue: What obstacles have you had to overcome to do pro bono work?**

**Greco:** Throughout my career, I have been fortunate to work in law firms that have valued and supported pro bono work. At the late, and great, firm of Hill & Barlow in Boston, I was encouraged to jump feet first into pro bono work as a young lawyer. My mentors helped give me the tools and the time to pursue my pro bono work, which continued throughout my tenure at the firm. When I joined Kirkpatrick & Lockhart Nicholson Graham in 2003, I was pleased to discover the same kind of environment and commitment to pro bono.

But even at the most pro bono-friendly law firms, lawyers face challenges in doing the amount and type of pro bono work they would like to do. The demands of the practice of law have increased exponentially over the course of my career, as the practice of law has evolved into more of a business. Reconciling billable hours demands with the desire and obligation to perform pro bono and public service work is a constant concern for me and many other lawyers.

### **Dialogue: How do you intend to promote pro bono and public service during your term as ABA president?**

**President Greco:** I am calling for a "Renaissance of Idealism" in the legal profession—a re-commitment to the noblest ideals that

have guided the practice of law since the founding of our nation. I want to help reinvigorate and reenergize this commitment to pro bono and public service work—and then nurture and expand it for generations of lawyers to come.

In order to realize this goal, lawyers must strike a balance in their lives and practices. The key to that balance is time—freeing up time for lawyers to perform public service and pro bono work—in law firms, in government offices, in any setting where a lawyer practices law.

I will commit the resources of the ABA to make the case with decision-makers in America's law offices that it is in the best interest of the lawyer, the lawyers' place of employment, the profession, and the American people, that we free up time. Time to help people in need, to participate more fully in our communities, and to give lawyers greater fulfillment in their professional lives. I believe that lawyers have no higher calling, and that our profession is ready and eager to expand its commitment to pro bono and public service work.

I have appointed the ABA Commission on the Renaissance of Idealism in the Legal Profession to help to implement this initiative. Led by honorary Co-Chairs Supreme Court Justice Ruth Bader Ginsburg and Theodore C. Sorensen, legal adviser to President John F. Kennedy, and Chair Mark D. Agrast, the commission will devise strategies for enhancing lawyers' pro bono and public service work.

**Marilyn Smith** is assistant counsel to the ABA Standing Committee on Pro Bono and Public Service.

## Pro Bono News

### Policy Update: Indiana

The Indiana Supreme Court recently amended Canon 4 of its Code of Judicial Conduct to clarify that support of pro bono legal services is an activity that relates to the improvement of the legal system and the administration of justice. The new rule, which will become effective January 1, 2006, states that a judge may engage in activities intended to encourage attorneys to perform pro bono services, including participating in recruitment and recognition events, scheduling accommodations, and advising pro bono programs. The text of the rule changes can be found online at [www.in.gov/judiciary/orders/rule-amendments/2005/jud-conduct-c4-070105.pdf](http://www.in.gov/judiciary/orders/rule-amendments/2005/jud-conduct-c4-070105.pdf)

### New Pro Bono Committee Members

The ABA Pro Bono Committee welcomes five new committee members:

**Rory FitzPatrick** is a partner at the law firm of Kirkpatrick & Lockhart Nicholson Graham LLP in Boston. He is responsible for complex litigation in diverse substantive areas and has been active in the ABA Section of Litigation.

**Josephine McNeil** is the executive director of Citizens for Affordable Housing in Newton Development Organization (CAN-DO) in Massachusetts. She is a past chair of the ABA Commission for Homelessness and Poverty.

**Ada Shen-Jaffe** has been involved in equal justice efforts in Washington State since 1975. She most recently served as the director of Columbia Legal Services and is a former member of the board of directors of the National Legal Aid and Defender Association.

**Suzanne Turner** is the pro bono partner at the law firm of Dechert LLP. She is based in London and is a former ABA Pro Bono Publico Award recipient.

**Ronald Ward** is a practicing plaintiff's attorney in Seattle and is completing his term as the president of the Washington State Bar Association. He is a member of the ABA House of Delegates.

### Tony Barash New Director of ABA Center for Pro Bono

The Pro Bono Committee is pleased to welcome Tony Barash as the new director of the Center for Pro Bono.

Barash graduated from the University of Chicago Law School in 1968. His legal career included private practice in Los Angeles as a transactional lawyer. In 1996, he left private practice to become senior vice president of corporate affairs and general counsel of Bowater Incorporated.

During his years of practice in California, Barash served on the boards of both the Beverly Hills and Los Angeles County Bar associations and then as president of the Beverly Hills Bar

Association. He also served as a board member and president of the Beverly Hills Bar Foundation. In addition, he served on the board and then as president of Public Counsel, one of the largest urban pro bono programs in the country.

Pro bono work has been an important part of Barash's professional life from the beginning. Following his tenure at Bowater, he spent 15 months in Uzbekistan leading an American Bar Association Central European and Eurasian Law Initiative (CEELI) judicial reform project. He worked with the country's judicial leadership and others to promote legislative and administrative initiatives to reform the judicial ethics regime, train and educate these constituencies in international standards of judicial ethics, encourage reforms to the judicial infrastructure, and advance the goal of judicial transparency and independence in Uzbekistan and Central Asia. He subsequently led a shorter CEELI trip to assess the status of judicial reform in Armenia.

On his return from Uzbekistan, Barash was appointed fellow-in-residence at the Richard W. Riley Institute of Government, Politics and Leadership at Furman University in Greenville, South Carolina. He also was named the first Riley Institute Scholar-in-Residence at Furman, where he taught a seminar entitled Democracy and the Rule of Law in Developing Nations.

## 2005 ABA Pro Bono Publico Awards

The ABA Standing Committee on Pro Bono and Public Service presented awards to five individual lawyers who have demonstrated outstanding commitment to volunteer legal services for the poor and disadvantaged. The recipients were honored at the Pro Bono Publico Awards Luncheon during the 2005 ABA Annual Meeting in Chicago. The keynote luncheon speaker was former Air Force Colonel Will Gunn, who served as chief defense counsel for the detainees held at the US Naval Base in Guantanamo Bay.

The Pro Bono Publico Award honors individual lawyers and small and large law firms, government attorney offices, corporate law departments, and other institutions in the legal profession that have enhanced the human dignity of others by improving or delivering volunteer legal services to the poor. Award recipients' commitment, energy and new approaches to the delivery of pro bono service serve as models for others in the legal profession. They are chosen for their longtime dedication to the delivery of pro bono legal services to the poor.

The Standing Committee on Pro Bono and Public Service was truly impressed with the Pro Bono Publico Award nominations received this year. The following five lawyers were recognized for their extraordinary contributions.

**J. Philip Burt** has demonstrated his dedication to the delivery of legal services on a pro bono basis on many levels. In Fort Wayne, Indiana, where he is a partner in the law firm of Burt, Blee, Dixon,



J. Philip Burt

Sutton & Bloom, Burt leads by example and represents numerous pro bono clients, mainly in consumer and bankruptcy areas. He has maintained three or four pro bono cases a year for at least 44 years. Long before there was an organized volunteer lawyer initiative in Fort Wayne, Burt helped to establish a pro bono assistance program through a local church. On a state level, Burt has been a member of the Indiana Pro Bono Commission since its creation in 1999 and has served as its chair since 2002. Prior to the creation of the commission, Burt was a key architect of the state's IOLTA program, which directs funds to statewide pro bono programs. The creation of the state's IOLTA rule assisted in the development of local pro bono districts to build a statewide pro bono infrastructure. In his role as chair, Burt has spearheaded many new initiatives, including a law school pro bono and mentoring project through the state Pro Bono Commission which brings together lawyers and law students from the four law schools in Indiana.



Deborah Ebel

**Deborah Ebel** is this year's Ann Liechty Child Custody Pro Bono Award

recipient. Ebel is the pro bono coordinator and a litigation partner at McKenna, Long & Aldridge in Atlanta. Ebel co-founded the Atlanta Volunteer Lawyers Foundation's (AVLF) guardian ad litem (GAL) program, the first of its kind in Georgia. Her law firm served as the program's initial sponsor, and supplied the first group of volunteers. Her firm remains the primary sponsor and regularly offers its offices and resources for GAL trainings. To date, the AVLF program has served as GAL in over 1,300 cases, and is a national model for programs advocating for children in private custody cases. Ebel herself has accepted almost 30 GAL cases through AVLF, a commitment which exceeds that of any other volunteer and which totals many thousands of pro bono hours. Since the program's inception, Ebel has regularly donated her time both in developing new materials for the GAL Training Manual and in training new volunteers. She has participated in over 20 GAL trainings and has traveled throughout Georgia to help other jurisdictions develop similar programs. Ebel also has improved the quality of GAL advocacy in Georgia, recently playing an invaluable role in developing statewide guidelines for GAL work.

**Lawrence J. Fox** is a partner at the Philadelphia law firm of Drinker, Biddle & Reath. Fox has served as the chair and a steering committee member for the ABA Death Penalty Representation Project continuously since 1996.

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## Pro Bono Award

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Lawrence J. Fox

In this capacity, he has recruited more than a dozen law firms to handle death penalty cases on a pro bono basis and has engaged both state and federal judges to host pro bono recruitment events. He has written and spoken extensively throughout the country on the critical need to provide defendants on death row with qualified and effective legal representation. In addition to his advocacy work, Fox has represented two death penalty clients himself and has been involved in many other cases as counsel for amici, strategic advisor, or both.

In other substantive matters, he has recorded over 650 pro bono hours on a class action lawsuit filed on behalf of public housing residents in Chester, Pennsylvania with the goal of rehabilitating and improving public housing. As a pro bono lawyer, he has taken on diverse issues such as child welfare, election law and the rights of prisoners held at Guantanamo Bay.



Elizabeth McCallum

**Elizabeth McCallum**, a partner at Howrey, Simon, Arnold & White's Washington, DC office, billed almost 800 pro bono hours in 2004, and more than

4000 since joining Howrey in 1995. She has worked to improve the lives of poor school children through her advocacy to ensure that students of the Baltimore City School District receive a "thorough and efficient education" as guaranteed under the Maryland Constitution. She has been instrumental in ensuring that public interest organizations advocating for the rights of the disabled have the right to sue state governments who are violating their rights to access. And, from the very beginning of her career in 1992, she has been a strong advocate for reproductive rights, including winning a significant victory in Tennessee. McCallum also volunteers at legal clinics and assists individual clients with their legal problems. She serves as a role model for the firm's lawyers and as a mentor for many of Howrey's associates.

**Jeffrey A. Simes** is a litigator and the pro bono partner in Goodwin Proctor's New York office. In 2004 he was the lead trial attorney in a class action lawsuit filed on behalf of homeless children and their



Jeffrey A. Simes

parents living in Suffolk County. The lawsuit alleged that state and county agencies and school districts had failed in their responsibility for educating and providing social services to these children. Simes led a team of 42 attorneys and professional staff from Goodwin Proctor's New York and Boston offices. The case settled, resulting in hundreds of homeless children in Suffolk County being given the support they need to attend school. Simes has continued his work on behalf of children's rights to education by joining New York City's Homeless Education Working Group and through speaking out and testifying about the critical issues facing homeless youth. His leadership by example, in addition to his promotion of pro bono within the firm, has been instrumental in Goodwin Proctor's increased firm-wide pro bono commitment.

## Program News from the Field

**Florida:** Gyl Pellissier, pro bono coordinator for Legal Aid of Broward County, resigned her position as of July 30, 2005.

**Michigan:** Jerome L. Reide has joined the State Bar of Michigan as director of the Justice Initiatives Division, where he will oversee and direct goals in policy, pro bono, equal access, technology and fundraising issues. Reide, a native of New York City, is a seasoned public interest executive. As coordinator of the ACLU's Access to Justice Project, he published a national study in 1987 on access to landlord tenant courts. He has worked for the NAACP in various capacities as deputy director of Field Operations, director of the Midwest Region and as Midwest Regional Development director for the NAACP Special Contribution Fund.

**New York:** The pro bono community was saddened to hear of the passing of Elizabeth Padilla, pro bono coordinator at the Brooklyn Bar Association. Padilla's dedication and work serving the disenfranchised will long be remembered and her presence will be missed.

## Scenes from the 2005 Equal Justice Conference



Conference Co-Chair Kelly Carmody (left) greets keynote speaker Molly Ivins.



Conference Co-Chair Mark Schickman (left) and past Co-Chair Randy Jones (right) with ABA Division for Legal Services Director Terry Brooks and Pro Bono Committee Counsel Steve Scudder.



Immediate Past ABA President Robert J. Grey, Jr. (left) presented Marla Elliott (second from left), coordinator of statewide pro bono support for Columbia Legal Services, with NAPBPro's Pro Bono Professional of the Year award. Judy Whitelock, executive director of the Volunteer Lawyer Program of Northeast Indiana (right) presented ABA Pro Bono Committee Chair Debbie Segal (second from right) with the William Reece Smith, Jr. Special Services to Pro Bono Award.

The 2005 Equal Justice Conference attracted more than 750 attendees to Austin, marking the event's largest attendance since 2000. The great food, music and culture of Austin surely generated excitement. But also significant was the dynamic programming and important theme of "Celebrating the Pro Bono and Legal Service Partnership" that was woven throughout the conference.

Jointly sponsored by the ABA and the National Legal Aid and Defender Association, the Equal Justice Conference is the largest conference in the country focused on the civil legal needs of the poor. The 2005 conference highlighted keynote speakers such as syndicated columnist Molly Ivins, domestic violence advocate Sarah Buel, and ABA President Robert J. Grey, Jr.

The conference provided a forum for members of the private bar, law school leaders, corporate counsel, judges, and other stakeholders in the delivery of legal services to the poor could come to learn from each other and with the legal services and pro bono communities. The 2005 conference attracted 69 law school representatives, a huge increase from 2004.



Networking sessions offered the chance to talk with colleagues from across the country, and rank among the most popular conference events.

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## From the Chair...



by Hon. Lora J. Livingston  
Chair of the Standing Committee  
on the Delivery of Legal Services

Has our culture gotten in our way? That's a question we need to explore as we look at ways to expand access to legal services. Four years ago, the Delivery Committee held a public hearing to assess reasons why, in the face of an increasing population of lawyers and dramatic advances in the use of technology, we continue to have unmet legal needs for both low- and moderate-income populations. One of the consistent themes that emerged from the hearing testimony was that legal needs must be viewed on a continuum.

At one end of the continuum we have people who have simple legal matters with limited consequences. Many of these people have the personal resources to do their own legal work. They are the pro se litigants in traffic or small claims court. They are the divorce litigants with a short marriage, no children and few assets. They are the grandparents who have raised their abandoned grandchildren and need to be appointed guardians. In many circumstances they need a little help, but are not able to hire a full-service lawyer.

Yet the rules that we have established to govern lawyers have created something of an "either-or" circumstance. People are either fully represented or the

lawyer has no role in providing them assistance. What we are prepared to offer frequently is not what our customers want to buy. As a result, more and more people are turning to alternative resources for legal services, such as document preparation services. But lawyers can recapture this marketplace of pro se litigants who need some, but not full, services if they are willing and able to provide limited scope representation, commonly referred to as "unbundled" legal services.

Despite the demand for unbundled legal services, we frequently hear that lawyers are not prepared to offer them because of their concerns that unbundling is somehow unethical. The Delivery Committee has examined this issue in some detail. While very few jurisdictions conclude that lawyers may not offer a limited scope of services, both rules of ethics and rules of procedure are sometimes set out in ways that muddy the waters. What are the responsibilities of lawyers to notify opposing counsel when assisting a pro se litigant? What are their obligations to disclose their representation when preparing documents for an otherwise self-represented person? How can a lawyer appear in court on a specific issue without going through the time-consuming process of a formal withdrawal?

We have examined the ways that various states have addressed these types of issues and compiled the results in a white paper titled *An Analysis of Rules that Enable Lawyers to Serve Pro Se Litigants*, posted at [www.abalegalservices.org/downloads/delivery/prosewhitepaperfeb2005.pdf](http://www.abalegalservices.org/downloads/delivery/prosewhitepaperfeb2005.pdf).

The paper is designed to help state-level policy makers consider the various issues.

The committee believes that a comprehensive assessment of state rules often will lead to the conclusion that policy changes need to be addressed before we can maximize the contributions of lawyers serving those of moderate income in the marketplace. But we can move our culture to one that is responsive to the needs and wants of consumers. We can embrace the continuum of legal needs and in this way become a necessary force in the quest to improve access to justice.

The Delivery Committee is interested in working with state leaders who are dedicated to advancing this analysis. If you are interested in technical assistance beyond that provided by the white paper, please contact me at [lora.livingston@co.travis.tx.us](mailto:lora.livingston@co.travis.tx.us).

### Brown Award Nominations Encouraged

If you are involved with a program or project that is expanding access to justice for people of moderate means, consider submitting a nomination for the 2006 Louis M. Brown Award for Legal Access, [www.abalegalservices.org/delivery/brown.html](http://www.abalegalservices.org/delivery/brown.html).

The award honors those who provide methods to meet the otherwise unmet legal needs of those of moderate and middle income in innovative ways. In the past, the committee has recognized hotlines, technology-based services, collaborations and even a coffee house that serves "java and justice."

The committee will receive nominations through December 5, 2005, and present the award at the ABA Midyear Meeting in Chicago on February 10, 2006. For more information, contact Will Hornsby at [whornsby@staff.abanet.org](mailto:whornsby@staff.abanet.org) or 312/988-5761.

## From the Chair...



by Joanne M. Garvey  
Chair of the ABA Commission  
on IOLTA

I am pleased to write you as the new chair of the Commission on IOLTA. I have had the privilege of serving as a member of the Commission for the past two years under the inspired leadership of Darrell Jordan. I am proud of the Commission's support for access to justice. Like the IOLTA programs that operate in 52 jurisdictions throughout the United States, the Commission is focused on making the provision of legal aid to low-income people a reality everyday. IOLTA is a vital cog in this country's systems for funding legal aid — it provided nearly \$109 million dollars for this purpose in 2004.

Hurricane Katrina, Hurricane Rita and their legacy will test the systems in heretofore unimagined ways. The needs of the thousands of people displaced by the storms are placing new strains on already overburdened legal service providers, not just in Louisiana, Mississippi and Texas but also in the numerous states to which the evacuees have been dispersed and the other states, such as Alabama and Florida, that have also sustained substantial damage.

Beyond the physical damage

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## IOLTA Grantee Spotlight: University of Wyoming Legal Services Program and Domestic Violence Legal Assistance Project

by Leigh Anne G. Manlove

Imagine how hard it would be to get legal help if you had limited resources and lived in a state that covered nearly 100,000 square miles with fewer than 20 legal aid attorneys. For the 55,000 extremely low-income residents who call Wyoming home, geographic barriers are one of the hurdles they must jump.

The Legal Services Program (UWLSP) and its partner clinic, the Domestic Violence Legal Assistance Project (DVLAP) are two organizations that are working to overcome these obstacles. Both are live-client clinics in which third-year law students provide legal representation to low-income Wyomingites with civil legal problems that do not generate fees.

The clinics' caseloads consist of juvenile matters (child abuse and neglect cases and cases involving children in need of supervision), domestic relations (mainly divorces and custody disputes), appeals involving the denial of government benefits (such as Social Security disability benefits, Medicare, and Section 8 housing benefits), and other miscellaneous matters. The DVLAP students primarily handle domestic relations cases, protection order and stalking order matters, as well as certain immigration issues for victims and their children. Students also represent inmates at the Wyoming State Penitentiary and the Wyoming Women's Center on civil matters.

### IOLTA support for expanded services

UWLSP has been in existence for about 30 years. Much of the funding

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Students participating in the two clinics provide legal representation while building their skills.

## From the Chair...

(continued from page 21)

to its office, the Louisiana IOLTA program is likely to take a direct hit: Approximately one-third of the Louisiana bar is based in New Orleans, and without lawyers engaged in practice, the flow of funds through interest on lawyer trust accounts may slow drastically. Similarly, the economic havoc in Mississippi and other states may adversely affect funding until people can resume ordinary life. This fiscal and economic turmoil may have an impact across the nation as well. Steep increases in the price of gasoline, heating oil and natural gas will make this a difficult winter for low-income people everywhere and may generate even deeper demand for legal services. The overall direction of the economy—and the resulting consequences for IOLTA programs and grantees—is uncertain.

Our IOLTA, bar and legal services colleagues in Louisiana and Mississippi will continue to struggle in the wake of Hurricane Katrina. I urge you to support them in the coming months as they embark on the enormous task of rebuilding while contending with the legal needs of countless victims. The ABA has created a Web site related to its response to the disaster. Please visit [www.abanet.org/katrina](http://www.abanet.org/katrina) and consider what you can contribute to the relief effort financially or as a volunteer.

In spite of these events, this is a time of opportunity for IOLTA. The legal challenges that threatened us earlier this decade have dissipated. More importantly

perhaps, the art/science of managing IOLTA is maturing and programs have an expanding menu of revenue enhancement strategies and other improvements to pursue. The concept of converting to mandatory IOLTA has taken wing, with four programs converting since the beginning of 2004. The collective “brain trust” of the IOLTA community has identified creative new approaches to increasing bank yields in IOLTA accounts. In many states legislatures and other governmental bodies are displaying a new willingness to recognize the importance of legal aid and to provide new funding and support of it.

The Commission plays a unique role in this. The Commission educates and fosters support for IOLTA on a national level, both among members of the bar and among the many other stake holders who value equal justice. In close cooperation and collaboration with the National Association of IOLTA Programs the Commission also provides vital educational, technical and strategic support to state IOLTA programs throughout this country. The Commission’s work extends beyond these activities, but to me, these encapsulate the essence of the Commission and the possibilities for continuing our accomplishments over the coming years.

Major vehicles for supporting the IOLTA community are the semi-annual IOLTA workshops, co-sponsored by the Commission and NAIP. Held during the ABA Annual and Midyear meetings, the IOLTA workshops provide two days of formal programming, discussion sessions and informal

forums for IOLTA programming executives, staff members and trustees. They are the only event of their kind for IOLTA programs and they are indispensable to the IOLTA community.

I had the pleasure of participating in the recent summer IOLTA workshops in Chicago. Once again I was impressed with the level of enthusiasm and knowledge on display. Anyone associated with IOLTA can tell you that operating a program is an endless struggle against financial, political and practical challenges. The need for reinvention and reinvigoration is ever present and the workshops provide a vital occasion for IOLTA programs to do so.

The foremost priority of the Commission will be to help programs to make the most of this time of opportunity. Bountiful resources to assist individual programs already exist: the Commission’s membership, the Commission’s staff, the joint committees sponsored by the Commission and NAIP and the IOLTA Clearinghouse. These resources exist for you. Please do not hesitate to ask for help. Contact the Commission staff for more information about how they can assist you. Commission Counsel Bev Groudine can be reached at 312-988-5771 or [bgroudine@staff.abanet.org](mailto:bgroudine@staff.abanet.org). You can reach Assistant Counsel David Holtermann at 312-988-5744 or [holtermd@staff.abanet.org](mailto:holtermd@staff.abanet.org).

I am delighted to have the opportunity to serve the ABA, the Commission and the IOLTA community as your new Commission chair. I look forward to working with all of you.

## Wyoming

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for UWLSP comes directly from the University of Wyoming College of Law. In recent years, however, UWLSP has been able to expand its services and service area largely with support from the Wyoming State Bar Foundation, which administers Wyoming's IOLTA program. An example of the expansion is the DVLAP. The DVLAP was opened during the summer of 2002 and represents a collaboration between the Wyoming Coalition Against Domestic Violence and Sexual Assault, the College of Law and the Wyoming State Bar Foundation. The DVLAP receives the majority of its funding through a Department of Justice Office on Violence Against Women Legal Assistance to Victims Grant, in addition to the generous funding from Wyoming's IOLTA program via the bar foundation.

UWLSP offers third-year law students the opportunity to step out of the classroom and into the real world of practicing law as student interns, putting to use the substantive law they've learned during their first two years of law school, and learning the skills lawyers need to represent clients. Pursuant to a rule of the Wyoming Supreme Court, student interns are allowed to practice law under the supervision of the clinic's faculty director, performing all the tasks of lawyers.

With supervision, student interns are allowed to interview and counsel clients; draft and prepare pleadings, settlement agreements and legal memoranda; negotiate with lawyers who represent adverse parties; represent clients at depositions;



*The clinics foster an ongoing commitment to equal justice among participating students, which can fuel their interest in performing pro bono work after graduating from law school and entering the practice of law.*

prepare for, appear at, and conduct trials and administrative hearings; and represent clients on appeals. They work with county prosecutors, Department of Family Services social workers, mental health professionals, child support enforcement officers and advocates for battered women and children. They appear regularly in state district and circuit courts, and before federal administrative law judges and state hearing officers. When necessary, students appear in the Wyoming Supreme Court, federal district court, and the United States Court of Appeals for the Tenth Circuit.

Both clinics also involve a classroom component of eight two-hour training sessions. Training sessions include developing client counselling skills, representing victims of abuse, clients with disabilities, clients with substance abuse problems, cultural awareness, understanding civil practice in Wyoming's district and circuit courts, and representing clients in juvenile court matters. Training is also provided to attorneys who serve as guardians ad litem in juvenile cases.

### Overcoming rural challenge

Wyoming is a federally designated rural state where less than 500,000 people inhabit its vast land mass.

One of the resulting difficulties facing the clinics is that their location in the southeast corner of the state means they are located far from many prospective clients. In order to reach the broadest service area possible, clinic students have begun to partner with lawyers in local communities around the state.

Under the partnerships, the clinic students and their supervisor enter an appearance and agree to perform as much work as possible from their location in Laramie, including maintaining primary client contact, performing legal research, drafting legal documents, negotiating with the other party's lawyer, and making court appearances either by telephone or travelling to where the case is filed, if practicable. The lawyer, who is often a former clinic student, agrees to act as back-up and make any required in-person court appearances that the student cannot make. The system has worked well, and students from both clinics have provided representation throughout the state, enabling the students to practice in front of several different judges.

In one recent case, for example, a student in the domestic violence clinic in Laramie provided over 100 hours of assistance in a case

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## IOLTA News and Notes

### New Commission Members

As it begins the 2005-2006 bar year, the Commission on IOLTA welcomes new members **Barbara Yanow Johnson, Michael Pellicciotti** and **Marjorie O'Reilly**.

**Barbara Yanow Johnson** of Santa Monica, California comes to the Commission with a wealth of experience in legal aid and issues related to the delivery of legal services. A "Reggie" fellow, she served on the original staff of the Office of Economic Opportunity Legal Services program and worked as a legal services lawyer. She later served as president of the National Senior Citizens Law Center and the Legal Aid Foundation of Los Angeles. She currently serves as a member of the State Bar of California Legal Services Trust Fund Commission, the state's IOLTA program. A graduate of St. John's University School of Law, Johnson's current practice is concentrated on independent fact-finding and consulting on labor, employment and employment discrimination issues. In



Barbara Yanow Johnson Michael Pellicciotti

addition to state and local bar activities, Johnson has been active within the ABA, most recently as a member of the ABA Standing Committee on Lawyer Referral and Information Service.

**Michael Pellicciotti** joins the Commission from Seattle, where he is a deputy prosecuting attorney for King County. He holds multiple leadership positions in the ABA Young Lawyers Division and is a former member of the ABA House of Delegates. His appreciation for IOLTA began in law school, when he served as the chair of the ABA Law Student Division, worked significantly on loan repayment issues, and interned with a legal services firm. Before

attending Gonzaga Law School, Pellicciotti was a U.S. Fulbright Scholar to Canada, where he received a master's degree in rural economic development.

**Marjorie O'Reilly** joins the Commission from Newton, Massachusetts, where she is in private practice providing dispute resolution services in legal, organizational, family and community conflicts. O'Reilly currently serves on the board of the Massachusetts IOLTA Committee. She is active in the ABA Section of Dispute Resolution and has participated in state and local bar associations, including serving as president of the Massachusetts Black Women Attorneys. O'Reilly graduated from Boston College School of Law after previous experience in the Peace Corp, in education, and in child care-related nonprofit organizations. Her legal experience also includes employment law advocacy and service as an administrative law judge for the Labor Relations Commission.

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## Wyoming

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filed in northeastern Wyoming, several hundred miles away. The case eventually settled and the lawyers in the other city never had to make any court appearances.

The keys to the success of UWLSP and the DVLAP in broadening their services and service area have been (1) the cooperation of lawyers throughout the state, (2) financial assis-

tance from Wyoming State Bar Foundation to pay for significant increases in telephone and mailing charges and travel expenses, and (3) the commitment on behalf of the clinic supervisors, supporters and, most of all, the dedication of the students working on behalf of Wyoming's low income population.

The Wyoming State Bar Foundation board of directors, in fully funding the clinical programs' grant applications, has been impressed with the high quality of representation provided by the student attor-

neys. Of great importance to the board has been those students' ongoing commitment to the provision of legal services for the poor as they become admitted to the bar. In addition to supporting direct services to clients, the IOLTA grants are viewed as long-term investments in the infrastructure of the private bar's capacity to provide pro bono legal representation.

**Leigh Anne G. Manlove** is the executive director of the Wyoming State Bar Foundation.

# Growing Funding for Legal Aid: How Collaborative Stewardship Cultivates New Opportunities

by Calien Lewis

What follows is the brief tale of how one IOLTA program participated in a major fundraising success. It is offered as an exemplar of what can be done to help increase revenues for legal aid through the combination of cooperative effort and a modest allocation of financial resources. It is a story about how the Maine Bar Foundation assisted in trebling annual giving for legal aid and in laying the groundwork for a successful legislative campaign.

The Maine Bar Foundation (MBF) is a moderately sized bar foundation and IOLTA program. Founded in 1983 during the first wave of IOLTA program creation, the MBF had built a small endowment and realized an annual IOLTA income of \$1.2 million by 2003, the year the story begins.

## History of collaboration

It should be noted that Maine's legal aid providers have worked collegially for some years, due in part to the foundation's urging of unified proposals for allocation of annual IOLTA grants and its distinct bias in supporting collaborative projects. The MBF has long engaged in efforts to stretch Maine's limited resources across long distances by using small grants to pay for joint trainings and strategic planning sessions. The Fall Forum on the Future of Legal Services I and II, held in 1995 and 1996, were two such projects. From these came the Justice Action Group (JAG), an ad hoc volunteer organization

to address legal needs in Maine. It was subsequently reorganized to serve as Maine's state planning entity.

By the late 1990s, as a result of the Fall Forum and JAG efforts and supported by grants from the foundation, several new entities had been created to replace services lost to congressional restrictions on the use of Legal Services Corporation funds. These included Maine Equal Justice Partners, providing impact litigation services and issue advocacy, and the Immigrant Legal Advocacy Project.<sup>1</sup> JAG leadership also had resulted in state funding for a Civil Legal Services Fund, with monies from filing fees and surcharges on certain civil violations going to support specified legal aid agencies.

Still as the new century dawned, resources to assist poor and disadvantaged Mainers with legal issues lagged behind in increasing need; a story familiar to the legal services community nationwide. As one-by-one, Maine's six primary legal aid providers saw deficits grow, the call went out to the JAG to assist in finding ways to close the gap.<sup>2</sup>

## Looking for resources

In response, the JAG convened the Resource Development Retreat in May 2003. For this daylong effort, the foundation provided funding for a consultant, a hosted lunch, data from its own annual fundraising efforts, and plenty of encouragement for

participants to share sensitive data with the consultant, among other providers, and with invited guests who represented the private bar and provider boards.

With the assistance of Robert Echols of SPAN (now the ABA/NLADA Access to Justice Support Project) and consultant Meredith McBurney of the ABA Project to Enhance Resources for Legal Services, a careful analysis of the current funding sources and comparisons with other states was prepared before the retreat. This information and the ensuing discussions during the course of the day made it clear that Maine's IOLTA program and the providers' collective grants incomes ranked high among national efforts. Potential areas for improvement, however, also became obvious: individual giving by the private bar and legislative support.

Private bar efforts were in effect at that time. Five of the six legal aid projects had annual fundraising projects aimed at the private bar, most consisting of a single yearly mailing to attorneys. Five providers worked together on a single spring fundraising event (a dinner "pitched" to the business community) and the foundation had just launched a planned giving campaign. Nonetheless, in 2002 less than 16 percent of the private bar contributed to the combined provider annual giving projects, with an average gift of \$147, or \$78,000 total.

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## Growing funding

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### Moving forward

The retreat ended with those present volunteering to participate in ongoing work. The idea of a joint annual fundraising campaign was on the table and having heard how other states had structured campaigns that appeared to be successful, many believed that Maine could join their ranks. Volunteers signed on to continue planning for a legislative initiative and a private bar giving campaign. (It already seemed clear that a successful private bar campaign would be crucial to a legislative effort).

The MBF leaders attending the retreat left convinced that a joint annual fundraising effort was both “doable” and inevitable, but were convinced that the providers needed to make independent decisions to participate. Realizing that it could not coerce participation, the MBF determined to offer support to the venture nonetheless. Staff collected and disseminated articles and data, the foundation served as fiscal agent for a grant to the JAG from the Libra Foundation to underwrite the acquisition of development software and to provide initial staffing, and the foundation offered to advance money to cover other start-up costs. Members of the MBF staff and board met with provider staff and board members to support the idea. The MBF also offered to provide a “home” for the campaign within its organizational status, to reduce overhead.

### Delicate organizational issues

This last offer proved to be the

*The MBF leaders attending the retreat left convinced that a joint annual fundraising effort was both “doable” and inevitable.*

most important and most controversial of the foundation’s efforts for the campaign. Since the JAG was not a separate legal entity and the future of the campaign was uncertain, many felt that creating a new nonprofit entity would result in considerable expense to the project. On the other hand, control over the process was critical to obtaining provider “buy-in” to the concept. If they were to share sensitive contributor data and provide valuable volunteer and staff resources **and** foreswear individual solicitation efforts, the providers had to be sure that their interests were at the heart of the campaign. Since the MBF had a history of taking a broad view of legal needs and resource allocation independent of the provider community, some decision-making firewall needed to be built between the MBF board and the campaign.

The disparities of influence and relative “power” in negotiations required a careful approach to crafting a joint fundraising agreement among the providers and developing an operational agreement with the MBF. This operational agreement provided for an independent steering committee to oversee the campaign and its expenditures, with campaign staff reporting to the

steering committee and the campaign chair. The MBF provided support services and fund management and accounting services at a minimal cost to the campaign.

As these negotiations were underway, volunteers from the retreat moved forward on aspects of the campaign ranging from the development of public relations materials to the recruiting of co-chairs for the effort and attorneys willing to solicit contributions.<sup>3</sup> The legal aid community prepared to open the campaign, slated to kick off in January 2004.

### Success, and new objectives

This brief overview cannot capture the long hours and passionate work that went into readying the Campaign for Justice for its official launch at the Maine State Bar Association Annual Meeting in January 2004. Nor can it do justice to the persuasive powers of the campaign’s believers as they worked with provider boards and volunteers to craft the critical agreements which covered staffing, decision-making processes and distribution of funds, but these few numbers should give some idea of the success of the project in its initial year: during the 2004 Campaign for Justice, 978 members of the bench and bar (approximately one-third of the state’s judicial and attorney population) contributed \$252,000; average gifts more than doubled.

As impressive as this result was, the legal aid community was not content to “take a break.” In the summer of 2004, as the campaign wound down, legislative efforts began, led by the JAG and supported by the foundation and the bar association. An

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## Growing funding

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effective informational project was launched in the legislature, placing legal aid clients and their stories front and center in legislative hearings. But it was clear that legislators were impressed by the collective efforts of the bench and bar to raise funds for legal aid. As a result, during a year of severe budget cuts, the legislature ultimately supported increases in surcharges on certain civil fines to be paid into the Civil Legal Services Fund. These increases are likely to amount to an additional \$300,000 in the coming year rising to roughly \$580,000 in 2007-2008. The successful individual-giving campaign significantly improved the legislative climate for legal aid funding and leveraged govern-

mental support by demonstrating public concern and action.

Even as the 2004-2005 legislature deliberated, the second year of the Campaign for Justice was underway. Although not yet concluded, the 2005 Campaign for Justice has raised over \$300,000 to date, with over 1,000 attorneys and judges contributing.

The Maine Bar Foundation cannot take credit for these remarkable financial successes. But its story does offer insight into how a program, through judicious use of limited funds and coordination of volunteer efforts, can be a catalyst for expanding resources for legal aid.

### Endnotes

<sup>1</sup> In 2003, the Prisoner's Assistance Clinic was begun at the Cumberland Legal Aid Clinic to assist prisoners with civil legal cases. Funding was again sup-

plied by the MBF. This project "completes" the restoration of services once supported by the Legal Service Corporation.

<sup>2</sup> The six agencies are: Pine Tree Legal Assistance, Maine's statewide LSC entity; the Volunteer Lawyers Project, a joint effort of Pine Tree and the foundation; Legal Services for the Elderly; Cumberland Legal Aid Clinic, the clinical program of the University of Maine School of Law; Maine Equal Justice Project; and the Immigrant Legal Advocacy Project

<sup>3</sup> Former Bar Foundation President Mary Schendel chaired the Planning Committee. Prominent attorney Merton Henry and former judge Harriet Henry served as honorary co-chairs of the first campaign. Over 80 members of the bench and bar volunteered to assist.

**Calien Lewis** is the executive director of the Maine Bar Foundation.

## IOLTA News

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### New Directors in District of Columbia and Wisconsin

Earlier this year **Katia Garrett** and **De Ette Tomlinson** assumed the executive director positions at the District of Columbia Bar Foundation and the Wisconsin Trust Accounts Foundation, respectively.

Prior to becoming executive director of the D.C. Bar Foundation in July 2005, Garrett was a mediator and consultant specializing in civil rights and employment issues in the public and private sector. She continues to serve as an adjunct professor of mediation and to mediate disputes. Garrett served as chief of



Katia Garrett

De Ette Tomlinson

staff for the United States Department of Justice Office of Policy Development during President Clinton's second term, and served as the first executive director of the D.C. Circuit Task Force on Gender, Race, and Ethnic Bias. She has chaired or served on various local non-profit boards and committees focused on public interest and pro bono legal services. Garrett is a graduate of

Vassar College and George Washington University Law School.

Tomlinson became executive director of the Wisconsin Trust Account Foundation in June, after serving as the foundation's associate director since 1999. She has an extensive nonprofit management and governance background, most recently serving as vice president of the Madison Equal Opportunity Commission and as the primary financial officer for the Wisconsin Coordinating Council on Nicaragua's international micro credit loan program. Prior to that, she served as executive director of another Wisconsin nonprofit and chaired several Madison-area nonprofit boards. Tomlinson graduated from the University of Wisconsin.

# Responding to the Crisis: ABA and Others Aid Hurricane Relief Effort

Along with many others, the American Bar Association responded quickly to Hurricane Katrina and then Hurricane Rita. Even as the destruction and displacement on the Louisiana and Mississippi coastlines and in New Orleans was being revealed, the ABA launched a Web site devoted to its relief effort. The site, at [www.abanet.org/katrina](http://www.abanet.org/katrina) contains contact information and other resources regarding the many law-related issues created by Hurricane Katrina. These include legal information for victims of the storm, a registration portal for volunteer lawyers seeking to help in relief efforts, and a mechanism for lawyers and firms willing to donate office space and other assistance to displaced lawyers.



The site also contains a list of appropriate organizations and charitable funds for those who want to donate to legal aid agencies affected by the hurricane.

The ABA is also co-sponsor of the Katrina Legal Aid Resource Center, along with the Legal Services Corporation, the

National Legal Aid and Defender Association, and Pro Bono Net. The center's Web site at [www.katrinalegalaid.org](http://www.katrinalegalaid.org) is tailored to serve as a clearinghouse of legal aid, pro bono and public defender information for people affected by the hurricanes and for lawyers and advocates who are providing assistance.

At the end of October, approximately 1800 lawyers had volunteered to assist hurricane victims through the ABA's Katrina Web site. Efforts by local legal aid and bar organizations to utilize these volunteers in the affected areas are ongoing.

Please visit [www.abanet.org/katrina](http://www.abanet.org/katrina) and [www.katrinalegalaid.org](http://www.katrinalegalaid.org) to learn more.

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