



# Dialogue

WINTER 1999, VOL. 3 NO. 1

DIVISION FOR LEGAL SERVICES

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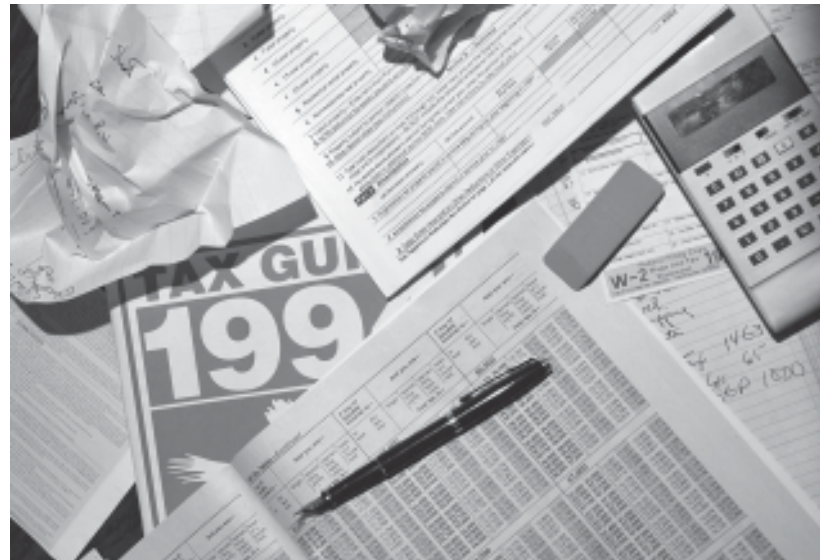
Friends and colleagues remember the life and work of civil legal services champion Lynn Sterman . . . . . 23

## Tax Refund Too Large?

by MAJ Rick Rousseau

**Editor's note:** over 700 active and reserve component military and civilian legal assistance providers around the world assist thousands of clients annually by preparing wills and powers of attorney, filing income tax returns, notarizing documents, and handling other personal legal matters. These free services save clients millions of dollars. In 1997 alone, the value of these services surpassed \$100,000,000.

Every year at about this time, the services gear up an electronic tax return filing program to help eligible clients file tax returns electronically at substantial savings. Last year, the services had their most successful electronic tax-filing season. Legal assistance personnel (and volunteers who helped them) electronically filed more than 375,000 federal tax returns from over 430 sites around the world. This free service saved almost \$34,000,000 in filing and preparation costs. According to the Internal Revenue



Service, the military is the third largest electronic filer of federal income tax returns. Electronic filing services speed up tax refunds. Of course, with a little planning during the tax filing season, legal assistance providers can help reduce the size of those refunds for clients by assisting the client revise the W4 as Major Rousseau's article explains.

Would you rather have more money each month than get a big refund in March or April

next year? If so, you can do something about it now or when you file your 1998 federal tax return.

Annually, most taxpayers hope for a large tax refund. Despite the "thrill" of receiving a large tax refund, you may have had too much withheld from your monthly pay. This means that you can have more money monthly by revising your withholding allowances on an Internal Revenue Service (IRS) Form W-4. Of course, this means that your refund may be smaller too. Remember, however, a large refund is the same as giving Uncle Sam an interest free loan for twelve to

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## DIALOGUE

Published by the  
American Bar Association  
DIVISION FOR LEGAL SERVICES

*Dialogue* is a quarterly magazine serving as an exchange of information on the funding and delivery of legal services, offering timely, relevant and pro-active articles, developments and emerging issues from the ABA Standing Committee on Pro Bono and Public Service, Standing Committee on Lawyer Referral and Information Service, Standing Committee on Legal Aid and Indigent Defendants, Standing Committee on Legal Assistance for Military Personnel, and the Commission on IOLTA.

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Division for Legal Services' web address:  
<http://www.abanet.org/legalserv/home.html>

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## Taxes

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eighteen months.

For tax year 1997, the average federal income tax refund was \$1,325. The IRS anticipates that federal tax refunds for tax year 1998 will be higher for many taxpayers due to new tax credits, in particular the new child tax credit, and to a lesser extent, from two new higher education tax credits. Tax credits reduce, dollar-for-dollar, the amount of tax owed. For many military taxpayers, the new child tax credit will lower taxes and increase refunds. Similarly, some military families will benefit from the new higher education tax credits. Military members who do not adjust their withholding allowances may find a larger than necessary refund.

For 1998, the new child tax credit is \$400 for each eligible dependent under the age of 17. Next year, this credit increases to \$500 per eligible child. The child tax credit phases out for higher income taxpayers, but the phase out affects only a few military taxpayers. The child tax credit can reduce a taxpayer's income tax to zero and can, in a few cases, result in a refund. For example, military taxpayers with three or more qualifying children or who claim the earned income tax credit may see a refund as part of this credit. As with dependency exemptions, the taxpayer must include the child's name and social security number on the return to claim the credit.

There are two new higher education tax credits for 1998. The Hope scholarship and the Lifetime learning credits are both based on qualified tuition and related fees paid for the taxpayer, spouse, or an eligible dependent. The taxpayer should be careful

to reduce qualified tuition and related expenses by scholarships, Pell grants, employer-provided educational assistance, and other tax-free payments. The student must be enrolled for at least one academic period (semester, trimester, or quarter) at an eligible educational institution during the year. For each eligible student, a taxpayer may claim only one of the education credits in a single tax year. The higher education credits phase out for some taxpayers. In addition, if a student receives a tax free distribution from an education Individual Retirement Account (IRA) in a particular tax year, none of the student's expenses can be used as the basis of a higher education tax credit for that year.

The Hope credit is available for only the first two years of post-secondary education. Taxpayers may elect a personal, nonrefundable tax credit equal to 100 percent of the first \$1,000 of qualified higher-education tuition and related expenses paid during the tax year for education furnished to an eligible student, plus half of the next \$1,000. The maximum credit is \$1,500 a year for each eligible student. The Hope credit applies to payments made after 1997 for academic periods beginning after that year.

The Lifetime learning credit, which applies to expenses paid after June 30, 1998, is available for any level of higher education. The credit is 20 percent of up to \$5,000 of qualified tuition and related expenses paid during the tax year with a maximum credit of \$1,000 per year. The Lifetime learning credit differs from the Hope credit in that it covers a broader period and range of educational courses. Whereas the Hope credit applies only to the first two years of post

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## From the Chair...



by Leonard L. Loeb  
Chair of the ABA Standing  
Committee on Legal Assistance  
for Military Personnel

The beginning of a year is always a good time to take stock of activities, and this column is such an endeavor. Our goal is to give you an overview of the ongoing issues and projects that the LAMP Committee addresses and provide a glimpse at our plans for the future.

**Outstanding Legal Assistance Student Award.** The ABA Board of Governors recently approved the sponsorship of an Outstanding Legal Assistance Award in each Basic Legal Assistance Class held at each of the Judge Advocate General Schools. This is a long overdue acknowledgement of the scholarship expected of students, with special recognition for exemplary participation by one student. We presented the first award during ceremonies at the Naval Justice School in December. The names of students who win this award will be displayed on a plaque at each of the schools and published annually in the *Dialogue*.

**The Lamplighter—Internet Purple Crossroads.** As reported in my previous column, the Committee, through the talents of Kevin P. Flood, LAMP Committee member and managing attorney of NLSO

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## Office in the Spotlight

### Legal Assistance at XVIII Airborne Corps and Fort Bragg and the 82nd Airborne Division

by Bryan S. Spencer

The Standing Committee on Legal Assistance for Military Personnel visited Fort Bragg, North Carolina, “The Home of the Airborne and Special Operations Soldier,” on November 19-20, 1998.

Our visit to the Legal Assistance Office of XVIII Airborne Corps was unusual, but then again, many things are different at Fort Bragg—and usually for good reason. During our visit, for example, the legal assistance offices were completely empty, except for the LAMP committee members and our escort officer, LTC Mark E. Henderson, the Corps Deputy Staff Judge Advocate.

There were two reasons for the vacancy. First, several legal assistance officers and legal clerks were attending the LAMP committee’s two-day continuing legal education program (CLE), moderated by Major Stephen Stokes, the Corps Legal Assistance Officer. Second, those who were not at the CLE were participating in CPT Jose Rojas’ legal assistance team at the Soldier Readiness Center, which happened to be in a Troop Medical Clinic this time. Team members prepared wills, powers of attorney and provided emergency legal advice to thousands of soldiers who were about to be deployed on very short notice to provide hurricane relief to both people and infrastructure in Honduras and El Salvador.

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At the Soldier Readiness Center, CAPT Jayne Ann Skryowski (left) and CAPT George Carter (right) process wills and powers of attorney for SGT Lywanda L. Lee from the 189th Maintenance Battalion.



## Spotlight

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The Center, which operates from 6:00 a.m. to 8:00 p.m., provided services to over 500 soldiers the day that we were there. Of course, that is not counting the one legal assistance officer in Haiti and two Corps Judge Advocates already in Central America with the Bragg troops, who also give legal assistance. But as CPT Rojas said, "It's just another normal day for a legal assistance officer at Fort Bragg. At least we are not out on the flight line with our laptops and portable printers doing this as the soldiers wait to board the plane for wherever they are being deployed, which does happen sometimes".

With over 40,000 soldiers, Fort Bragg has witnessed several recent marriages and divorces. In addition, several soldiers simply need legal advice on matters that they have put off. According to COL Waldo (Chip) Brooks, Staff Judge Advocate at XVIII Corps and Fort Bragg, the operational tempo at Bragg is the fastest of any post in the Army. Bragg must have its soldiers administratively and militarily prepared to deploy anywhere in the world on 18 hours notice, to fight, keep the peace, or provide humanitarian assistance.

In addition to Major Stokes, the Chief, the legal assistance office has five attorneys, one civilian paralegal, two NCOs and one enlisted legal clerk to attend to the normal legal assistance workload.

The staff routinely provides pro se legal support for school custody petitions (to allow minor children to enroll in the local schools),



*Leonard Loeb with Colonel Waldo W. (Chip) Brooks, Staff Judge Advocate, Headquarters, XVIII Airborne Corps and Fort Bragg.*

prepares quitclaim deeds and name change petitions, in addition to other normal legal assistance duties. It also helps soldiers appeal findings of financial liability imposed by the command for the loss, damage or destruction of government property. This is particularly helpful for special operations soldiers, who, because of the unique nature of their business, have a high rate of loss.

As authorized by state law and by agreement with the local bar association and the courts, the legal assistance office is preparing to represent soldiers of the lowest four pay grades in state court on civil matters. For legal assistance-eligible clients who are in the hospital or too sick at home to come to the office, the office makes house calls. Over 250 separation agreements have been prepared this year. Included in this number are personnel from Pope Air Force Base, who, because of limited resources, cannot provide this kind of legal support.

Under the theory of an ounce of prevention is worth a pound of cure, office members write weekly preventive law articles that appear in the Post newspaper, and they brief new arrivals and their families on preventive law matters and

available services at the legal assistance office. In keeping with the age of the Internet, the office has its own web site that provides the Bragg community with direct access to information concerning a broad range of legal issues. This tool enhances prospective clients' ability to make informed decisions about their need for legal services, or their ability to resolve their problems in an alternative and more efficient manner.

CPT Jayne A. Skryowski was the legal assistance officer responsible for providing over 120 wills, 29 living wills, 80 powers of attorney, and 246 notary services to retirees and family members at an all day Retiree Activity Day earlier in the year.

CPT Christi Woodruff is the legal assistance officer responsible for providing counseling on immigration and naturalization issues. U.S. citizens, especially soldiers, and their families who live and travel abroad have many immigration and naturalization legal issues. She keeps close contact with the local immigration office, maintains all necessary forms and reviews them for accuracy, once the client completes them.

The 82nd Airborne Division Staff Judge Advocate, LTC Clyde J. Tate, stated that his office provides legal assistance for the division's 14,000 soldiers and 14,000 family members. CPT Susan Escallier runs the legal assistance office. They publish a bimonthly legal assistance newsletter covering the latest fraud/scams in the area. They also brief all incoming soldiers, and provide "Consumer Alert" presentations at the unit level. These presentations remind soldiers about the available legal

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## Spotlight

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assistance services, office hours, and they instruct soldiers how to avoid common consumer law problems. The office distributes to each soldier during these briefings legal assistance cards with legal assistance hours and types of services provided.

This office also assists clients with pro se help in name change petitions, consensual step-parent adoptions and school custody petitions.

CPT Escallier meets with the Division Sergeants-Major to discuss consumer law and debt collection issues under federal and state law, and Army Regulations. The idea is to help educate soldiers in order to minimize problems and enhance readiness.

The legal assistance office maintains close relations with the local courts, legal aid clinic, Cumberland County Bar Association, North Carolina LAMP Committee and Campbell Law School. The Law School relationship has resulted in two law students working at the legal

assistance office under the guidance of an attorney. Their responsibilities include acquainting the office attorneys with the latest in North Carolina law and cases in estate, family law, consumer and tax matters.

Helping the soldier is not limited to the attorneys. A legal clerk working the front desk in the legal assistance office, prepared a series of "Appointment Preparation Worksheets" for problems such as:

- reports of survey appeals;
- NCOER appeals; and

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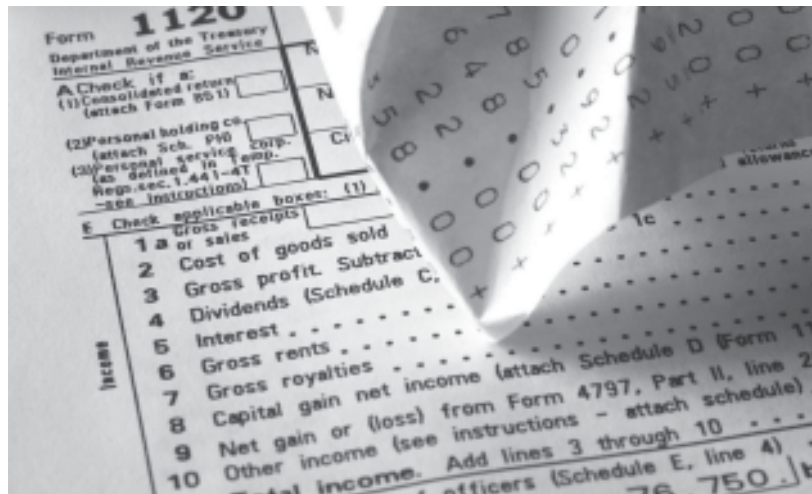
## Taxes

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secondary education, the Lifetime learning credit applies to expenses for undergraduate, graduate, and continuing education courses. Therefore, expenses for courses of instruction at an eligible institution to acquire or

improve job skills that would not qualify for the Hope credit qualify for the Lifetime learning credit.

Want more money now and smaller refund later? Review the new tax credits and consider your tax withholding. You can discuss this with your tax preparer while preparing your 1998 return. Alternatively, consult IRS Publication 919, "Is my Withholding Correct for 1998?" It explains how to



analyze and factor in the benefits of the new child and higher education tax credits when adjusting tax withholding. IRS Publication 919 also includes a Form W-4 to submit to local military Finance Offices to change the amount of tax withheld. The new Form W-4 has worksheets to determine the tax effect of the new credits. Many Army families can reap an early benefit from the new

child tax credit and increase the paycheck by filing a new Form W-4. Taxpayers that computed a Form W-4 before 1998 or without considering the new tax credits should spend time computing a new worksheet.

IRS publications and tax forms may be downloaded from the IRS Web

site at [www.irs.ustreas.gov](http://www.irs.ustreas.gov), and also are available by calling 1-800-TAX-FORM.

*The views, analyses, interpretations and opinions expressed in this article are the author's and should not be deemed those of the ABA.*

**MAJ Rick Rousseau** is Professor, Legal Assistance Division Administrative & Civil Law Department, The Judge Advocate General's School, U.S. Army

## From the Chair...

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S.E., will launch a web site to facilitate the process of making connections among the front-line legal assistance officers in all of the branches. As you well know, the rotation among your duties forces you to quickly become conversant with many areas of law. The Lamplighter web site is a technological answer to the age-old problem of how to communicate an institutional memory when only a few individuals have the memory. It will also have the advantage of bringing together the resources of all of the branches at one site. The site will provide links to reference texts and to all of our colleagues. It is being designed by a front-line (ex)-officer with the interests of front-line providers in mind. This is one of the projects that we are extremely proud to unveil in 1999. If you have comments or suggestions for links please send them to floodkp@jag.navy.mil

### Continuing Legal Education and Visits to Legal Assistance Offices Around the Country.

During the past year, the Committee has visited bases in Hawaii; Washington, D.C.; Florida and North Carolina and, at the Judge Advocate General's request, it conducted a training focused on the educational needs that local personnel provided. In this past year, we have trained more than 300 officers and civilian attorneys who provide legal assistance to the military and dependents in all branches. Additionally, the Committee visits with legal assistance providers at these installations to hear first-hand what issues are confronting these officers and what we can do to resolve them. These discussions keep us acquainted with the realities of providing high-quality services with scarce resources and lead to future projects. We created the Purple Crossroads on the Internet after discussions with Marine Corps and Air Force officers at Camp Pendleton and Andrews Air Force Base.

**Agenda For Change.** One of the distinct advantages that the LAMP Committee enjoys is a remarkable liaison relationship with all of the military branches. That, in addition to our members' commitment and work, produces frank and wide-ranging discussions at our meetings. During the past year the Committee's discussions have included: the implementation of expanded legal assistance efforts; changes in protocols for dead-beat spouse payment collections; a statutory federal will; and increased liaison with local and state bar legal assistance for military personnel committees (LAMPS). Future editions of this publication (and our forthcoming presence on the Internet) will report on these developments.

Our Committee is committed to advocating for the civil legal services needs of military personnel. We welcome your input into that effort. Please send your comments and suggestions to me at the address in the editorial box of this publication.

## Spotlight

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- used car sales

These worksheets outline for the soldier the step-by-step route for the solution to their problem and direct the client to obtain certain documents and statements before returning for an appointment. This system requires less of the attorney's time and expedites results for the soldier.

The ABA LAMP Committee joined with the North Carolina Bar LAMP Committee to present a two day CLE program for military

attorneys at Army, Navy, Marine, Air Force and Coast Guard based in North Carolina. The CLE covered the entire spectrum of North Carolina law for legal assistance officers. The program started with thought-provoking and inspirational words from the "Dean of Military Law," the Honorable Robinson O. Everett, Former Chief.

The Fort Bragg Legal Assistance Offices at Corps and Division are two more outstanding examples of the first rate legal support provided to our service members. This is of critical importance in these days

of reduced staffing, because a soldier with an unsolved legal problem is not an effective soldier.

As an aside: when I called the 82d Division Legal Assistance Officer, CPT Susan Escallier, for some more information on her operation, she was not there. She was out on a jump to maintain her airborne qualification. As CPT Rojas would have said, "It's just another normal day for a legal assistance officer at Fort Bragg."

**Bryan S. Spencer** is a member of the ABA Standing Committee on Legal Assistance for Military Personnel.



## From the Chair ...



by *John Busch*  
Chair of the ABA Standing  
Committee on Lawyer Referral  
and Information Service

As we approach the millennium, where is LRIS headed? Does the history of LRIS help to predict its future?

Lawyer referral services have been in operation for more than 60 years, starting with a 1937 service that the Los Angeles County Bar Association established. The initial lawyer referral program was a "law list" of attorneys willing to expand their practice to include low income and modest means consumers. From that beginning, state and metropolitan bar associations established services to assist modest and middle income persons in obtaining counsel. Nationally, today's lawyer referral and information programs include over 300 services that handle 5 to 6 million inquiries per year.

Historically and prospectively, lawyer referral programs offer two important services to the public. First, they help the client determine if the problem presented is of a truly legal nature by screening inquiries and referring the client to other service agencies where appropriate. This is the informational aspect of LRIS.

If a need for legal services is

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## Choosing Software for Your LRIS

by *Janet Diaz*

**W**ith today's increasing demand to keep up with office technology, it is a fair assumption that at some point each lawyer referral service director/administrator will participate in the selection of computer software and/or hardware. My turn started during the Houston Lawyer Referral Service's 1995-96 fiscal year, when we realized that our DOS-based software was not keeping up with staff, caller, board, and attorney member requirements.



I am certainly not a computer or software guru, and I needed a starting point. My first step was documenting my project goals, taking care to include staff, member and community needs, in addition to budget restraints. In formulating goals, it is important to remember that it is not enough to keep up with technology; you must plan for tomorrow's growth, too. The following are a few simple steps that helped put me on the right track and provided answers to those difficult issues.

First, examine the lawyer referral service itself, and establish your ideas about the elements that the software must possess. I wanted software that would provide our staff with the ability to be part of an effective operation while creating a benefit for our membership and enhancing the public's image of the legal profession.

To accomplish this, the software had to efficiently and fairly select an attorney based on the client's specific needs, provide staff easy maneuverability, and include the capability to record background information on each attorney to pass along to clients. The software also had to have the ability to track referrals, generate reports, maintain statistics, and record dues and daily cash receipts. Having a list of the tasks and functions that the software needed to accomplish helped to narrow the search. Other questions to consider include: do you need expansive broadcast fax capabilities, is Internet access a factor, and does the software need to integrate tightly with the Microsoft Office suite or another existing software package currently in use? The bottom line is to ensure that you know what you want, now and in the future, before requesting proposals.

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## Software

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Make a comprehensive list of needs, as well as that wish list!

The second step is to re-evaluate existing software to see if the functionality is there but not used to its fullest potential. According to MCS Consultants Corp. (MCS), a computer consulting and software development firm, the re-evaluation process is one of the most frequently forgotten steps in the process. "It's easy to say that you need new

software, when the current system isn't working the way you expect it to work. Be certain that the existing software is not or cannot (after upgrades) fit your needs."

Third, after completing steps one and two, it is time to begin the search for a comprehensive referral software package. Seems easy enough, right? Wrong! I began my search with calls to colleagues and contacts at other bar associations to find out what they were using. I found a limited amount of LRIS software on the market, and the software that was

available was expensive, lacking in capabilities, and difficult to use. I was looking for an integrated, Windows-based program that was specifically written for lawyer referral and worked with other commonly used software, such as Microsoft Access. I felt that having a program written in Access or another common database program would increase my ability to customize the software and increase flexibility.

I found it helpful to consult the Internet for sources. The American

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## From the Chair...

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apparent, however, the LRIS' function is to refer the client to an attorney with experience in the area appropriate to the client's needs. It also must assure clients that an attorney with malpractice coverage and experience will review their problems and offer appropriate services.

The client benefits from easy access to an attorney at the often intimidating step when one first seeks legal assistance. The public equates the function of lawyer referral with consumer-oriented assistance, and it expects the program to reward the consumer with counsel prepared to meet their needs. The public perceives a loyalty that LRIS is "on their side" and is not simply providing outreach for the participating attorney.

An attorney who is knowledgeable about LRIS recognizes that, especially in populated areas, lawyer referral may be an important source of significant referral business. It is our goal to expand the role of LRIS as an integral part

of marketing a lawyer's practice, with a focus on the solo and small firm practitioner.

As we head into the next millennium, lawyer referral must evolve, as the entire system of delivering legal services changes. What role will LRIS play? Lawyer referral programs have expertise in the process of intake and in the selection of appropriate counsel.

How does this function fit into the futuristic concept of comprehensive (integrated) legal services? Can lawyer referral be part of a one-stop shopping plan where a troubled consumer can find appropriate services through the variety of public agencies and alternative services, including legal aid? Will a cooperative venture, giving appropriate emphasis on information and non-legal referrals, dilute lawyer referral's moderate-income focus (which is a critical component in generating the referral fees necessary for the program's financial viability)? Can lawyer referral expand its referral recommendations to encompass self-help, unbundled services, mediation, arbitration and alternative dispute resolution appropriate

to the client's needs, without impairing referrals to the traditional legal system? If the bar perceives the information and referral outside of the traditional legal system as favoring the consumer, does this jeopardize the LRIS relationship with the organized bar? If LRIS does not develop and maintain a cooperative relationship with legal aid providers, will legal aid programs expand into the moderate-income area to help fund pro bono activities? What is the realistic and appropriate watershed between providing traditional access to those in need of support and the need to increase focus on other support services (e.g., support to women and children in need), including pro bono and legal aid?

Clearly this line, if it can be drawn in a visible way, will require more of the historical cooperation between the organized bar and lawyer referral. It also will require creativity and flexibility in providing access to the legal services that the legal profession is uniquely qualified to provide and that the public deserves to receive.



## Software

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Society of Association Executives (ASAE) [www.asaenet.org] has a Technology and Management Section with informative suggestions. I slowly began to compile a few leads of potential software packages and manufacturers/developers. I then contacted these companies and requested software demos and sales brochures. MCS assisted me in developing a list of questions that should be considered when contacting vendors:

- What “canned” package is available that fits my association needs?
- What alternatives are available?
- Who else offers similar solutions? (Any reputable firm will give you this information.)
- Am I able to make custom modifications to the software? Do you charge extra for custom programming?
- What types of support plans are offered, and where do I go if I have a problem or need training?
- As a reference, who else is using the software?
- What is the company’s philosophy regarding growth?

Next, determine if any demos you receive meet your current and future needs. If you have more than one that fits all your criteria, choose the company with which you feel most comfortable. Be sure to call as many references as possible. Ask them about the company’s ability to stick to deadlines and to meet expectations after the sale. Look for a company with a solid reputation, an extensive warranty, a knowledgeable service department, and great references.

*The right software can make a tremendous impact on the efficiency and professionalism of your lawyer referral program.*

If you are fortunate to find a company that survives the investigation phase, it is time to get more serious. Set up an in-office demonstration of the software. If the demonstration is successful, it is time to get the “powers that be” behind you. Remember the all-important step of board approval. As the negotiation phase begins, consider enlisting the talent of your board members—they are usually great negotiators. When requesting quotes and dealing with vendors, it is important to:

- get software prices in writing;
- inquire whether an annual software licensing fee applies;
- get a written list from the vendor of hardware requirements and office wiring needs;
- get a written document outlining service plans vs. service calls;
- determine the frequency of upgrades. What are the costs involved?;
- determine training needs and costs, remembering to consider staff turnover;
- inquire whether source codes come with the purchase of software;
- get a firm commitment of scheduling for implementation and hold vendors/sellers to their deadlines, and price quotes;

- make sure the software is Year 2000 (Y2K) compliant;
- ask if the company will convert current software and at what cost.

Remember to be thinking about the purchase of new hardware as you are negotiating for new software. Windows-based software requires at the very least a Pentium processor! Also, it is important to know what type of cable (wiring) your office has. Cable that was installed before 1995 may not effectively accommodate new hardware/software speeds.

Finally, if you cannot find a package that suits your needs, consider having a custom package developed. Software development usually is extremely expensive and time consuming. Computer consulting firms and custom software development companies exist today in almost every city. Check local yellow pages and contact your local Chamber of Commerce for recommendations and referrals.

The right software can make a tremendous impact on the efficiency and professionalism of your lawyer referral program. My board and I believe that increased efficiency and the ability to better track referrals will offset the cost of new software and hardware. With adequate planning, you can find a solution that meets your needs and budget. To avoid making a mistake, it takes careful planning and forethought to ensure that the decisions you make today will carry you through the future and help your LRIS to grow and flourish.

**Janet Diaz** is Executive Director of Houston Lawyer Referral Service, Inc. MCS Consultants Corp. contributed to this article.

# The Business of Lawyer Referral

by Ronald H. Abernethy

Lawyer Referral professionals from across the country gathered on October 14-17 at the historic Benson Hotel in the Rose City, Portland, Oregon, for the American Bar Association's 1998 Lawyer Referral and Information Services Workshop. Sponsored by the ABA Standing Committee on Lawyer Referral and Information Service, the Workshop focused on the "Business of Lawyer Referral" in the next century and the role lawyer referral can play in the "new legal marketplace."

Standing Committee Chair John E. Busch of West Virginia and Program Chair Mary Ann Sarosi of Michigan welcomed one hundred twenty-two LRIS board members, attorneys, program directors, and referral operators. Participants gathered to discuss the issues confronting the lawyer referral community and to learn techniques for remaining competitive in today's increasingly crowded legal marketplace. ABA Board of Governors Member Thomas M. Fitzpatrick of Seattle sat in on many of the sessions, adding his valuable insight. Keynote speaker, American Bar Association President-Elect William G. Paul emphasized and praised the public service that lawyer referral provides and challenged the lawyer referral service community to meet his vision of a legal community offering one-stop shopping for the consumer in which quality and service are the hallmarks.

Recognizing the competitive

nature of today's legal marketplace, workshop organizers turned to both the academic and business communities for new insights. Dr. Suzanne Feeney, of the Institute for Non-Profit Management at Portland State University's Mark O. Hatfield School of Government, brought her perspective to the development of productive working relationships with bar leaders, membership, and staff. She also discussed committee structure, recruitment, and the role of staff.

Denis J. Murphy, Director of the University of Maryland College of Law's Civil Justice Project, outlined many of the interacting components of the "New Legal Marketplace." He paid particular attention to the impact of the Internet,

*ABA President-Elect William G. Paul praised the public service that lawyer referral provides and challenged LRISs to meet his vision of a legal community offering one-stop shopping for the consumer in which quality and service are the hallmarks.*

the increasing trend toward the bundling of consumer services, and the emergence of single-call clearinghouses where problems are analyzed and callers from all income brackets are directed to a lawyer or another appropriate service provider. This concept actually started in the lawyer referral community, where screening and referral to appropriate non-legal professionals for the

caller's articulated problems have always been the norm.

Patty Pate, Director of Community Outreach in Corvallis, Oregon, outlined the importance of developing a business plan for each referral service. Ms. Pate's presentation, packed with humor and information, left her audience wondering how they had survived without a business plan. Few in attendance left without the development of a business plan as a top priority for their own service.

From the business world, Mary Ann Falzone, Director of the American Telemarketing Association and President of Falzone & Associates, presented a session on the "Fundamentals for Better LRIS Management"

workshop. Her presentation covered staff recruitment, training, development of supervisory personnel, counseling, and establishment of a positive and productive work place.

Marion Smithberger from Columbus, Ohio, Shell Goar from Madison, Wisconsin, and Marcia Kladder from Chicago outlined the concepts and general strategy behind precision marketing and presented specific applications for this cost-effective technique in the lawyer referral service environment. They highlighted the need to target-market to those constituencies most likely to retain an attorney, thereby maximizing both revenue and the use of an advertising budget.

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## The Business

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Fellow Chicagoans Jean Pavela and David Klopfenstein outlined the art of building virtual relationships through the Web. Building on the work of the Chicago Bar Association, they revealed how to gain a presence on the Web and issued a warning to those lawyer referral services that take a "wait until later" attitude towards the Internet. Their warning was simple: have a presence on the Internet, or a major source of good paying referrals will pass you by. One of the services in attendance highlighted the issue by reporting that posting the name of the local service on the ABA LRIS website led to a doubling of calls on the number that was advertised.

The workshop, as usual, utilized a split-day format giving attendees an opportunity to enjoy the vistas of Mt. Hood and Columbia River Gorge as well as Portland with its bookstores, shops and museums. Proving once again that lawyer referral knows how to play as well as work, the annual attendees dinner featured Spanish epicurean delights at a local Tapas bar followed by salsa dancing late into the night.

The next morning, it was back to work with cutting edge breakout sessions. David Pavlick of Seattle and Carolyn Hammelle from Buffalo led attendees through the steps necessary to develop a strong relationship with panel attorneys and emphasized that your own panel members can be

an untapped source of referrals.

Former New York State Bar President, Catherine M. Richardson from Syracuse and Denis Murphy stressed the necessity of communication with the rest of the Bar structure. As Bar budgets become tighter, it is essential that Bar leaders both understand and appreciate the value of the public service provided through the LRIS. As Ms. Richardson pointed out, the LRIS is invariably the arm of the Bar Association that has, year in and year out, the most contact with legal consumers.

Current Washington State Bar Board of Governors member Lish Whitson of Seattle and PAR Program Chair Ronald H. Abernathy of Napa, California grappled with the ethical issues confronting the lawyer referral service community in the annual "Ethics 101" presentation. As always, the ethical program drew considerable

*Participants gathered to discuss the issues confronting the lawyer referral community and to learn techniques for remaining competitive in today's increasingly crowded legal marketplace.*

interest and debate.

Mabel McKinney-Browning, Director of the ABA Division for Public Education, offered her perspective on the ongoing process of consumer education in the LRIS world. Al Charne of New York City helped with the process of developing advanced subject matter panels. Audrey Osterlitz of Albany, New York, Robin Dawson

from Knoxville, Tennessee and Laurel Van Wilgen of New Haven, Connecticut covered the subject matter panel basics and basic program funding. Carol Woods from San Francisco, California and Sheree Swetin, ABA LRIS Staff Director, stressed the need for a planned succession in any LRIS program. ABA LRIS Committee Member Joan Anderson from Seattle, and Janet Diaz from Houston gave valuable tips on how to market on a shoestring, and Sylvia Andereck-Birt of Santa Ana, California spoke on enforcing attorney compliance with program rules, particularly in the area of fee remittance.

Audrey Osterlitz and Jane Nosbisch of the ABA outlined the preliminary findings from the recent LRIS national survey. This survey, involving over 200 services from across the country is the first national look at LRIS

program operations in 10 years. The findings from this survey are in pre-publication form and the full analysis of these data should be available in early 1999.

Post workshop surveys suggest this was an extremely valuable and successful workshop. The workshop organizers and ABA staff, particularly Jane Nosbisch, Lourdes

Rodriguez, and Gwen Rowan received a well-deserved cheer of thanks from all.

Next year, the ABA LRIS Workshop will take place in Alexandria, Virginia during the third week of October.

**Ronald H. Abernathy** is Chair of ABA Standing Committee on LRIS' PAR Program



## Equal Justice Conference: Pro Bono, Innovations and New Partnerships

The American Bar Association Standing Committee on Pro Bono and Public Service and the National Legal Aid and Defender Association (NLADA) have entered into a historic and dynamic partnership to co-sponsor *The Equal Justice Conference: Pro Bono, Innovations and New Partnerships*. The conference will bring together legal services staff-based programs, pro bono coordinators, bar association leaders, private law firms committed to pro bono, the judiciary, corporate counsel, law schools, and other legal, public interest and human services organizations.

The conference will take place May 6-8, at the Westin Innisbrook Resort in Tarpon Springs, Florida.

This event represents the joining of two long-standing events: the ABA Pro Bono Conference and the NLADA Experienced Managers' Conference. For 15 years, the Pro Bono Conference has brought together a wide array of advocates to focus on enhancing the delivery of legal services through the most effective use of pro bono volunteer resources. For the last several years, participants at this conference have sought to expand its perspective to include all the components of the delivery system, not just pro bono. This desire was particularly evident at the last Pro Bono Conference in North Carolina, attended by over 600 people committed to equal justice.

Bringing together each element of the civil justice system to discuss equal justice issues will provide important opportunities to examine client-based delivery innovation and strengthen the working relationships among

the key players in the civil justice system. The Conference will model, on a national stage, similar initiatives underway in every state.

The three-day event will begin with meetings of affinity groups that will focus on issues of particular relevance to certain groups (e.g., staff-based providers, pro bono managers). Angela Blackwell, a long time community advocate now at PolicyLink in Oakland, and former Vice President of the Rockefeller Foundation, will kickoff the opening joint conference plenary by sharing her views on strategies that work to improve low-income communities. Those of you who have not heard Angela before are in for a special treat.

The balance of the conference will focus on four primary areas:

**A re-evaluation of clients and their substantive needs.** The Conference will offer a wide array of workshops examining various client groups (low wage workers, immigrants, teens and young families dependent of TANF, etc.), strategies to build healthy communities, and particular substantive issues of importance.

**Access issues.** Workshops in this area will examine emerging techniques to expand access to the justice system, including intake systems, use of technologies, serving hard to reach populations or clients with special needs, outreach, pro se, hotlines, and other techniques.

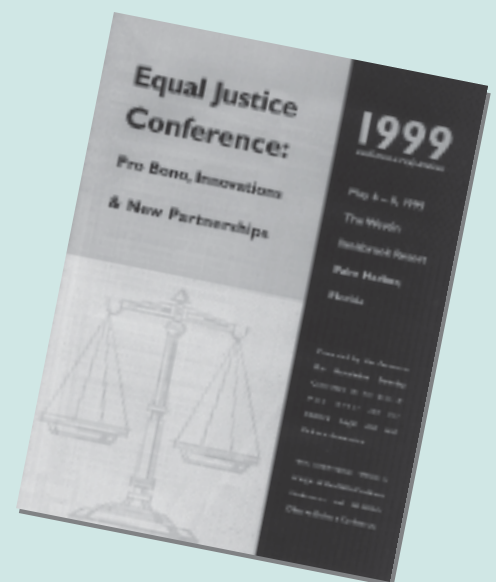
**Delivery innovations.** These sessions will cover such topics as emerging uses of technologies to support delivery, more effective integration of private bar resources in the delivery of legal services,

holistic delivery, state and national support needs, ethical impediments to innovations, and many other areas.

**Legal services funding, management and support.** Workshops will cover resource development, training, cultural diversity, staff development, and many other related management topics.

In all of these areas, workshops will take a critical look at how the entire system is functioning. They will carefully examine the impact of many of these innovations and techniques to ensure that client needs are being met in the most effective manner. Each session will be interactive and will integrate the broad array of attending stakeholders into the discussion.

For registration inquiries, contact Steve Kemp at 202/452-0620. If you have any other questions about the Equal Access Justice Conference, call Dorothy Jackson at 312/988-5766 (jacksond@staff.abanet.org).



## From the Chair...



by Hon. Judith Billings  
Chair of the ABA Standing  
Committee on Pro Bono  
and Public Service

On February 5, 1996, the ABA House of Delegates, without dissent, adopted the *Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means* (the Pro Bono Standards). The Pro Bono Standards were the product of four years of work by the Standing Committee on Pro Bono and Public Service (the Pro Bono Committee), with significant help from a wide range of others familiar with the delivery of pro bono legal services to the poor. As a new year dawns it is time to focus on this critical tool to build your pro bono program for the new century.

Organized pro bono programs have existed in this country for over a century and have played a vital role in providing access to justice by assisting members of the private bar in their efforts to furnish free civil legal services directly to persons of limited means. During the past 20 years, the growth in the number of programs has been remarkable. In 1980, the ABA identified 80 pro bono programs. Today, there are more than 900 programs. The variety, sophistication and complexity of programs and program structures similarly have grown,

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## A Rule To Show Cause On The Courts: How The Judiciary Can Help Pro Bono—Part I

by Carl "Tobey" Oxholm

Successful pro bono programs, especially those that are well funded, always keep two objectives in mind: minimize costs and maximize benefits. Typically, these programs do not have the funding necessary to reimburse their attorney volunteers for the expenses that they incur. Although this may not be a problem for the largest law firms, it is a significant impediment for smaller firms and solo practitioners. As a result, pro bono programs must be creative in finding ways to eliminate or minimize the costs of volunteer services. That is especially true for poorly funded programs.

There are two different types of costs that a pro bono program can help its volunteers avoid or reduce: costs related to the specific representation, and costs that the volunteer will otherwise face in his or her practice. Courts are well suited to help with both. This article highlights several strategies that the judiciary can use to support the bar's pro bono service. Part I suggests ways in which the court can help reduce the costs associated with the specific matter for which counsel is providing pro bono services. Part II, which will appear in the Spring 1999 issue of *Dialogue*, considers other costs that the court could waive in return for the attorney's pro bono service.



### Costs Related to the Specific Matter

There are a variety of costs that are predictable in every lawsuit. With fee-paying clients, lawyers make a variety of arrangements: a retainer (advance payment), monthly billings (reimbursement payment), and deferred payments until a successful result is achieved (contingency fee). None of these options work for the indigent client. Instead, counsel must find other ways of avoiding, or paying for, the necessary costs of representation. Here, the court can help in many ways.

**Filing and Other Court Fees.** Every client that a court refers to pro bono counsel should be qualified to proceed in forma pauperis. By

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## Judiciary

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entering such an order automatically, the court relieves pro bono counsel of the time and expense of preparing the petition, and it avoids delays in entering the petition upon representation. Many jurisdictions have a form questionnaire that, when completed, becomes a client affidavit that is filed in support of the petition. The client can complete the questionnaire before the court appoints pro bono counsel. In some jurisdictions, clients who qualify under the eligibility guidelines of a legal services or pro bono program automatically have their filing and other court fees waived.

**Initial Investigation.** Many jurisdictions have standard form ("canned") discovery, to which no objections can be lodged. Federal courts started this process by using the Self-Disclosure Statement that each party is required to file and serve at the beginning of every case. In RICO cases, many judges have a set of RICO interrogatories that they serve *sua sponte* on plaintiff's counsel to ensure that there is a basis for invoking that law. Similar interrogatories and document requests could easily be designed for use in Title VII, prisoners' civil rights, automobile, and other cases. The court can issue these discovery requests *sua sponte* (and they would be available for use by all litigants). The answers provided would:

- assist the court in deciding whether the case was frivolous and whether to seek appointment of counsel;



- assist pro bono counsel in deciding whether to accept representation; and
- give both sides a foundation upon which to pursue follow-up discovery.

**The Critical Importance of Screening.** Over the last decade, there has been a significant increase in the number of pro bono programs across the country. The ABA Center for Pro Bono studies programs that have succeeded and those that have failed. It has learned that a critical ingredient in pro bono program operation is screening. Volunteers take cases because they want to help clients. Their time, however, is precious, and they do not want to spend it on a case that has no merit or where the client is not responsive.

Successful programs screen their cases with care before referring them to private counsel. Clients are given responsibilities for contacting the attorney and scheduling the first appointment, not vice versa. This ensures at least a minimum level of interest in the case. In addition, the program carefully interviews clients in order to reveal essential facts and to make an informed judgment about whether there is a good

faith basis for asserting claims or defenses. If the program asks a volunteer attorney to take a no-merit case, the likelihood is exceedingly high that she will never volunteer again and that she will share her bad experience with her firm and other volunteers.

**ADR.** Before an attorney becomes geared up for litigating the case, the court should invite the parties to

engage in mediation. In matters that otherwise would be *pro se*, once an indigent client has representation, there is an increased likelihood that a judge's intervention will result in a practical resolution of the claim. The attorney's appearance assures the client that she is not getting "second class justice." In that setting, an opportunity to address a judicial official with the power to induce change (settlement) may become more profitable.

**Depositions.** Deposition transcripts often are the single greatest expense that attorneys incur. There are several ways of minimizing or avoiding them.

- Alternatives to the standard method. In many jurisdictions, court rules may provide ways to reduce the cost of depositions. The rules may, for example, permit the taking of depositions without a stenographic record. In addition, the rules may permit the taking of depositions "by telephone or other remote electronic means." They could permit depositions to be taken in the absence of a person authorized to take oaths and take testimony. Court rules

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## 1999 Pro Bono Publico Awards

The ABA Standing Committee on Pro Bono and Public Service will present five awards to individual lawyers, law firms, government attorney offices and corporate law departments that have demonstrated an outstanding commitment to volunteer legal services for the poor and disadvantaged. The awards will be made at the Pro Bono Awards Assembly Luncheon on August 9, 1999 at the ABA Annual Meeting in Atlanta, Georgia. The Honorable Griffin Bell, former U.S. Attorney General, will be the keynote speaker.

Established in 1984, The Pro Bono Publico Awards recognize extraordinary contributions to the extension of legal services to the

poor and disadvantaged. The purpose of the Award is to identify and honor individual lawyers, small and large law firms, government attorney offices, and corporate law departments that have enhanced the human dignity of others by improving or delivering volunteer legal services to our nation's poor and disadvantaged. These services are of critical importance to the increasing number of people in this country who are living in a state of poverty and in need of legal representation to improve their lives. Award recipients exemplify the volunteer tradition of the legal profession.

Candidates are legal professionals who commit their talent and

training to improve the quality of justice for those unable to afford a lawyer. Some will be nominated for their longtime dedication to the delivery of pro bono legal services to the poor. Others, newer to the field, might be nominated for their creative approaches to the delivery of volunteer legal services of their commitment to representing low-income persons. Some may have facilitated legislation that contributes substantially to legal services to the poor.

Nominations must be post-marked by March 8, 1999. For more information about nomination guidelines, contact Dorothy Jackson at 312/988-5766 (e-mail: jacksond@staff.abanet.org).

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thus give counsel wide latitude in arranging depositions, and in the event that counsel cannot agree, the court is given discretion to permit the alternatives. The court should be aware of these alternatives, and it should permit counsel to seek them using the least-costly means available.

- Panel of volunteer stenographers. Pro bono is not just for lawyers. There is no reason that the court could not maintain a panel of pro bono reporters. Court reporters who serve their courts in "paying cases" should be encouraged to enroll as panel members. These volunteers only agree to provide one copy of the transcript for free to the attorney representing an indigent party pro bono (they may charge their standard fees to all other

parties). The difficulty will be in allocating this scarce resource.

- Professional associations. Several associations of certified shorthand professionals have adopted policies encouraging their members to serve pro bono in any case where the requesting counsel is serving pro bono. This works best when a lawyer (or law firm) regularly uses a specific reporter (or agency). The lawyer, not the court, makes this arrangement.

**Transcripts of Court Hearings and Arguments.** The court may order that the notes of testimony or argument be transcribed. Once completed, the transcript becomes part of the court file, available for reading and copying, as pro bono counsel needs.

**Experts.** There is no reason why the court cannot maintain a panel of experts. Certain experts actively seek to be appointed by the court in fee-paying cases, and they

become a ready source for "volunteers" in pro bono cases. Other professional associations have pro bono policies. They should be contacted to encourage their membership to render pro bono service to the courts when requested.

**Scheduling.** The court has wide latitude in case management issues. That discretion can be used to reduce the costs imposed on pro bono counsel.

- The pre-trial and trial schedules. A very significant "cost" can be imposed, or avoided, depending on the court's sensitivity in establishing pre-trial and trial schedules and in responding to requests for continuances. Every effort should be made to honor the pro bono counsel's scheduling requests, and the court should give greater latitude to pro bono counsel who make continuance requests. While this might

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appear to “favor” one side “against” another, it is nothing more than courtesy shown to a member of the profession who is fulfilling his or her professional obligation.

- In-court activities. Ordinarily, the court may expect pro bono counsel to benefit from not having to attend in-chambers conferences or in-court arguments. This is not necessarily so, however, especially for young lawyers in larger law firms, for whom a significant reason for taking the pro bono case may be to get this precise

experience. The court should ask pro bono counsel what they would prefer.

- Priority. Several courts hold “motion days” or other events at which many cases are listed for activity at the same time. On “motion days,” the court can recognize the public service that pro bono counsel is rendering, and it can reduce, where possible, the amount of time spent waiting for that counsel’s case to be called.

**Reimbursement of Costs.** Even if courts follow all of these steps, there are going to be costs that pro bono counsel cannot avoid. Some of them, such as expert fees, will be large. Many attorneys, as a

result, will need help covering those costs. Here, a judicially-sponsored pro bono program is in the enviable position of being able to raise funds without having to send anyone a grant application: it can simply devote some of the admission fees that it receives to its pro bono program. A recent Federal Judicial Center survey revealed that sixteen federal district courts use attorney admissions or pro hac vice fees to help pay their pro bono counsel’s expenses. Similar programs can be adopted in every court.

**Carl “Tobey” Oxholm** is an attorney at the Law Firm of Connolly Epstein Chicco Foxman Oxholm & Ewing, Philadelphia, PA.

## From the Chair...

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and we expect that growth to continue. The Pro Bono Committee responded to this growth, deeming it appropriate to develop a set of standards that will aid existing and new programs to become more efficient and effective in marshaling volunteers, meeting clients’ needs and facilitating the provision of high quality legal services.

The Pro Bono Standards were not drafted to create any mandatory requirements or minimum standards for performance. Rather, they were designed to set forth the aspirational goals for which a pro bono program should strive. The Pro Bono Standards cover a broad range of topics:

- program governance—roles, responsibilities and membership of pro bono program governing entities;
- program effectiveness—delivery design, program priorities, quality assurance, relations

with other organizations, program evaluation;

- relations with clients—ethics, eligibility, grievance procedures, client satisfaction;
- relations with volunteers—recruitment, utilization, training and support, costs policies, retention and recognition; and
- effective delivery of services—case acceptance, client intake, case placement, tracking and oversight, record keeping, and program personnel.

Since the adoption of the Pro Bono Standards, pro bono programs, bar associations, legal services programs and other entities have used the Standards to improve their program operations. The Center for Pro Bono, through its Peer Consulting Project, uses the Pro Bono Standards as a “bible” on technical assistance visits to programs, referring to individual standards throughout the on-site consultation and in the final report submitted

to the programs. In addition, individual Pro Bono Standards have been incorporated into appropriate workshops at the ABA Pro Bono Conference (renamed the Equal Justice Conference beginning in 1999).

A manual like the Pro Bono Standards can only be helpful if it is not collecting dust on the bookshelf. If you have a copy of the Standards, pick it up, review it, and identify just one item as a way to improve or expand your program in 1999. With that as a start, you will find yourself coming back to the Standards time and time again. If you do not have a copy, contact CerSandra Oliver, ABA Center for Pro Bono, at 312/988-5759 (e-mail: [oliverc@staff.abanet.org](mailto:oliverc@staff.abanet.org)), for a copy of the order form. The initial investment you make to purchase this invaluable resource will pay for itself many times over as your program becomes more efficient and effective in working to meet its goal of providing high quality legal services to the poor.

## From the Chair...



by Herbert S. Garten  
Chair of the ABA  
Commission on IOLTA

On October 24-25, 1998, the ABA Commission on IOLTA and the National Association of IOLTA Programs co-sponsored the IOLTA Leadership Conference in Chicago. The Conference was made possible through funds that the ABA Board of Governors provided as an emergency budget supplement to the Commission in August. One hundred participants representing 44 jurisdictions attended the Conference. Those attending included IOLTA program directors, IOLTA program trustees, other IOLTA leaders and legal experts. ABA President-Elect William Paul attended and spoke to the Conference.

During the two days, participants discussed the critical issues that IOLTA programs are facing in the wake of the U.S. Supreme Court decision in *Phillips, et al. v. Washington Legal Foundation, et al.* and heard from legal experts about the best ways to address those concerns. Topics covered included:

- An update on the Texas and Washington State IOLTA litigation.
- The strengths and weaknesses of the constitutional claims raised in those suits.

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## IRS Gives Approval to Indiana IOLTA Program

Indiana's request to the IRS for a ruling that would enable the state to start its IOLTA program was pending when the U.S. Supreme Court handed down its decision in *Phillips, et al. v. Washington Legal Foundation, et al.* last June.

But concerns that the Indiana program would be caught up in a post-*Phillips* backlash failed to materialize after the Internal Revenue Service gave its approval to Indiana's IOLTA program in early December.

On December 3, 1998, the IRS ruled that:

Interest earned on a client's funds placed in a lawyer's or law firm's IOLTA account and paid to the Indiana Bar Foundation is not includible in the income of the client, lawyer or law firm.

Participating financial institutions, generally, are not required to report interest paid to the Foundation on an information return because the Foundation is a not-for-profit organization.

This ruling paves the way for full implementation of the Indiana IOLTA rule. It also has significant national implications, because it is an affirmative statement from the IRS that the U.S. Supreme Court's *Phillips* decision does not affect any IRS ruling governing IOLTA. In the Indiana Private Letter Rule, the IRS wrote that in *Phillips*,

[T]he Supreme Court of the United States held that interest earned on client funds held in IOLTA accounts is the "private property" of the client for purposes on the Takings Clause (U.S. Const. Amend. V). However, the Court left for consideration on remand the question whether IOLTA funds have been "taken" by the state, as well as the amount of "just compensation," if any, due to the clients. Thus, the Court did not hold that the client had any control over, or right to, interest on the IOLTA trust account.

Also of significant note is the Private Letter Rule's discussion of IRS Revenue Ruling 87-4, which holds that because clients have no control over, or right to, interest on IOLTA accounts, the interest paid is not taxable to the clients.

The Indiana IOLTA rule does not run afoul of IRS Revenue Ruling 87-4 because clients do not have control over or right to, interest on the IOLTA trust account paid over to the Indiana Bar Foundation. In addition, clients cannot elect or veto participation.

Jayne Tyrrell, President of the National Association of IOLTA Programs and Executive Director of the Massachusetts IOLTA Committee, was gratified to hear the news, but not surprised. "As we said all along, the *Phillips* decision didn't undercut any existing IOLTA statutes, rules or practices. It is nice to see that the IRS agreed. We are so happy they did the right thing." The ruling, issued December 3, 1998, tracks earlier IRS

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## From the Chair...

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- Immunity issues.
- Tax issues that the *Phillips* decision implicates. I am happy to report that, since the Conference, the IRS has given the Indiana IOLTA program a favorable private letter ruling. The significance of the ruling, other than it allows the Indiana program to begin operating, is that it explicitly states that the U.S. Supreme Court's decision in *Phillips* does not affect any of the IRS rulings governing IOLTA. (See story on page 17). The ruling, along with the fact that the *Phillips* made no conclusions as to the constitutionality of the Texas or any other IOLTA program, means that, as a result of *Phillips*, there has been no change in the law regarding the way IOLTA programs do business.

The Conference also included a Roll Call of States where a representative from each jurisdiction spoke about the post-*Phillips* activities in their jurisdictions. As we have been reporting in *Dialogue*, the overwhelming response to the *Phillips* decision among the IOLTA programs throughout the country has been "business as usual."

In addition to its content, the strength of the Conference was the attendance numbers and the

percentage of jurisdictions represented, both of which reflected a unity among IOLTA supporters throughout the country. Conference evaluation forms and conversations after the Conference indicate that the event was remarkably helpful and a tremendous success.

The emergency supplement to the Commission's budget, a large part of which we used to fund the Conference, is just another example of the American Bar Association's unwavering support for IOLTA. Once again, I would like to thank ABA President Philip S. Anderson and the ABA Board of Governors for that support and for approving the emergency funding. In addition, I thank ABA President-Elect William Paul for attending the Conference. His presence and comments spoke volumes to the IOLTA community. The ABA's support for IOLTA has been absolutely crucial during these difficult times.

In addition to the Conference, the work of the Commission continues. I would like to welcome to the Commission three new members: Ellen Mercer Fallon, Matthew P. Feeney and L. David Shear. They bring a wealth of experience and talent to the Commission (see story on page 20), and they have already made significant contributions to the joint Commission/NAIP committees. The new members replace

former members Lynn Allingham, Lonnie Powers, and Forrest (Woody) Mosten, all of whom had distinguished tenures on the Commission. Thank you Lynn, Lonnie and Woody for your hard work and dedication.

Just a reminder that the Winter 1999 IOLTA Workshops, sponsored by the Commission and NAIP, will take place in conjunction with the ABA Midyear Meeting in Los Angeles on February 4-5. These workshops promise to be every bit as informative as the IOLTA Leadership Conference. Highlights of these workshops include:

- Operating in the Post-*Phillips* World.
- Banking 101 and Advanced Banking.
- Administrative Issues Related to Banking.
- Substantive Legal Needs of the Poor in a Changing Society.
- A Look at Pro-Active Grant Making.
- Outcome Based Evaluation of Legal Services Programs.
- Investment Management of Funds and Endowments.

The Commission looks forward, in the coming year, to working with the IOLTA community and all others dedicated to ensuring that this vital funding source for indigent civil legal services, administration of justice and law-related education continues its critically important work.

## Job Opening

The Legal Aid Foundation and the Colorado Lawyer Trust Account Foundation (COLTAF) are seeking applicants for the position of Executive Director.

The Legal Aid Foundation and COLTAF are the fund raising and grant-making organizations for legal services and law-related programs in the state of Colorado. The two not-for-profit organizations have a combined annual budget of approximately \$2 million. They have separate boards of directors and are administered jointly.

A strong background in fund raising, working with volunteers and management is required. Work with the legal community and/or other advocacy organization is advantageous.

Send a cover letter and resume to the Legal Aid Foundation/COLTAF, 1900 Grant Street, Suite 950, Denver, CO 80203. Call 303/863-9544 for more information and a job description. The application deadline is February 10, 1999.

## IOLTA News & Notes

### Phillips Remand

As reported in the last issue of *Dialogue*, the Fifth Circuit has remanded the *Phillips* case to the U.S. District Court in Austin. On September 16th, Judge Nowlin issued an order asking for additional briefing from the parties on the issues remaining before the Court.

The Washington Legal Foundation filed a motion for summary judgment with a memorandum of authorities. The Texas program filed a motion for continuance and a motion to reopen discovery. Judge Nowlin granted the Texas program's motion on October 30, 1998. As per the order, the court reopened discovery until January 4, 1999. The Texas program's responsive pleadings were due on January 19, 1999.

Depositions were scheduled and taken for both sides. Plaintiffs Summers and Mazzone were deposed on December 11th. The Texas program's Deputy Director Joyce Lindsey was deposed on December 10th. Charles Rounds was deposed on December 17th and Robert Randell was deposed on December 23rd.

### Nebraska Supreme Court Supports "Business as Usual" Approach

The Nebraska Lawyers Trust Account Foundation (NLTAf) received a letter from the Chief Justice of the Nebraska Supreme Court regarding its support of the IOLTA program. The letter states, "After giving the matter careful consideration, the Court concurs in the decision of the NLTAf Board of Directors to continue operating the Nebraska program as it has in the past, pending decision of the unresolved issues in *Phillips*. Accordingly, the current rule applicable to interest-bearing trust accounts, which includes an opt-out provision, will remain in effect until further order of this Court."

NLTAf plans to inform Nebraska lawyers of the Nebraska Chief Justice's letter.

### Maryland Legal Services Corporation Awarded \$1 Million from Open Society

The Maryland Legal Services Corporation (MLSC), the state's IOLTA program, recently received a three-year grant totaling \$1 million from the Open Society Institute

(OSI) to develop, implement and evaluate a "Maryland Legal Assistance Network" to increase access to justice for all persons in the state. MLSC will develop the program in cooperation with an oversight committee established and chaired by the Chief Judge of the Maryland Court of Appeals. The Legal Assistance Network has four components:

- creation of a statewide telephone hotline;
- expansion of the Internet-based "People's Law Library," which the University of Maryland created to increase public access to legal information;
- development of various approaches to promote the provision and use of discrete task assisted pro se ("un-bundled") legal services;
- continued development and implementation of an Internet-based legal support and communication system for legal services staff and private lawyers to better serve low and moderate clients.

For more information, contact Bob Rhudy, Executive Director,

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### IRS Approves

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rulings involving IOLTA programs, explained attorney Larry Stroble, a partner with the Indianapolis law firm of Barnes & Thornburg, who filed the request on behalf of the Indiana Bar Foundation.

As a result of the ruling, interest earned on client funds deposited in a law firm's Indiana

IOLTA account are not includible in the income of the client or the law firm. Also, because the Bar Foundation is a tax-exempt organization, the financial institutions that maintain the accounts do not have to report interest paid to the Foundation.

For the Foundation, the IRS ruling was the last regulatory hurdle it had to pass before IOLTA accounts can be established. Following the *Phillips*

decision, the Indiana Supreme Court reconvened a team of attorneys who had developed the initial IOLTA rule to evaluate the Indiana program in light of *Phillips*. Their report is expected to be ready for review by the Indiana Supreme Court in the near future.

Rachel McGeever, Executive Director of the Indiana Bar Foundation, predicted that the program will become operational in the first quarter of 1999.

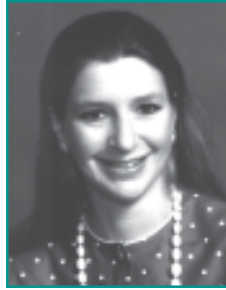
## ABA Commission on IOLTA Welcomes Three New Members

The ABA Commission on IOLTA welcomes the talents and services of three new members: Ellen Mercer Fallon, Matthew P. Feeney and L. David Shear. They replace Lynn Allingham, Woody Mosten and Lonnie Powers whose hard work, dedication and friendship will be missed on the Commission and among the IOLTA community as a whole.

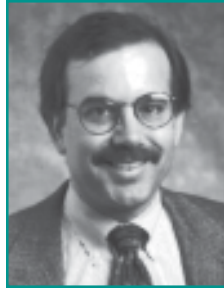
**Ellen Mercer Fallon** is a graduate of the University of Pennsylvania Law School. For the past 12 years, she has been an attorney at the law firm of Langrock Sperry & Wool in Middlebury, Vermont. Prior to that, she worked as the Counsel to the Governor in Montpelier, Vermont.

Ms. Fallon has extensive ABA experience. Among her many assignments, she chaired the ABA Individual Rights Section's Committee on the Rights of Women. She served as the Vermont Bar Association Delegate to the ABA House of Delegates, was a member of several law school inspection teams for ABA accreditation, and served as a member of the Drafting Task Force of the Special Committee on Evaluation of Judicial Performance. Ms. Fallon also served as President of the Vermont Bar Foundation and is a Fellow of the American Bar Foundation.

Ms. Fallon will serve on the Joint Commission-NAIP Meetings/Training; and Technical Assistance, Conversion/Diversion Committees.



Mercer Fallon



Feeney



Shear

**Matthew P. Feeney** is a partner at the law firm of Snell & Wilmer L.L.P in Phoenix, Arizona. In addition, he chairs the Pro Bono Committee and the Quality Advisory Council at Snell & Wilmer. Mr. Feeney is a graduate of Notre Dame Law School.

Prior to his ABA Commission on IOLTA assignment, Mr. Feeney served as co-chair of the ABA Real Property Section's Committee on Prototype Limited Liability Company Legislation. Mr. Feeney has an extensive background in community activities. He chairs the St. Joseph the Worker Job Service for the Homeless and is a member of the Catholic Diocese Stewardship Committee. In 1997, Mr. Feeney was the recipient of the University of Notre Dame Exemplar Award for Community Service.

Mr. Feeney will serve on the Joint Commission-NAIP Meetings/Training; and Joint Technical Assistance, Conversion/Diversion Committees.

**L. David Shear** is a shareholder in the Tampa, Florida law firm of Shear, Newman, Hahn & Rosenkranz, P.A. He is a graduate of the University of Florida College of Law.

Mr. Shear is an IOLTA veteran. In September 1981, the Presidents of The Florida Bar and the

Florida Bar Foundation appointed him as chair the Florida's Special Commission to Implement the Interest on Lawyers' Trust Account Program. Mr. Shear has endorsed and supported the Florida IOLTA program during his years of service as President and member of the Board of Governors of The Florida Bar. He has spoken on behalf of the IOLTA program across the United States in an effort to assist and encourage other states to participate in this effort. He also served on the Advisory Committee of the National Clearinghouse on IOLTA, which was formed as a national vehicle to assist other states in considering and implementing IOLTA. In 1982, he was appointed to the ABA Task Force on IOLTA, where he served for several years.

Mr. Shear will serve on the Joint Commission-NAIP Communications and Resource Development/Banking Committee.

Please join the Commission in welcoming its new members.

*Outgoing Commission members are:  
Lynn Allingham, Woody Mosten  
and Lonnie Powers*



## Grantee Spotlight . . . Nebraska's Legal Aid Society, Inc.

by Milo Alexander

The Legal Aid Society serves low-income people in 20 counties in northeast Nebraska. While the area includes Omaha, Nebraska's largest city, it is largely rural, and farming is a major way of life there. Many small farmers and ranchers barely scrape by from year-to-year and many qualify for Legal Aid's services. These clients often have substantial assets but little or no equity. Land, equipment, and livestock are mortgaged to the hilt to finance operations from year to year. Like the urban poor, these small farmers struggle constantly to stay afloat. Any mishap can quickly snowball, threatening the family with loss of their income and home.

Legal Aid recently represented a couple in their 70s who had been raising cattle (about 200 head at any one time) for over 50 years. They had supported themselves and raised three children with their small farm, and they made just enough to get by. All of their property was heavily mortgaged, and they were constantly at the mercy of weather, livestock prices, and changing farm policy. To make things worse, the husband had serious health problems that required expensive medication.

This couple financed their operation with a yearly operating loan from the Farm Services Agency (FSA). Their land secured these agreements. In order to get the operating loan each year, the couple had to demonstrate that they would have sufficient cash flow to pay off the operating loan and other expenses.

This proved particularly difficult in 1996. Federal funding for FSA had been decreased, and the problem was compounded by substantial staff turnover at the local office. The farmers basically had to start over on an operating plan several times when the staff person with whom they had been working left the agency. Without an operating loan, the farmers' only alternative was to buy supplies and feed on credit. This in turn made it more difficult to demonstrate a sustainable cash flow for FSA.

The couple, for the most part, fed their cattle with hay that they raised themselves. Hay, however, has to be supplemented with other feed to supply various minerals, vitamins, and protein, especially in the winter. Because our clients were unable to buy enough feed, the condition of their cattle deteriorated. This meant fewer calves in the spring, which in turn meant a substantial decrease in the farmers' already limited income.

At this point, FSA notified our clients that it was accelerating all of their debt and preparing to foreclose on their property. That is when Legal Aid became involved.

Our clients had very few alternatives. Like most farmers, they had paid little into Social Security over the years, and they could not depend on their retirement benefits. The couple was faced with not only the loss of their business, but also with the loss of their home, because they lived on the farm. They had no off-farm income and felt that they were

too old to start over.

The problem was compounded by the provisions of a debt restructuring agreement that the couple had entered into with FSA some years before and by tax code provisions. FSA previously had restructured a loan that the farmers' land secured, reducing the debt to equal the value of the land, and the land appreciated after the restructuring. If the land was sold for any reason and the price exceeded the restructured loan, FSA was entitled to recover the surplus up to the original value of the loan.

Tax provisions also dimmed our clients' prospects. Their land had appreciated a great deal over the 50 or so years that they farmed it. Even though the land was fully encumbered, any sale, even for foreclosure, would have generated a large capital gain for our clients. But the gain existed only on paper. All the proceeds from the sale would have gone to various creditors, mostly FSA, and our clients would have been forced off their land still heavily in debt. They would leave with less than nothing.

Our Farm Desk attorney reviewed the restructuring agreement with FSA and discovered several flaws. After negotiations, FSA conceded that the agreement had not been properly recorded and could not be enforced. FSA waived its right to recapture proceeds from any sale.

This opened the way to a sale of the property to a neighbor. Our clients reserved a life estate in their

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## Grantee

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home and the surrounding acreage, assuring themselves of a place to live. The sale also gave them the first right of pasturage on a small area of land. Our clients were able to maintain a small herd of about 40 head to supplement their income. The tax consequences were limited by selling the land over a couple of years.

Through mediation, our Farm Desk attorney was able to develop a work out plan with FSA that included the structured sale of the property.

While they had a place to live

and could continue to farm to a limited extent, our clients still faced major problems. Medicare did not pay for the husband's costly medication, and the clients could not pay for it.

Legal Aid discovered that the husband was a Korean War veteran and that his disabilities were associated with his military service. The husband was eventually granted a veteran's pension, and the Veterans Administration also paid for his medication.

Other help came in the form of a weatherization program that improved the comfort and reduced the heating bills of the farmers' home.

Due in large part to funding from Nebraska's IOLTA program, our Farm Desk attorney was able to work out a livable solution to the many problems confronting this elderly couple. Like many small farm cases, the solution depended on debt restructuring and other finance issues. This solution, however, also relied on government benefits and other programs familiar to urban legal services programs. Thanks to IOLTA funding, Legal Aid is able to assist in both areas.

**Milo Alexander** is the Executive Director of the Legal Aid Society, Inc., Omaha, Nebraska.

## News & Notes

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Maryland Legal Services Corporation at 410/576-9494.

### Susan Cobin Joins the Delaware Program

Susan W. Cobin is the new Executive Director of the Delaware Bar Foundation, the entity that administers IOLTA revenues in the state. She is a Delaware native with a Bachelor of Science degree in education from the University of Delaware. Most recently, she was an English Instructor at Delaware Technical and Community College. Previously, she was employed by not-for-profit organizations including READ-ALoud Delaware, Winterthur Museum and Gardens, and the Delaware Chapter of the Multiple Sclerosis Society to provide education to the public and to conduct fundraising activities.

Ms. Cobin has a history of nearly ten years of civic activism involving both education and land use issues and she has led fundraising campaigns to support litigation in land use matters. Ms.

Cobin currently serves as the Education Chair and liaison to the school board for a local umbrella organization with a membership of approximately 130 civic associations. Her role is to increase educational opportunities and to provide information to the membership regarding educational issues of current concern.

Ms. Cobin is looking forward to the challenges and opportunities that the recently created position of Executive Director of the Delaware Bar Foundation will bring. She can be reached at 302/658-0073.

### Arizona's Ron Johnson Resigns

It was with mixed emotions that Ron Johnson announced to his IOLTA colleagues of his resignation as Legal Services Director of the Arizona Bar Foundation. Ron has accepted the position of Government Relations Director for the State Bar of Arizona. He said, "I very much look forward to representing the Bar's interest at the legislature and embarking on a new career. In leaving this position, however, I will miss the

relationships that I have made during my over seven years with the Arizona Bar Foundation. I consider my job at the Foundation to be one of the most rewarding jobs anywhere, and that is due in large part to the people with whom I have worked on so many issues."

### Lynn Cannon to Leave Colorado Program

Lynn Cannon has resigned as Executive Director of the Colorado Lawyer Trust Account Foundation (COLTAF) and the Legal Aid Foundation, effective February 26, 1999. Her immediate plans are to move back to Minnesota to be closer to her family. Lynn will take some time to decide her next career steps, and she has several options to explore in Minnesota.

"The job has been a wonderful experience for me, one which I have enjoyed and where I have learned a great deal. I am very proud of the numerous accomplishments made by both organizations during the past two years, and I am grateful for the tremendous efforts of many volunteers and staff," Lynn said.

## From the Chair...



by Doreen Dodson  
Chair of the ABA Standing  
Committee on Legal Aid  
and Indigent Defendants

I want to dedicate my column in this issue of *Dialogue* to Lynn Sterman, a colleague and friend who passed away last October 26th after a long illness.

It is important to have heroes and important to have friends. I have been uncommonly fortunate to have both a friend and a heroine in one person: Lynn Sterman. I marveled at Lynn's creativity, keen intelligence and political savvy. I marveled at her dedication to access to justice for all and how she used that creativity, intelligence and savvy to make that ideal more of a reality for so many people through her innovative ideas and program.

I loved her wit and her patience in trying to teach me so much of what I needed to learn. And most of all, for the last 16 months of her life, I loved her for teaching me what it really means to seize the day, to know that life is precious and short and that we all spend too much time waiting for tomorrow to love, to laugh, and to find joy. The last time I saw Lynn, she was in the hospital, asking me as always, about the ABA and SCLAID and Congress, not talking about any of her problems. After listening to my plan for some issue, she said, "are you sure you

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## Congress Funds LSC at \$300 Million for 98-99

In late October 1998, the 105th Congress passed H.R. 4328, the FY 99 omnibus appropriations bill. The \$500 billion measure (P.L.105-277) covers eight of the thirteen appropriations bills, including Commerce, Justice, and State, the Judiciary and Related Agencies (CJS), which contains funding for the Legal Services Corporation (LSC).

The measure includes \$300 million for LSC, a \$17 million increase over the FY 98 funding of \$283 million. The bill provides funding of \$289,000,000 (a \$14.6 million increase) for grants to basic field programs and independent audits; \$8,985,000 (a \$1,795,000 increase) for management and administration; and \$2,015,000 (a \$515,000 increase) for the Office of the Inspector General. The measure also includes all the current restrictions/riders. The increase is the first significant gain since the devastating 30 percent cut suffered by LSC in FY 1996.

It should be noted, however, that technically the CJS portion of the omnibus measure is funded only through June 15, 1999, a date when the U.S. Supreme Court is expected to have ruled on the use of statistical sampling in the year 2000 census. Pursuant to a compromise over the manner of conducting the census, Congress agreed to revisit the issue and then extend funding on or before June 15, 1999. Theoretically, this could affect the operation of agencies and departments funded by the CJS portion of the bill, including the Departments of Justice, Commerce and State and agencies such as the Federal Trade Commission, the National Weather Service and LSC, for the remainder of FY 99. Despite the contentiousness of the census issue, there are strong incentives on both sides of the aisle to make sure these entities will remain open on June 16, and no problems with extending LSC funding are anticipated.

The 106th Congress convened on January 6, 1999. The House of Representatives promptly recessed until January 19, 1999 while the Senate remained in session to conduct the impeachment trial. At press time, on the House side, several organizational decisions were still being made, including committee assignments. Harold Rogers (R-KY) will return as chairman of the CJS Appropriations Subcommittee. However, it has not yet been announced whether Alan Mollohan (D-WV) will continue as the senior Democrat on the CJS Appropriations Subcommittee or who will take the seat of the now retired David Skaggs (D-CO). Both Congressmen Mollohan (sponsor of the Mollohan/Fox amendment) and Skaggs actively lobbied for increased funding for LSC. On the Senate side, Senator Judd Gregg (R-NH) will again chair the CJS Appropriations Subcommittee. Last year, Senator Gregg worked closely with subcommittee members Senators Pete Domenici (R-NM) and Ted Stevens (R-AK) to secure the \$300 million appropriation for LSC.

The annual appropriations process is scheduled to begin the first week in February when the President submits to Congress his budget proposal for FY 2000. Watch the ABA GAO webpage, at <http://www.abanet.org/legadv/home.html>, for the latest information on the budget/appropriations process and committee membership, along with the latest "LSC Action Alerts."



## From the Chair...

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want to do that? You might want to think about...," and she gave me her sound counsel and wisdom. She never gave up on trying to train me.

This column of remembrances by a number of Lynn's colleagues who worked with her over the years in the cause of equal justice is for Lynn, for her husband Glenn and for her children Arlin and Shelby. It also is for our good fortune in having had Lynn with us, albeit for much too short a time.

**Jim Baillie, Past Chair, Standing Committee on Lawyers' Public Service Responsibility:**

There are so many things that could be said about Lynn Serman. Lynn was one of the best lawyers I have ever met. Many of us have worked with (or against) some of the best lawyers in the country. We admire excellence. We admire clear thinking, writing and expression. We admire strong advocates for their causes. In these things no one was better than Lynn, although her style was very soft-spoken and subtle.

Lynn knew more about public service than anyone else. Those who knew her were in awe of her expertise concerning the legal needs of real people, the structure of the profession, and the methods of delivering legal services. We also were in awe of her knowledge of bar associations, legal services and pro bono providers, the history of efforts to meet legal needs of real people, and we were awed at her vision of the future.

At meetings she would quietly ask the important question that had been overlooked. "Jim, what if..." "Don't you think that..." She would offer advice, usually in the form of a question, giving us not only the advice but also the ownership of the idea. We gradu-

ally came to realize that she was our teacher, and even more, our mentor. Her position was counsel to SCLPSR and SCLAID. She was really counsel to each of us.

**John J Curtin, Jr., Past ABA President:**

Lynn Serman was a special person! She was able to give counsel on complex legal problems. She could provide continuity and an understanding of the historical context of myriad legal services issues. She could fend off those who tried to overstep. Lynn was a warm friend and a good tennis doubles partner. In her professional life, she was totally committed to establishing a sound basis for providing outstanding legal services to the poor. She will be sorely missed.

**J. Chryst Dougherty, Past Member, Standing Committee on Lawyers' Public Service Responsibility:**

Lynn Serman was an extraordinary woman, and it was a privilege to know and work with her. In a myriad of ABA meetings across the United States, she was caring, efficient and thorough in planning for and conducting committee meetings. She made sure that the results were clearly and correctly reported and that all decisions were carried out. Deeply committed to helping the most disadvantaged people in our society, Lynn was always ready to answer questions and to be helpful in locating information as requested. A real administrative genius as well as a tried and true dear friend, she leaves a never to be forgotten memory.

**Robert Evans, Assoc. Executive Director, Governmental Affairs & Public Service:**

I literally don't know what I would have done without Lynn during the time she worked with us at the

ABA. She arrived on the scene in the early 80's when a series of efforts were being made to decimate LSC, and we conspired daily to do our part to keep the Forces of Darkness at bay. It proved not to be a race for the short-winded, but Lynn's determination and energy never flagged. She was a warm friend and confidante to me and a great force for good in the world.

**Alan Houseman, Director, Center for Law and Social Policy:**

My memories are of Lynn's central role in the ongoing effort to achieve equal justice for our county's poor and disadvantaged persons. Lynn carried out her role as staff to the Standing Committee on Legal Aid and Indigent Defendants in an extraordinary manner and provided unique leadership to focus SCLAID and the entire ABA on preserving an effective civil legal services program. I will miss Lynn a lot. But the fruits of her work will live on and provide inspiration.

**Paul Igasaki, Member, U.S. Equal Employment Opportunity Commission:**

I first met Lynn at a job interview with the ABA, when she put me at ease as I tried to discuss a job I knew little about. I admired her commitment and her practical, matter of fact approach in pursuit of the high ideal of equal access to justice.

We worked closely together, days sometimes weeks on the road. We were putting on back to back conferences, not to mention technical assistance visits and the usual bar association meetings. And, in the office, we worked separated only by a partition that made us comfortable with knowing about every detail of each other's professional and personal lives. In those times, I felt as close to her as any member of my family.

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## From the Chair...

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Her friendship provided support, as I hope mine did as well, through difficult professional situations as well as ups and downs in our personal lives. Her down to earth advice and empathy meant a lot to me and will always be remembered.

Lynn was never sappy. Her sentiment was usually cloaked with gentle sarcasm. But her joy for friends' successes and concern for their pain was always evident.

### **Dorothy Jackson, Standing Committee on Pro Bono and Public Service:**

I met Lynn over 18 years ago when she first interviewed at the ABA. She was hired as my boss. Who would have thought that she and I would end up close friends? Though we were close for many years, after Lynn became a mother we began a friendship that only we could understand.

She was my mentor. I believed in my heart there was nothing she couldn't accomplish. I learned so much from her. She helped me understand what and who was important in my life. She knew who was important in her life. Clearly her family and friends came first. Her love for justice came next.

When Lynn decided to leave the ABA and be a full-time mom I missed her more than I can explain. But she knew her priorities: her family's future, their happiness, life!

### **Esther F. Lardent, Pro Bono Institute:**

Robert Kennedy once noted that, to ensure justice, it is necessary that one person stand up and denounce the inequities that exist. In her own low-key but compelling manner, Lynn Serman, for so many of us and for so many issues related to equal justice, performed that role. Her passionate commitment to justice and fairness, coupled with

her creativity and incisive political skills, led her to improve every aspect of the law that she touched.

Much of what we accept as the norm today—broadbased bar association support for legal services, strong state and local pro bono programs, IOLTA funding that focuses on legal services for the poor—came about as a result of Lynn's hard work and vision. Lynn's real greatness, however, lay not in her ideas, but in her ability to bring so many people together to work side by side to enhance our system of justice for the weakest and neediest. Lynn was a brilliant strategist, but most important, she was a wonderful and warm colleague and friend. We shall not see another like her again.

### **Jim Neuhard, Former Member, Standing Committee on Legal Aid and Indigent Defendants:**

Lynn was truly a remarkable presence in all our lives.

I knew Lynn first as a public defender and member of SCLAID, and I grew to know her as an adoptive parent, friend, and partner in getting good things done. Above all, Lynn was very good at her job. She was bright, patient, thoughtful, thorough and exercised sound judgement. To those of us who chaired committees in the ABA, Lynn was invaluable.

There was another "value" Lynn held that gives more light on how truly unique and intelligent she was. Lynn worked in SCLAID not just for ideas, but to create and build organizations and institutions that served the beliefs she held. She wanted better legal service offices to better serve the poor. She wanted quality defender programs to protect the poor and the Bill of Rights. She understood that important people and causes burn hot and then cool but the programs we create will be there long after we are gone. We will

miss her but her work indeed will live on long after we are gone.

### **Jermome J. Shestack, ABA Immediate Past President:**

I first met Lynn when she joined the ABA nearly twenty years ago. At the time, I chaired the SCLAID. When I met this shy, self-effacing, young woman, I had little inkling of her dedication to equal access to justice and its many ramifications. But dedication she had and a quiet but passionate intensity in helping bring equal justice closer to reality. Her mark is vivid—in our progress in establishing a Pro Bono Center, in the mushrooming of pro bono programs in a multitude of state and local bars, and in the seemingly endless struggle to preserve legal services to the poor.

Lynn would come to me during my service with insight and ideas never seeking credit, seeking only implementation that would be meaningful.

Minorities, the alienated, the victims, the impoverished, all those in need were the objects of her concern and caring. Recently, Lynn received the William Reece Smith Award from the National Association of Pro Bono Coordinators. It was, at last, a much-merited recognition of two decades of achievement and dedication.

Lynn left our profession a better instrument for equal justice than when she found it. Those of us who worked with her will always have her memory fresh in our hearts. She leaves a precious legacy for her family and our profession.

### **Bob Spangenberg, The Spangenberg Group:**

Jim Neuhard, John Arango, Lynn and I worked together for over 10 years to improve indigent defense services throughout the country. The Bar Information Program (BIP), was one of Lynn's most remark-

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## LSC Awards Competitive Bidding Grants

The Legal Services Corporation (LSC), on December 21, 1998, announced FY 1999 competitive grant awards to local legal services programs in Colorado, Michigan, New Mexico, Ohio, and California.

In 1996, Congress mandated that the LSC begin to award grant funds through a system of competition intended to select the program with the best capability to deliver high-quality and effective civil legal services to poor clients. For 1999 funds, there were four service areas where competing proposals were submitted. LSC awarded the 1999 grants in those areas as follows:

- In Wayne County (Detroit), MI, LSC chose the Legal Aid and Defender Association, an existing legal aid provider but a first-time LSC recipient. Thus the current provider, Wayne County Neighborhood Legal Services, will no longer receive LSC funds.
- In Butler and Warren counties, OH, LSC awarded the grant to Legal Aid Society of Cincinnati, rather than a separate, smaller program that previously served those two counties.
- In the Santa Fe, NM area, the current provider, Northern New Mexico Legal Services, Inc., was selected to continue to provide services.
- In Alameda County (Oakland), CA, LSC determined that neither of the competing applicants met the requirements of the competition regulation. Additionally, as part of an ongoing process of state planning, LSC has decided that for the FY 2000 grants process, it will reconfigure the Bay Area's six service areas into one. For both of these reasons, LSC will seek to continue to fund the interim provider, San Francisco Neighborhood Legal

Assistance Foundation (which has been providing services in the county following the LSC's decision in mid-1998 to cease funding the previous provider, the Legal Aid Society of Alameda County). The reconfigured service area will be competed again in 1999.

In the service area covering parts of Denver and rural Colorado, LSC awarded the FY 1999 grant to Colorado Rural Legal Services, Inc., (CRLS) for six months and then will recompute the service area. During the period prior to recompetition, CRLS will continue to provide services to eligible clients in the service area until June 30, 1999, at which time LSC expects to have completed the recompetition and selected a permanent provider for the remainder of the eligible grant term.

## From the Chair...

(continued from page 25)

able SCLAID projects, and I believe one in which she took enormous pride. But when it came time to share in the accomplishments Lynn would always say, "Well I didn't really do anything, it was you guys. But she clearly was wrong. Without Lynn's guidance, hard work and political skill, I believe BIP would not exist today.

### Jayne Tyrrell, Massachusetts Legal Assistance Corporation:

Remember Lynn Sterman as a person who passionately cared about access to justice by the poor and equal rights for women. She acted on these commitments. Her death brings a painful, shadowy loneliness to the countless people who knew her.

### Wendy Yip, Member, Standing Committee on Pro Bono and Public Service:

Lynn and I overlapped in our participation in "SCLPSR" (now the ABA's "Standing Committee on Pro Bono and Public Service"), in 1995-96. She shared with me her excitement about adopting her daughter from China. She clearly loved her existing family, but was happy to be opening it up to one more. Lynn asked me lots of questions about my Chinese heritage and how I felt growing up in North America. I knew her daughter was going to be very blessed with her new parents.

### Edwin C. Yohnka, Former Presidential Assistant, Office of the ABA President:

My memories of Lynn do not fit neatly into a single defining anecdote, nor can recalling a specific event capture my thoughts. They remain centered on her strong personality, her deep intelligence and her remarkable drive and determination that was devoted to the causes of justice, fairness and equality.

Lynn helped others and me to understand that the ideal of equal justice is not an esoteric pursuit that can be ironed out and advanced according to whim. She constantly reminded us that the pursuit of justice was not the province of rhetoric. She saw the movement for justice as a part of a longer social and legal history, the ultimate fulfillment of a promise as old as our nation. She spoke of legal services for the poor not as it affected a mass of people who went without services, but for the impact that a single lawyer's

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## LSC Announces 1999 Funding/New Service Areas

The Legal Services Corporation (LSC), on December 3, 1998, announced decisions regarding FY 1999 funding for legal aid programs in 13 states. Basing its decisions in part on state plans filed by each state on October 1, the Corporation will award grants ranging in length from 1-3 years and will reconfigure selected service areas for year 2000 funding.

Service areas in the thirteen states were eligible for three-year grants beginning in 1999. Three-year grants were awarded for most service areas in New Mexico and Massachusetts. Two-year grants were awarded for most service areas in six states: Kentucky, Michigan, Missouri, North Carolina, West Virginia, and Wisconsin. One-year grants were awarded to most service areas in Ohio, Indiana, Arizona, and Nebraska. In California, service areas received grants

for all three periods. LSC stated that shorter than usual grant terms given to some states were intended to further encourage programs in these states to continue developing methods to enhance effective statewide services for clients.

In 1995 and 1998, the Corporation required all legal services programs to begin or continue planning processes to develop more effective statewide legal services systems. A required element of the planning process is an examination of the number of LSC programs in a particular state to determine the most effective configuration for delivering legal services.

Beginning in the year 2000, LSC will redefine and consolidate service areas in some states. Areas in Nebraska, parts of Arizona, and the Bay Area of California will be affected by these changes.

The three service areas in Nebra-

ska will be combined into one statewide service area for competition in the year 2000. In Arizona, two service areas around Tucson will be merged into one, and four Native American service areas will be consolidated. In the Bay Area of California, the Corporation will compete one service area for the year 2000 instead of the six current service areas. Based on an extensive review of available information from the state planning process, LSC believes these new service areas represent a more effective structure for delivering services to low-income persons in these communities.

There are 32 states that are subject to competitive bidding in 1999 for grants in 2000. LSC will publish a request for proposals in these states in April, 1999. LSC has indicated that, based on a preliminary reading of state plans, it does not expect that the request for proposals will reconfigure service areas in most of these states. LSC has identified six states where configuration may be an issue, indicating that after further study it may reconfigure service areas (and request bids based on such reconfigurations) in Indiana, New Jersey, New York, Ohio, Pennsylvania and Virginia.

SCLAID strongly supports LSC's efforts to stimulate careful planning for the delivery of legal services to the poor in each state. The Committee has initiated a dialogue with LSC about the process leading to reconfiguration. It urged the Corporation to communicate frequently and clearly with planners in each state where LSC contemplates changes, to adopt and disseminate standards and criteria providing guidance to planners in developing sensible service areas, and to provide adequate resources to assist programs to achieve smooth transitions.

### From the Chair...

(continued from page 26)

service could have upon an individual who might otherwise be without help or hope.

Lynn possessed the zeal of a missionary, the insight of an analyst and the heart of a warrior. But it was her compassion and commitment that made her "the conscience" for many. She never let us abandon what was right for an "easier" solution to a problem.

Yet, the times that I knew Lynn to be most joyous and the most focused was when she spoke about her family, her husband, her children and her friends. She knew that this was her place of greatest impact in the world, and she reveled in that role. She demonstrated, long before it was popular, that a balanced life is the best life and that by giving one can gain so

much. It is for that lesson that I will always be grateful.

*Laurie Zelon, Immediate Past Chair, Standing Committee on Legal Aid and Indigent Defendants:*

Lynn Serman was one of the wisest people I ever had the privilege to know. She combined that wisdom with a passion for what was right, with compassion, and with love for justice and fairness. It was always her ideas, her drive, and her fortitude that made so many projects successful, and so many ideas a reality. She took credit for none of this, but those of us who knew her knew where the credit belonged. Most of all, Lynn was vibrant and alive. She had a wicked wit, but she was never hurtful. And she was, to so many people, a kind and wonderful friend who gave generously of herself. I will miss her every day.

# Calendar

## Pro Bono

May 6-8, 1999—ABA Pro Bono Conference at the Westin Innisbrook Resort, Tampa, FL. Contact Dorothy Jackson at 312/988-5766

(e-mail: [jacksond@staff.abanet.org](mailto:jacksond@staff.abanet.org)), for more information.

March 8, 1999—Nominations for Pro Bono Publico Awards are due. Contact Dorothy Jackson at 312/988-5766 (e-mail: [jacksond@staff.abanet.org](mailto:jacksond@staff.abanet.org)),

for more information.

## LRIS

October 13-16, 1999—ABA LRIS Workshop in Alexandria, Virginia. Contact Lourdes Rodriguez at 312/988-5786 (e-mail: [rodrigul@staff.abanet.org](mailto:rodrigul@staff.abanet.org)).

### *New SPAN Update Available*

What is a comprehensive integrated delivery system? The information included in the new edition of the *SPAN Update* hopes to shed some light on this question. *The SPAN Update: A Guide to Legal Services Planning*, Volume IV, #1 was published in January 1999.

For information, call SPAN Coordinator Guy Lescault, at 202/452-0620, ext. 18, or e-mail [g.lescault@nlada.org](mailto:g.lescault@nlada.org)

### *SCLAID/ NLADA Seek Nominations for Harrison Tweed Award*

Named for an outstanding leader in the development of free legal services to the poor, the Harrison Tweed Award was created in 1956 to recognize the extraordinary achievements of state and local bar associations that develop or significantly expand projects or programs to increase access to civil legal services to poor persons or criminal defense services to indigents. This year special consideration will be given to programs that demonstrate the bar's full participation in planning on a state or local level for development of integrated, comprehensive systems for providing civil legal services for the poor.

The awards will be presented August 6, 1999 at the ABA Annual Meeting in recognition of work done during the year beginning April 1, 1998. Projects which began prior to that date will be considered if substantial services have been provided during the April 1, 1998 through March 31, 1999 period. Nominations must be postmarked by April 15, 1999.

For further information, contact Patricia Wagner at 312/988-5757 or [wagnerp@staff.abanet.org](mailto:wagnerp@staff.abanet.org)

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