

DIALOGUE

Winter 2012

VOL. 15, NO. 3

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Economic Impact Studies: An Argument for Funding

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From the Chair...

By Larry McDevitt

In late October the Pro Bono Committee hosted a National Pro Bono Summit in Washington, D.C. as a way of jumpstarting a national grassroots effort across the legal profession to reinvigorate and, in many cases reinvent, the pro bono legal services delivery system. [Read more...](#)

Policy News

Louisiana Adopts Disaster Pro Bono Rule

The Louisiana Supreme Court entered an order adopting a major disaster rule in April 2011, becoming the 12th U.S. jurisdiction to do so. [Read more...](#)

LRIS

Coping with the Recession Part Two: Five Inexpensive Outreach Approaches

By Carole Conn

In the last issue of *Dialogue*, I prepared an article entitled, "Coping with the Recession: How LRIS Programs are Weathering the Economic Storm," and outlined ways in which some LRIS programs have responded to the trends associated with the Great Recession. [Read more...](#)

From the Chair...

By John Norwine

I appreciate being given this opportunity to introduce myself. I am John C. Norwine, the new Chair of the ABA's Standing Committee on LRIS. I was a practicing attorney in Cincinnati for many years before becoming the Executive Director of the Cincinnati Bar Association (CBA) in 1995. [Read more...](#)

Consultation Fees: A Lawyer's and LRIS's friend!

By Ann S. Jacobs

A frequent complaint from panel attorneys to LRIS programs is that the initial consultation fee is too low and does not cover the attorney's time. We need to help our attorneys appreciate that the consultation is an attorney benefit, and the low cost will help them get clients. [Read more...](#)

2012 National Lawyer Referral Workshop

Save the Date! October 24-27, 2012 — Las Vegas, Nevada. [Read more...](#)

LAMP

Legal Issues Facing Military Families with Special Needs Children
By Lieutenant Colonel Elizabeth L. Schuchs-Gopaul, USAF

As in the population at large, some military families have a child with a disability—a "special needs child." But unlike other families, military families face circumstances that exacerbate the challenges of raising a special needs child. [Read more...](#)

From the Chair...

By David G. Ehrhart, Brig Gen, USAF (Ret.)

Happy New Year! As I look back on 2011, I am so proud of the exceptional efforts by the LAMP Committee and the ABA to support our military personnel and their families. You made a difference! Our mission is to support the delivery of high-quality civil legal assistance services to the men and women of our armed forces and their families, and in 2011 we carried out this mission in a variety of ways. [Read more...](#)

SCLAID

Nominations Sought for 2012 Harrison Tweed Award

Named for an outstanding leader in the promotion 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. [Read more...](#)

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IOLTA Feature

IOLTA

Economic Impact Studies: An Argument for Funding

**Economic
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Studies**

While the need for legal services for low-income populations continues to grow, funding has become increasingly scarce. Legal services programs seek income from diverse sources, but often find themselves competing with other charitable organizations for limited funding. Some programs have found that economic impact studies can show decision makers that the work of legal services reaches farther than the clients served. These studies show that the influx of federal benefits attained can have a positive impact on state economies and, as a result, can change the conversation about funding. IOLTA programs in Florida, New York and Pennsylvania have conducted these studies and have used the information to influence funding sources by showing the value of legal service to their communities.

From the Chair

**Grantee
Spotlight**

Pro Bono

On behalf of Dialogue, Calien Lewis, Executive Director of the Maine Bar Foundation spoke with Jane Curran, Executive Director of the Florida Bar Foundation, Chris O'Malley, Executive Director of the IOLA Fund of the State New York and Al Azen Executive Director of the Pennsylvania Lawyer Trust Account Board about the economic impact studies conducted for their programs.

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Calien Lewis: What were the key factors in deciding to fund an economic impact study and what did your program hope to gain from the study?

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Chris O'Malley: Our program decided to fund a study to develop a more complete picture of the economic benefits legal services to the poor provided in New York State. We believed that while clients received a direct benefit from legal aid, there was a stimulus effect on the state's economy and savings to tax payers that had gone undocumented. We thought that documentation of this information would make a compelling case for the need to fund civil legal services, and that even in difficult budgetary times, funding the study would be money well spent.

Al Azen: Our program financed a five-year report on the results and accomplishments of filing fee funding. Authorization for this filing fee originated in a State statute passed in 2002. At the time, a five year sunset date was set but was subsequently extended through 2012. Along with the extension came a requirement; a performance audit was to be conducted by the PA Legislative Budget and Finance Committee to determine how the funds were used and whether a continuing need for funding existed. Anticipating that audit, the IOLTA Board authorized the production of a five-year report on the results and accomplishments of the filing fee funding. The purpose of the reporting effort was to document the continuing need for the funding; however, the study also documented an economic stimulus effect, which benefited the entire commonwealth of Pennsylvania.

Jane Curran: We conducted an economic impact study to bolster our efforts to secure annual general revenue funding from the state of Florida for legal assistance for the poor. Like Chris and Al, we hoped to demonstrate that the state of Florida benefited economically from funding legal services.

Calien: How did your program choose the firm to conduct the study and what factors should programs consider in choosing a firm to conduct the study?

Al Azen: In Pennsylvania, we used Ken Smith from The Resource of Great Programs (TRGP). A steering committee was appointed to determine the objectives of the five-year report and how best to meet these objectives. Once the intentions were formulated, the committee sought a proposal from Ken Smith. Because we worked with TRGP in the past on state wide strategic planning, we knew the quality of their work. In addition, the fact that they had our raw data helped keep costs down.

Chris O'Malley: We also used TRGP to conduct an economic impact study. We chose that firm because of their expert knowledge in the delivery of legal services and their access to our data. Compiling the necessary statistics can be time consuming and expensive; however, using a company that already has the necessary information is a time and cost saving measure. This year, in conjunction with the Chief Justices' Task Force on Access to Justice, two outside economists have been working to further develop our study.

Jane Curran: We issued an RFP to two firms, which our legislative counsel for state funding advised were well respected by members of Florida's legislative and executive branches. Both firms submitted proposals. We chose the firm which we worked with previously and which presented a more thorough proposal.

Calien: What was the cost of the study and was IOLTA the sole funder of the study?

Al Azen: The Pennsylvania IOLTA Board funded the five-year report, which was issued in February of 2009; the cost was \$17,340. The IOLTA Board engaged Ken Smith to update the report and provide other services related to the recommendations of the performance auditors. The anticipated cost to update the results and document the economic impact of funding legal aid is approximately \$20,000.

Jane Curran: In Florida, the Foundation paid \$40,000 for the study. This fee covered the analysis of data provided by the foundation in electronic format. As mentioned, if TRGP had to collect data, their costs would have been higher.

Chris O'Malley: The cost of our study was between \$7,000 and \$10,000. Programs should not shy away from considering a study due to expense because the benefits have such great potential. If budgetary constraints are an issue, programs should note that the costs are largely driven by the level of detail a program is seeking.

Calien: Is it possible for an IOLTA program to conduct an economic impact study in house without hiring a consultant?

Chris O'Malley: It is possible for IOLTA programs to conduct their own economic impact studies. Programs would apply data from their state to the outcomes from other states or national studies that have been conducted on the particular legal services they are seeking to capture. It should be noted that in determining outcomes, programs should steer toward conservative numbers in order to maintain credibility.

Al Azen: While a program may be able to conduct such studies in house, the program would need to dedicate staff and research time, as well as, have some research expertise. If a program chose to complete its own study, resources are available through the NLADA website, which could be of assistance.

Jane Curran: There are standard models for calculating economic impact that can be used. Ken Smith used such a model in preparing our Annual Report on Legal Aid Grantee Work. Nevertheless, if a program has the raw data available, the cost to have a firm analyze that information is not exorbitant and may be well worth the investment.

Calien Lewis: What were the general findings from the study?

Chris O'Malley: The savings and economic impact in New York State totaled nearly \$1 billion representing a five to one gain in the monies spent for civil legal services. These figures were derived from federal dollars coming into the state, which in 2010 totaled nearly \$350 million, savings in

emergency shelter costs, and the economic stimulus effect of the federal funds brought into the state. The state also saw savings related to domestic abuse cases. With legal aid, victims of domestic violence had greater access to restraining orders which saved the state in costs associated with medical care, mental health care, lost productivity and property damage. The study also documented other benefits to the state derived from matters such as, awards and settlements in family law, landlord/tenant issues, and consumer and employment issues.

AI Azen: The total economic impact of legal aid supported by the filing fee funding was \$154 million over the five-year period of the report. This figure was more than four times the amount of the filing fee funding for that period of time. The economic impact was derived from a combination of federal benefits awarded to legal aid clients, savings in emergency shelter costs, savings in cost related to domestic violence victims, and savings for low-income utility customers.

Jane Curran: Our study showed that state funding for legal assistance created 170 non-legal aid jobs, produced \$13 million of output in the state economy, provided \$22 million of disposal income and generated \$13.86 of economic impact for every \$1.00 spent on legal aid through state funding. The driving factor of this economic impact was the large recurring amount of Federal transfers generated by legal assistance cases. These federal transfers were the result of monthly payments of Supplemental Social Security Income.

Calien: How did or will your program use these findings?

Jane Curran: A one-page summary of the economic impact study and its findings is distributed to key legislators as we seek state funding. It is important to note that these studies are one tool to be used in an arsenal of arguments to fund legal assistance to the poor. When using the information, programs should be cautious and consider the objective they are trying to achieve. They should define the audience and determine whether a credible economic impact study would have a positive effect on them. Then the program must consider the budget needed to conduct such a study and whether it would be a cost effective endeavor.

Chris O'Malley: Our findings played a crucial role in a report calling for the expansion of funding for civil legal services. In New York, the economic impact study met with positive reactions and budget cuts were rescinded after seeing the results. The Chief Justices' Task Force on Access to Justice used the findings as a leading point in obtaining funding. Not only did our program use the results, but one of our grantees used our template for calculating the savings in homelessness prevention to thwart efforts to cut their funding at a county level.

AI Azen: We used the results in the noted five-year report by broadly distributing them. This circulation resulted in those figures being used as part of the performance audit report issued in May of 2011. The results will be used again in an updated report. As Jane stated, programs must be aware of the audience. In our case, some of the performance auditors were lukewarm to the economic impact argument. While the economic impact argument is one that resonates very strongly with some, it is not as effective with others. For this reason, it is important for programs to have more than this single argument. It is equally important to put the results of the study in the hands of those who want to and can use it.

Calien: What are some lessons learned that may be helpful for other IOLTA programs considering such studies?

AI Azen: Economic impact studies can be powerful arguments to the benefits of civil legal services to the poor. Having more studies made known to the public and giving these studies credibility is paramount. It may be useful to encourage State Bar Associations or universities, as part of a graduate, social service or research initiative, to perform legal aid economic impact studies. Third parties may be able to conduct the studies at little or no cost to IOLTA programs, and this type of study would have the added benefit of being more objective and consequently more credible.

Chris O'Malley: Our lessons learned are more practical. We learned that having detailed data available from the grantees on their outcomes was crucial. The availability of that data helped create efficiency for the study.

Jane Curran: Much of what is accomplished through legal assistance to the poor is not measurable. There are times a client story is more effective than analyzed data, and other times where a combination of data analysis and client story is most effective. Because of this variable, making a case for funding legal aid is not as simple as funding an economic impact study. These studies may be very influential, but it is important to know in whose hands one is putting that analysis. Programs need to look at the reasons they want to conduct the study and decide whether funding it would help them obtain the desired outcome.

For more information on economic impact studies contact [Susan Updike](#) or call 312-988-5744.

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From the Chair...

By Lora Livingston

Commission on Interest on Lawyers' Trust Accounts


On January 24th, in accordance with the Federal Reserve's new policy on greater transparency in interest rate forecasting, the Federal Open Market Committee (FOMC) announced that the current economic outlook warranted low levels for the federal funds rate through late 2014. Though we hoped for better news, the forecast was not surprising. Instead, it confirmed what many had suspected, that low interest rates were the new normal rather than an anomaly of the times.

This new normal came into sharp focus last fall. In October, the Commission held its meeting in Omaha, Nebraska. There we met with Doris Huffman, Executive Director, Nebraska Lawyers Trust Account Foundation, as well as, the Foundation's Immediate Past President, Jerald Ostdiek, and its current President, Michael Brogan. The members of the Commission and I had the opportunity to learn about the good work and local challenges facing IOLTA in Nebraska. As the meeting progressed, reports from members of the Commission and staff showed the existence of national trends challenging many programs throughout the country. Banks were moving from safe harbor/benchmark to lower interest rates, reserves were being depleted, and fund raising was becoming a reality for many IOLTA programs. We realized these issues, brought on by a weakened economy and prolonged low interest rates, needed to be addressed.

In response, the Joint Meetings Committee developed a timely and thought provoking program for the winter IOLTA workshops. These workshops took place on February 2 - 3, 2012 in New Orleans, Louisiana and focused on navigating this new normal. Concurrent sessions addressed topics such as: policies every program should have, fundraising, disaster planning, and intelligent retrenchment. Other sessions focused on the delivery of legal services highlighting developments in pro bono and evaluation of Administration of Justice (AOJ) grantees. Banking breakouts allowed attendees an opportunity to discuss banking issues specific to their region, and speed dating returned to offer short discussions on relevant topics to the community. As always, the newer staff and trustees breakfasts provided these groups with an opportunity to discuss their unique challenges in this low interest rate environment. The workshops concluded with a plenary session on thriving in the new normal.

Following two full days of workshops, the Commission held its quarterly meeting. Mathile Abramson, Chair of the Louisiana Bar Foundation and Donna Cuneo, its executive director warmly welcomed us to New Orleans and reported on the state of IOLTA in Louisiana. Like so many others, Louisiana strives to meet the growing demand for legal services amidst near zero interest rates and necessary cuts in grants.

Our time in New Orleans reinforced the increasing importance of the IOLTA workshops. As programs face diminished revenue and the FOMC forecast offers no immediate relief, sessions addressing relevant topics, along with opportunities for discussion and collaboration, brought a fresh perspective and new strategies on ways to embrace the new normal. I thank the Joint Meetings Committee for providing a program that challenged the IOLTA community to thrive in this unfavorable environment. With no time to rest



on its accolades, the Committee is already gearing up for the summer workshops to be held on August 2 -3 in Chicago. I am looking forward to this time of training and collaboration and hope to see you then.

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Grantee Spotlight: Representation for Family Law Issues — The Maine Volunteer Lawyers Project

By Juliet Holmes-Smith

Early in the afternoon, once a week in Lewiston District Court House, a small group of people start to gather in the hallway. Some of them have brought children, most of them have papers, perhaps neatly organized into a folder or maybe dog-eared and clutched in worried hands. Soon the undergrad volunteer arrives and starts to make a list and hand out forms. Then one by one, each person will get a chance to meet with "The Lawyer." This same scene repeats itself in other court houses in Maine every week and is just one of the many ways the people of Maine with low incomes are able to access pro bono representation for family law issues.

The History

Created in 1983 through a partnership between the Maine Bar Foundation and Pine Tree Legal Assistance, the Volunteer Lawyers Project (VLP) is Maine's statewide pro bono project completing more than 4,000 client intakes per year. Approximately, one-third to one-half of VLP funding has come through IOLTA over the past five years and much of this funding has gone to support representation for family law litigants.

Up to 50% of VLP's client callers are looking for help with family law problems, and VLP fills the role of facilitating providers who offer advice and representation to people with low incomes. As facilitator, the organization's primary role is to refer clients to pro bono lawyers and manage pro bono projects, but it does not provide legal representation. Because of this role, VLP is able to refer both parties in a family law matter to different pro bono attorneys. In most cases, if one of the parties is poor, chances are that the other will also have a low income. With the ability to obtain representation for both parties, VLP does not have to turn away the individual who calls last.

The work of CHAPS

The Court House Assistant Project clinics or CHAPs, described above, now operate weekly in four district courts, serving more than 800 clients per year. At each walk-in clinic, one to three pro bono attorneys are available to meet with family law litigants and provide them with limited representation, including help with forms, information about process, and specific advice about cases. A client does not need to have an appointment, and the services provided are specific to the client's needs. In every county where a CHAPs clinic has opened, client numbers have increased by 200 to 300 individuals per year. The attorneys are supported by undergraduates from local colleges, who help with organization and intake. VLP has developed relationships over many years with local colleges, including the University of Maine undergraduate and law schools, Bowdoin, Bates and St Josephs. These partnerships have created long standing training and volunteering programs that support all VLP family law projects and VLP programming as a whole. Hundreds of able and committed students have participated over the years, providing an average of more than 6,000 hours of volunteer time per year.

The Family Law Help Line

VLP also administrates a family law phone help line for clients statewide who can not attend a CHAPs clinic. The family law help line operates twice a week, with one afternoon and one evening session. Clients have appointments to receive calls from the pro bono attorneys and supervised law students who staff the help line. Approximately 1,000 clients per year make use of this phone based service, which offers limited representation including help understanding the family court process and specific advice for each client's situation. The Friday afternoon helpline is sponsored by a prominent Portland family law firm whose experienced attorneys staff the project on a rotating schedule. Every person who receives limited representation through a VLP family law project is being offered quality advice from some of the best family lawyers in Maine.

Pro Bono Representation

Maine attorneys are very generous with the pro bono time that they give through VLP and other IOLTA funded legal services. However, with thousands of family law litigants needing to access the courts every year, VLP is unable to obtain full pro bono representation for the many people with low incomes who call looking for service. Limited representation projects as described above, work well enough for many self represented litigants, especially because family courts in Maine have worked diligently to be accessible to the increasing number of people who appear before them without lawyers. Yet, there are still many people with family law needs who, because of a disability or life situation, cannot access justice without full representation. Because of this fact, VLP prioritizes cases and refers these clients for full representation as resources allow.

Priorities for referral to a pro bono attorney for full representation include cases where one party has retained counsel, where there has been domestic violence between the parties, where minor children are involved in the proceeding, where the client has limited English proficiency, or where the client has significant mental health issues. In any of these situations, VLP works to find a pro bono attorney who will take the case through to a final judgment or order. Statewide, VLP uses a uniform procedure for all full representation cases, this process includes: intake and assessment by VLP volunteers and staff; calls from private attorneys (Lawyers for the Day) based at VLP's two offices to attorneys throughout the state, explaining the case and urging those lawyers to take the case on a pro bono basis.

The Coffin Family Law Fellowship

In Maine's largest county, Cumberland, where Maine's foremost law firms are located, VLP supports a unique project created in partnership with the private bar, Pine Tree Legal Assistance, and the Maine Bar Foundation. This project is the Frank M. Coffin Family Law Fellowship, named after Frank M. Coffin, a much beloved federal appellate judge and founder of Maine's access to justice efforts. The Coffin Fellows are new attorneys who have demonstrated an interest and commitment to low income legal aid and family law. During the Fellowship, they are trained and supervised within Pine Tree's Family Law Unit. There are two fellowship positions, and the fellows are selected to serve two-year terms (staggered) during which time they represent parties with low incomes in family law cases. Through the generous funding of twelve Portland law firms, the Maine Bar Foundation is able to offer this experience to young lawyers wanting to work for legal services. The Coffin Fellows work exclusively with clients who have qualified through the Volunteer Lawyers Project for pro bono family law representation and who meet the priorities set for referral for full representation. In the eleven years of the project's existence, the Coffin Fellows have worked on 856 of the most difficult cases on behalf of low-income men and women in Cumberland County who otherwise would have been self-represented. This number is in addition to the 200 to 300 family law cases per year that VLP refers for full representation to the private bar.

Future Projects

Despite all these services, many low-income family law litigants, especially in rural areas, do not have access to legal assistance. To meet the need for access to justice, VLP is expanding a mentoring program where new

attorneys can take a pro bono family case with the reassurance of having an experienced mentor as a consultant. Over the next two years, in partnership with Maine public Libraries, VLP is developing a project, which will culminate in family law consultations over MOVI (Skype-like technology). This technology will allow an attorney in Portland to provide a family law clinic service to someone sitting in the libraries of rural Maine.

The Need for Funding

All of these programs depend on funding; sadly, the reality is that despite the wonderful contributions of volunteers, including an average of more than 10,000 pro bono attorney hours per year, all pro bono projects need staff time and resources to create and sustain them. Even with the downturn in revenue, IOLTA continues to fund the work of VLP on new projects in order to maintain a good position to increase access to justice.

***Juliet Holmes-Smith** received her JD from the University of Maine School of Law and is currently the Director of Maine Volunteer Lawyers Project (VLP). Before moving to VLP, she served as Directing Attorney for the Family Law Unit at Pine Tree Legal Assistance. Ms. Holmes-Smith is a member of the Maine Family Law Advisory Commission, a member of the Maine Victims Compensation Board, and is co-chair of the Maine Justice Action Group's Collaboration Committee.*

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By David A. Lash

[Finding the Next Big Idea to Fight Poverty](#)

We spent two days in Washington D.C. searching for the next big idea. Not a scientific breakthrough, not an entrepreneurial flashpoint and not a political platform. Rather, we were looking for that measure of justice needed to do something significant about the ravages of poverty.

[From the Chair](#)

One hundred lawyers - corporate, law firm, legal aid, government and judges - were invited by the American Bar Association to the inaugural National Pro Bono Summit to discuss ways to bridge the "justice gap," a short-hand reference for the reality that only about 20 percent of the legal needs of the poor are being met. That "gap" in providing services means that the poor, who have to interact with the justice system to ensure for themselves the basic necessities of life, are ending-up homeless, without medical care, and without hope - often for want of a lawyer.

[Policy News](#)

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The ABA broke us up into five working groups. In addition, the National Legal Aid and Defenders Association met with its own small "blue ribbon" committee of law firm pro bono professional attorneys, corporate general counsel, and both civil and criminal legal services lawyers, to examine effective public/private partnerships and explore how to expand and replicate those projects that are having an impact around the country. There was a lot of passionate and informed discussion in these various meeting rooms, and there was a lot of agreement on a lot of things. Perhaps that was the problem.

The most important undercurrent of the two days was a simple yet powerful set of beliefs: that lawyers can do more to combat poverty than can any other group of professionals; that the legal profession can open the doors of democracy to those most in need of its protections; that only the justice system can ensure the basics of life to those most in need; and that a representative judicial system will not happen without lawyers. Based on that premise, we agreed upon and built on a number of themes:

Pro bono involvement by the private bar leverages meager resources and right now, it is the best way to increase access to justice to supplement the overburdened staff legal aid network, such an expansion is needed by many in this nation to protect themselves and their families against injustices that often lead to homelessness, the disintegration of families, and imprisonment.

Professionalization of the pro bono legal services delivery system is critical to maximizing that leverage. Law firms, bar associations and legal aid offices alike must reset priorities and, even in times of fiscal crisis, hire skilled experienced attorneys to establish and manage pro bono programs. This will leverage the private bar and create the most efficient benefits possible.

Pro bono programs will be only as effective and help only as many clients as the size and strength of the country's legal aid providers will allow; pro bono volunteers need foundational support from legal aid offices, law school clinic programs, bar associations and criminal defenders. Without growing that supportive expert infrastructure, we will never be able to expand the relief that well-intentioned, skilled volunteers can provide. Effective partnerships between public sector organizations, the private bar and private industry

are essential. When these partnerships are successful, they should cry out for efficient means of replication and expansion.

And last, the advantages of technology must be better tapped in order to bring more services to more people in more areas, both geographic and substantive.

What we keep hoping, however, is that the structure and dedication of this continuing commitment will yield a "big idea" - something we haven't yet considered. Not just notions around which we can agree, but something more, something around which we can debate, that will shake us up.

In their new book, *"That Used To Be Us,"* New York Times columnist Thomas Friedman and Johns Hopkins University professor Michael Mandelbaum remind us that America's greatness and ability to overcome, lead and inspire is built on creative thought and innovative approaches to big problems that can only be resolved with big ideas. Some of our country's greatest advances have arisen out of unique government policies that lead to and support new and risk-taking private actions.

For all of the good agreement that the National Pro Bono Summit produced, we can only hope that the foundation laid will support exactly that kind of new and innovative thought, the kind of bold ideas around which we can argue, compromise and build. As we move forward, we need to look to all those smart people in those meeting rooms to come up with just one big idea for a policy paradigm shift that will create an environment for real change.

Perhaps we can require lawyers to serve "residencies," as physicians do, but in inner city legal aid organizations. Maybe we can require a small (less than 1 percent) surcharge on escrow fees, or attorney fees, or filing fees, or junk food sales, or who knows what, that will bring in the billions needed to finally and monumentally expand the capacity of legal services to recruit, train and supervise enough members of the private bar to really make an impact on the justice gap. Maybe a tax credit for firms, and forgiveness of stifling loan obligations for students, in exchange for pro bono time expended. But chances are the searched-for transformative notion is something entirely different that will arise from a group of young, skilled, educated people, unshackled by us old folks and old ideas. American exceptionalism is out there.

Whatever the notion, wherever that exceptionalism arises from, we must find that "ah ha" policy idea around which we can fight and cajole and compromise. That big idea, whatever may evolve, is what we are looking for. It is what justice is looking for. Think about it. We put a man on the moon. We can do it.

David A. Lash is the managing counsel for Pro Bono and Public Interest Services at O'Melveny & Myers LLP.

The opinions expressed in this article belong solely to the author.

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Standing Committee on Pro Bono and Public Service

In late October the Pro Bono Committee hosted a National Pro Bono Summit in Washington, D.C. as a way of jumpstarting a national grassroots effort across the legal profession to reinvigorate and, in many cases reinvent, the pro bono legal services delivery system. Over 100 pro bono experts and legal profession leaders came together. Working in targeted focus groups, they generated an amazing array of ideas, strategies, and action steps. Most importantly, the group generated tremendous momentum and enthusiasm to effectuate change. In responses to a post-event survey, we captured just some of the energy that was evident during the Summit:

- I thought it was a great event. So many times, we are sitting in sessions where we are simply learning about other programs and projects. I loved that this was an opportunity to brainstorm about what can be done to enhance pro bono on a national level. I really hope that we continue the dialogue and do something concrete with our discussions.
- I am very excited about exploring ways in which we can help to address the justice gap in this country.
- The group discussions were better than others I have been in; and our group seemed committed to continue with our proposed agenda in the future.
- While we have made great strides in efforts to increase pro bono, emphasis on access issues not necessarily related to attorney involvement, tend to overshadow pro bono efforts. This Summit allowed us to once again center our focus and generate actions directly associated with increasing both pro bono participation and creation of opportunities.
- I felt that there was a lot of enthusiasm at the Summit and that some very valid concerns were expressed. It seems as though we need to develop a thoughtful, comprehensive strategic plan that encompasses realistic solutions and empowers a broad range of partners in order to bring about actual change both for the short term and for the long term.
- I felt that the Summit was a great opportunity to bring together people who are involved in this issue but who have rarely, if ever, had the opportunity to think and work through these issues together. It felt like an evolutionary step in the development of pro bono.

The Committee's expectations were that the Summit would be just the first step in an ongoing process. The vast majority of those in attendance have agreed to participate in that process which we are calling the *Pro Bono Summit Initiative*. Over the course of the next year Working Groups will be studying many of the critical issues identified at the October event including program infrastructure, data collection, quality and evaluation, and encouraging participation among other matters. A leadership plan has been

developed, timelines have been established for certain goals to be achieved, and plans are underway for participants and others to reconvene at least twice more during the next year.

As the group discussed the existing gap in the legal services delivery system and the challenges and obstacles that need to be overcome to expand the pro bono legal services system, two things became very clear. First, the *Pro Bono Summit Initiative* cannot be just a project of the ABA's Standing Committee on Pro Bono and Public Service. We are calling on all of our partners to engage in an active and collaborative way with this effort. Second, the challenge of reinvigorating the pro bono legal services delivery system cannot be solved with just the leadership of the legal profession. Allied professions have a vested interest in our work to close the justice gap and the *Pro Bono Summit Initiative* will reach out across the professions to engage others in our efforts.

In addition to their ongoing efforts with Summit Working Groups, attendees were charged at the Summit's end with returning to their communities to discuss, write, listen, and advocate for strategies for improving and expanding the pro bono legal services delivery system. Through this column and in other ways, the Pro Bono Committee and I bring to your attention what we anticipate will be a growing movement across America to enhance and improve pro bono delivery systems. I will continue my work in my hometown of Asheville, North Carolina – both in my firm and with other law practices – to engage more lawyers in doing pro bono work; I hope each of you will do the same.

For more information about the *Pro Bono Summit* and what you can do to make a difference – such as convening a local pro bono summit, incorporating pro bono into your access to justice initiatives, building a system for pro bono service into both your practice and your Firms' – contact our Committee Counsel, [Steve Scudder](#), or call 312/988-5768.

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Policy News

Louisiana Adopts Disaster Pro Bono Rule

The Louisiana Supreme Court entered an [order](#) adopting a major disaster rule in April 2011, becoming the 12th U.S. jurisdiction to do so. The rule, based upon the ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster, permits attorneys licensed in other jurisdictions to provide pro bono legal service after declaration of an emergency. For more information, see <http://www.lasc.org/rules/supreme/RuleXLI.asp>.

Nebraska adopts Registration for In-House Counsel

Effective January 2012, revisions to Neb. Ct. R. §§ 3-1201 allow corporate lawyers who are not admitted to practice in Nebraska but are admitted to practice in another jurisdiction and maintain active status in that jurisdiction to register as in-house counsel within 90 days of employment. A lawyer registered under this section is able to provide pro bono legal services through an established not-for-profit association, pro bono program or legal services program or other organizations specifically authorized in Nebraska. For more information about the rule, see <http://court.nol.org/rules/amendments/3-12App1Amds.pdf>.

Indiana Amends its Rules of Trial Procedure to Allow for Limited Representation

Effective January 2012, revisions to Rule 3.1(I) will allow for temporary representation of a party or limited scope representation. In order to engage in this activity, the lawyer must file a notice of temporary or limited representation. When the attorney completes the representation, the attorney must then file a notice of completion of representation with the clerk of the court. For more information, see <http://www.floydcounty.in.gov/SupremeCourtFilings/94S00-1101-MS-17a.pdf>.

Indiana Pro Bono Commission Creates Partnership to Address Bankruptcy

In October 2011, The Indiana Pro Bono Commission partnered with the U.S. District Court for the Southern District of Indiana and the Indiana State Bar Association's Bankruptcy and Creditors' Rights Section to create a new pro bono project. The organizations have already created a bankruptcy resources flyer. For more information about the project, see http://www.insb.uscourts.gov/procedure/Getting_Started/Pro_Bono_representation.htm

Arkansas Adopts Order Permitting Out-of-State Attorneys to Provide Pro Bono Services

The Arkansas Supreme Court granted the Access to Justice Commission's petition to authorize attorneys licensed outside of Arkansas to provide pro bono services in the state under the sponsorship of legal aid organizations named in the order: The Center for Arkansas Legal Services, Legal Aid of Arkansas, and Lone Star Legal Aid. The rule permits in-house, corporate counsel, as well as other resident attorneys not licensed in the state, the opportunity to provide pro bono legal services to low income residents. For more information, see <https://courts.arkansas.gov/announcements/In%20re%20Petition%20Filed%20by%20AAJC.pdf>.

Tennessee Launches Website Providing Legal Assistance

OnlineTNJustice.org, a joint project of the Tennessee Alliance for Legal Services and the Tennessee Bar Association, is a virtual walk-in clinic through which income qualifying clients can request brief advice and counsel about a specific civil legal matter. Volunteer lawyers will provide basic legal advice without expectation of long-term representation. For more information, contact [Sarah Hayman](#), Access to Justice/Public Education Coordinator, Tennessee Bar Association, or call 615/383-7421.

Massachusetts Supreme Judicial Court Establishes Pro Bono Recognition Program

The newly established Pro Bono Recognition Program, to be administered by the Massachusetts Supreme Judicial Court Standing Committee on Pro Bono Legal Services, will honor law firms, solo practitioners, government attorneys, non-profit organizations and law school faculties who provide significant pro bono services. To qualify, the lawyer, firm or organization must certify that the pro bono legal services hours provided per attorney are at least 50 in a year, or that more than 75 percent of the Massachusetts attorneys of the firm or organization have provided at least 25 pro bono hours in a year. For additional information, contact [Carol Ley](#), Coordinator of Program and Policy Development, Massachusetts Supreme Judicial Court, or call 617/557-1074.

Minnesota Justice Foundation Uses Technology to Serve Rural Veterans

The Minnesota Justice Foundation is using video technology to link homeless veterans in Duluth with volunteer bankruptcy lawyers in Minneapolis, bringing resources to areas with fewer attorneys. Law students from Minneapolis traveled to Duluth to assist legal aid attorneys in performing intake there. Clients meet with volunteer attorneys via interactive TV, the same technology that is used at Minnesota courthouses. For additional information, contact [Sara Sommarstrom](#), Vetlaw Director, Minnesota Assistance Council for Veterans, or call 651/224-0292.

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LRIS Feature

IOLTA

**Coping with the Recession Part Two:
Five Inexpensive Outreach Approaches**

Pro Bono

By Carole Conn

LRIS

**Coping with
the Recession
Part Two**

From the Chair

**Consultation
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In the last issue of *Dialogue*, I prepared an article entitled, "[Coping with the Recession: How LRIS Programs are Weathering the Economic Storm](#)," and outlined ways in which some LRIS programs have responded to the trends associated with the Great Recession. A common theme emerged from the experiences of the seven LRIS programs presented in Part One of this article: We are all working even harder to catch the attention of our target market -- the ever-shrinking middle class -- while also trying to respond to an ever-growing underclass. And, along with the increased frequency of distressed and desperate callers has come an increased demand for empathy, patience and professionalism on the part of the LRIS referral counselor.

Part Two of this article presents a few inexpensive outreach methods that can elevate the public's awareness of your LRIS and personalize the user's experience. Considering the dominance of the Internet, personalizing the service and tailoring the message to the potential client have become increasingly critical. This is partly why use of social media has been so emphasized. While there are myriad inexpensive or free ways to put up content on the Internet, this article contemplates five direct service and outreach approaches:

LAMP

SCLAID

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ZOPIM Live Chat Software: www.Zopim.com

Zopim is a software company that provides the capability for "Live Chat" on your website for exceptionally modest fees. Two responders from your LRIS program can be designated to answer messages or live questions posed from potential clients at your website, for under \$15/month. (For one responder, it is only \$9/month, and it is free to try!) This is a great and inexpensive way to engage your potential clients and personalize the internet user's experience of your LRIS. This approach creates that interaction and conversation with the user that we all hope can take place through social media, and certainly takes place every day over the phone. Other plus factors for your LRIS include:

- LRIS is available after hours and on the weekends
- The community learns the LRIS has information on a wealth of local agency resources which provide free legal information
- Live Chat provides another opportunity for the LRIS to showcase its best customer service skills

Marketing by Zip Code: www.City-data.com

At the ABA LRIS Workshop in October 2011, Charlie Klitsch, Marion Smithberger and Joseph Satter presented a method for better targeting your marketing through demographic information of your city by zip code. It bears repeating here. Indeed, Citydata.com is an amazing resource that provides a wide variety of data about districts in a given city. From race, age, and income bracket to marital and family status, an LRIS can examine these attributes of your city's residents and tailor the LRIS message accordingly. With this kind of information at your fingertips, you may realize that a banner at a little league game, brochures at a laundry mat

frequented by renters, or a blurb in the metro paper that is picked up and left on the commuter bus may be better and less expensive marketing efforts. You might also realize that advertising certain niche areas of law -- such as wills and trusts in a district with a high concentration of families -- is more powerful than outreach efforts that summarize the virtues of the referral program more generally.

Radio Programs and the Press

It can't be stated enough, so let's say it again: Creating relationships with your local media are imperative. One arena you can start with is public radio. Is there a legal program you can underwrite? In San Francisco we underwrite a radio program called, "Your Legal Rights," that airs weekly on public radio. The cost is about \$3,500/year and we our program receives exposure every Wednesday night. Not only does this enhance awareness of our program, but it also has allowed us to suggest program content to the show's host. The host is always looking for topical, interesting legal content. Recently we put together a show for businesses needing legal information about compliance with the Americans with Disabilities Act. Opportunities like this contribute news to include on your website and social media accounts, and a podcast you can post as well. Similarly, depending upon what is happening in your community, you can suggest articles for reporters or respond to articles discussing legal content, which will let readers know your LRIS is a resource they can turn to.

Get To Know Your City Council Members – And Get Them To Know Your LRIS!

City Council members and their capable aides want to refer constituents to a neutral source for legal referrals. You can start to build relationships with your City Council members by sending them a personal letter with your LRIS's brochure. Suggest that you meet with them in person to answer any questions they may have and hear their suggestions and ideas regarding the delivery of legal services in the community. Usually, members hold events in the community on issues of importance or when they are running for re-election. Such events are great opportunities to increase their awareness of your LRIS.

"On Call Lawyer of the Week Program"

This specific program information is from Breda Ott of the Chicago LRIS, but other programs have tried this idea out as well. It is as simple as designating volunteer attorneys to be "on call" to answer calls that come in to your LRIS after business hours. Watch additional calls and referrals come your way at no cost at all!

Here's how it works in Chicago: "We schedule at least three attorneys to be on call every week in these three areas of law: Criminal Defense, Personal Injury and Domestic Relations. When a customer calls our LRIS after hours, we have an automated greeting that informs them if they need to speak with a Criminal Defense attorney to press 2. When they do that, they get another automated greeting that tells them the name and number of the Criminal Defense attorney on call that week, who they should then call. We send the attorneys a log sheet to record all call activity at the beginning of their week on call, and they are expected to return it to us at the end of their assigned week. We then input the callers' information into our database as if we had made a referral over the telephone ourselves.

After just six months in operation, our attorneys (or at least the ones who were good about reporting the call activity they received) reported taking about 200 calls and getting nine retained cases. The attorneys seem to be very pleased to provide this service and think it is good public relations for both our program and bar association!"

LRIS programs are continually adapting to an ever-changing economic climate. Implementing one or more of these methods will create a more personalized user experience and provide a way to perform additional outreach without breaking the bank.

***Carole Conn** is LRIS Director of Public Service Programs at the Bar*



Association of San Francisco.

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From the Chair...

By John Norwine

Standing Committee on Lawyer Referral and Information Service

I appreciate being given this opportunity to introduce myself. I am John C. Norwine, the new Chair of the ABA's Standing Committee on LRIS. I was a practicing attorney in Cincinnati for many years before becoming the Executive Director of the Cincinnati Bar Association (CBA) in 1995. The CBA has operated an LRIS since 1943, and our LRIS has been ABA approved for many years. I am firmly committed to serving both our attorneys and the public through LRIS systems, and hope that our committee will continue to provide a valuable service to every LRIS in the country.

Unfortunately for me, I am stepping into a pair of large shoes in succeeding Sheldon Warren as Chair of the committee. Sheldon is as knowledgeable as anyone in the country on LRIS issues, and he has successfully driven our committee forward for many years. If there is a "giant" in the LRIS world, Sheldon fills that role. Fortunately, for our committee and for me personally, Sheldon has agreed to continue to be a resource to the committee and to help out in the future. That assistance, coupled with the outstanding staff support we receive from Jane Nosbisch and Jason Vail, will allow us to continue to be the excellent resource that the committee has always been.

ABA President Bill Robinson sent a letter this past month to virtually every state, local and specialty bar association in the country in which he stressed the partnership between the ABA and these other bars. This partnership assists all of the other bars in providing value to their members while supporting the efforts of attorneys who serve the public. No committee in the ABA provides more direct value to the state and local bars than the LRIS Committee, as we assist attorneys in improving their practices while providing access to justice for the public that might not be available without the LRIS. Simply put, we are there to support our attorneys and the public in a way that no one else is.

I want to close with my impressions of the LRIS Workshop that was held in New Orleans in October. While I had attended a Workshop about ten years ago, this was my first one as Chair of the committee, and it gave me a different view of the activities. It truly is a Workshop, not just a conference, as those in attendance did not just listen to the proverbial "talking heads." It was interactive, comprehensive, and a great learning experience for both experienced and new LRIS employees and others. And, after looking at all of the evaluations, those in attendance were just as impressed with it as I was. I have no doubt we can duplicate these fine efforts at next year's conference in Las Vegas. I hope that many of you reading this column will be able to attend.

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Consultation Fees: A Lawyer's and LRIS's friend!

By Ann S. Jacobs

A frequent complaint from panel attorneys to LRIS programs is that the initial consultation fee is too low and does not cover the attorney's time. We need to help our attorneys appreciate that the consultation is an attorney benefit, and the low cost will help them get clients.

Why charge a consultation fee at all?

Your LRIS program is designed to serve members of the community who have the resources to hire an attorney for their problem. Charging any consultation fee is a great tool for truly screening out those who can pay from those who can't or won't. Any client who won't pay even \$20 to speak with an attorney is not likely to turn into a paying client. They're only looking for free advice. There is no question that some people can pay the consult fee and can't pay anything else. However, the consultation fee is a successful mechanism to help avoid wasting the attorneys' time with clients who can't pay. The yellow pages can't do that.

Pre-screening by the LRIS makes consultations easier

When a prospective client cold-calls an attorney, whether from the yellow pages, internet, or other reference, the attorney must spend time simply ascertaining whether that client even has an issue within the attorney's practice area. When your LRIS sends the attorney a prospective client, your LRIS has already done that first level of screening - you and the prospective client both know that the attorney practices in the field. Add to that level of screening the fact that the client is also prepared to pay an attorney for his or her time, and your LRIS has already crossed two major hurdles when compared to the cold-call scenario.

Consultations are a Brief Commitment

A typical consultation time provided by the consultation fee is about 20 minutes. In 20 minutes, most attorneys can figure out if the case is one for them or not. While some attorneys may complain that their consultations always take longer, that is a function of attorney style - their only commitment is to the 20-minute consult. If attorneys complain that they can "never" finish a consultation in 20 minutes, suggest that they begin the consultation by discussing the time limit, letting the client know what time the consultation is over, and what they will do if more time is needed (i.e., charge an additional fee, etc.). Setting parameters up front makes for a more successful consultation and happier clients.

Goodwill & Client Relations are Priceless

Many attorneys forget that the best source of referrals and business are satisfied clients - which include satisfied people who didn't retain them! Remind your attorneys that serious clients, who come to their office and are treated with respect and compassion, will return to that attorney and mention the attorney to friends and family. It's a great way to generate substantial goodwill with a minimal investment of time and effort, and get paid (even if it's a small amount) to do it! Few marketing methods pay the attorney to generate goodwill.

Too Many Consultations & Not Enough Hires? Is the Attorney on the right panel?

Attorneys who complain that they are losing money because they are doing too many consultations without being hired should be closely questioned. Are they listed in a field that they really don't practice in? Do they only take "big" cases and refuse smaller ones? Do they only practice a very small part of the field such that most referrals won't be right for them? Consultation fees are not designed to be a revenue producer for attorneys. Beware of attorneys who may be trying to list lots of practice areas just to capture the consult fee.

Embrace Your Consultation Fee

In the end, your consultation fee makes for happier clients and happier panel attorneys. Embrace it, and help your attorneys understand that it is really a valuable service for them. In turn, they will become as enthusiastic about consultations too!

***Ann S. Jacobs** is a shareholder in the Milwaukee law firm of Domnitz & Skemp, S.C., and member of both the Milwaukee Bar Association's LRIS Committee and ABA's Standing Committee on LRIS.*

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Las Vegas Strip

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IOLTA

Legal Issues Facing Military Families with Special Needs Children

Pro Bono

By Lieutenant Colonel Elizabeth L. Schuchs-Gopaul, USAF

LRIS

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Legal Issues Facing Military Families with Special Needs Children

From the Chair

SCLAID

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As in the population at large, some military families have a child with a disability—a "special needs child." But unlike other families, military families face circumstances that exacerbate the challenges of raising a special needs child. Moving once every three years, military families experience unique financial, medical and legal issues, particularly during deployment or a permanent change of station (PCS). While family support services are available at the installation level, lawyers can play an important role in helping families prepare for the changing legal landscape as they move from state to state. Lawyers can help parents to understand their legal rights under the Individuals with Disabilities Education Improvement Act (20 U.S.C. 1400), Section 504 of the Rehabilitation Act of 1973, and the Interstate Compact on Educational Opportunity for Military Children; providing advice on estate planning, wills, powers of attorney and other legal assistance topics; and by coaching parents on advocacy skills. This article gives an overview of some of the topics about which lawyers should be aware when helping a military family with special needs related legal issues.

First, all children with a disability are legally entitled to special education or accommodation as needed to help them progress toward educational goals. Under the Individuals with Disabilities Education Improvement Act of 2004 (referred to as IDEA), children with a disability who need specially designed instruction to meet their needs have the right to a free appropriate public education (FAPE) between the ages of 3 and 21. These children are, to the maximum extent appropriate, to be educated with children who are not disabled, i.e. the least restrictive environment (LRE). Qualifying children also must receive an individually tailored educational program based on peer-reviewed research, called an Individual Education Program (IEP), setting forth a program and services needed for the child to progress. In determining the IEP goals, placement of the child in school, and related services, parents have the right to "meaningful participation" in the decision-making process.

A disabled child not qualifying under the IDEA may still be covered by Section 504 of the Rehabilitation Act of 1973, which provides rights to children with a disability who do not need specially designed instruction or special education, but do need accommodations to progress or attend public schools. Section 504 plans usually outline accommodations like extra time between classes, to get from class to class, or additional time on tests. Children with a disability covered under this act are still entitled to FAPE in the LRE.

One area where military families may be particularly affected involves children under the age of three. Under federal law, children of any age who are suspected of having a disability are entitled to be evaluated at no expense. Often, this state-run program is called "Child Find." Further, under IDEA, a child determined to have a qualifying disability can be provided services as part of an early intervention program before the age of three. However, this same part of IDEA, called Part C, allows states great flexibility in how each offers services. Consequently, programs differ from state to state in the degree of developmental delay that qualifies for coverage, as

well as the degree to which a parent must share in the cost of services provided. Thus, a military parent moving from one state to another should be aware of how the new state defines eligibility and how it charges for services.

For a military family with a child covered by an IEP, additional legal issues may arise when moving to another school district. Military parents changing public schools should be aware that they are entitled to receive "comparable services" at the child's new school. According to IDEA, a child who transfers school districts and has an IEP in effect shall be provided with FAPE "including services comparable to those described in the previously held IEP." Similar language is also found in the Interstate Compact on Educational Opportunities for Military Children. However, while the IEP from the old school will get parents in the door, the new school will likely immediately re-define what is "appropriate" for the child. Many military parents find that school districts reduce or alter IEP services shortly after their arrival. It is within the rights of the receiving school district to re-evaluate an incoming child, draft a new IEP and propose its own placement and services solution. Parents have the right to challenge these recommendations and decisions.

One strategy to help parents moving with an IEP is to recommend they request a new IEP be created and enforced months *before* the end of the old school year. It is better to transfer with an IEP *in effect* rather than only an agreed-to IEP (written but never used). By moving with a working IEP, the parents have a better argument against reduction in services at the new school.

When dealing with school issues, it is important for military families to understand that schools run by the Department of Defense Educational Activity (DoDEA) play by their own rules. Of the children attending the 194 DoDEA schools, 11% of children are receiving special education services. While DoDEA schools are like their civilian counterparts in many ways, they follow different guidelines and timelines for providing special education services. First, while public schools in the United States are required to comply with IDEA, DoDEA schools comply with Department of Defense Instruction (DoDI) 1342.12, *Provision of Early Intervention and Special Education Services to Eligible DoD Dependents*. This instruction does incorporate by reference the substantive and procedural due process requirements found in IDEA part B and C. Both IDEA and DoDI 1342.12 guarantee a FAPE in the LRE, but DoDI 1342.12 makes no guarantees that timelines and rules it sets for itself will be followed. Instead, it states "[this instruction]...does not create any rights or remedies and many not be relied upon by any person, organization or other entity to allege a denial of such rights or remedies." This section of the DoDI will likely make a case regarding a procedural violation of rights more difficult in a DoDEA school.

A military family's location may also affect eligibility for Supplemental Security Income (SSI). Junior enlisted parents of a child with a disability can receive financial aid to provide needed support for their child through SSI payments. Entitlement to these payments is often the gateway to enter other federal programs like Medicaid that can provide greater support for the disabled, but parents of a disabled child will have to meet a "means test" to qualify for SSI. Part of their income and property will be tallied in a process called "deeming." Per the Heroes Earning Assistance and Relief Tax Act of 2008 (called the HEART Act), military base pay and allowances for housing and subsistence (BAH and BAS) are counted by the Social Security Administration as "earned" income while housing on base (where the military member does not receive BAH) is considered in-kind support and maintenance. This is important because, in qualifying, parents are able to have more "earned" income than "unearned" income, helping junior enlisted families qualify for this benefit. However, qualifying for this benefit in one state does not guarantee that a military family will qualify in another state. BAH payments can vary greatly from state to state. So, if a family qualifies at Moody AFB then moves to a high-BAH area like Los Angeles or Washington DC, their eligibility for SSI payments and any other related assistance may cease. If a military family receiving SSI is moving, they should consider the impact on SSI benefits and remember to notify their local Social Security Office before leaving (or risk repayment and penalties). On a positive note, military families can receive SSI while overseas and can

apply for SSI while serving overseas.

When dealing with benefits like SSI, estate planning is important—and not all military benefits will work for military parents. If the child with a disability will need assistance through programs like SSI and Medicaid into the future, parents should start planning now. Many benefit programs require the recipients to not exceed specific income limits. These income limits can be easily exceeded if the child inherits money or property through a will or becomes the beneficiary of military benefits like Servicemembers Group Life Insurance (SGLI) or Survivor Benefits Plans (SBP) payments. The military child's inheritance may disqualify him or her from federal and state assistance programs while not providing sufficient income to replace the loss of these benefits. To protect the child with a disability from losing needed eligibility, parents should consider creating a supplemental needs trust to receive assets for the child with a disability. Funds placed in a supplemental needs trusts do not count as assets or income for receipt of federal benefits.

Parents can have assets pour into the trust, protecting the child's eligibility; knowing that trust funds can be used to provide comfort items for the child. Unfortunately, SBP and another benefit called Dependency and Indemnification Compensation (DIC) payments cannot be routed *directly* into a trust. While a statutory solution is being devised, parent may chose to redirect SBP benefits away from the child with a disability and direct a future caregiver of a child/adult with a disability to consider impact of DIC payments before applying for them.

In the above, as well as in other legal areas, lawyers can help to make a significant difference in the lives of military families with special-needs children by providing education on the specific challenges they will face as they navigate the often unique medical, financial and legal issues. By being attuned to these families' unique legal issues will support the provision of the best legal advice and guidance possible. In the end, educating military parents about these issues will help them as they continue to advocate for their children in assignment after assignment. For some, this role of advocate will be a lifelong occupation.

Lieutenant Colonel Elizabeth L. Schuchs-Gopaul is the Staff Judge Advocate for Davis-Monthan Air Force Base in Tucson, Arizona.

Editor's Note: This article was adapted with permission from a longer article available at http://www.wrightslaw.com/info/mil_parents.12things.pdf.

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Special Needs
Children

From the Chair

SCLAID

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From the Chair...

By David G. Ehrhart, Brig Gen, USAF (Ret.)

Standing Committee on Legal Assistance for Military Personnel

Happy New Year! As I look back on 2011, I am so proud of the exceptional efforts by the LAMP Committee and the ABA to support our military personnel and their families. You made a difference! Our mission is to support the delivery of high-quality civil legal assistance services to the men and women of our armed forces and their families, and in 2011 we carried out this mission in a variety of ways. From putting on CLE programs for military attorneys around the country, to developing educational materials for publication, to collaborating with other ABA entities on matters affecting servicemembers, our committee worked hard to enhance the legal assistance available to servicemembers. We also coordinated with local and state bar military committees and the legal assistance leadership of the five service branches to create effective projects and initiatives meeting the legal needs of servicemembers, including in the operation of our national Military Pro Bono Project. We are proud to say that in 2011, the Project delivered access to justice for nearly 200 military members and their families for legal matters falling outside the scope of services provided by military legal assistance programs.

In addition to these activities, the LAMP Committee also engaged in policy advocacy on behalf of military personnel. We are uniquely positioned within the ABA to inform and educate the greater association about the civil legal issues facing military personnel and to promote improvements in the law to address problems that those in the military may encounter. We are proud of our achievements in the policy arena, particularly of those that occurred in 2011. At the 2011 ABA Annual Meeting, the House of Delegates passed our resolution addressing needed changes to the Uniformed Services Employment and Reemployment Rights Act (USERRA) that will better prevent discrimination against servicemembers in their civilian employment, particularly for those returning from overseas combat deployments. In crafting the resolution, we relied on input from the Department of Labor Veterans' Employment and Training Service on the recent issues it was seeing under USERRA.

Another 2011 policy advocacy success for LAMP that I would like to especially highlight here was our work on the Justice for Troops Act, S. 1106 (2011). This act grew out of a campaign we undertook with our ABA Governmental Affairs liaison in 2010 to educate key members of Congress about our ABA Military Pro Bono Project, and how our successful work through the Project makes clear the significant needs of our servicemembers for pro bono counsel and representation in a wide array of civil legal matters. In educating members of Congress on the lessons we have learned through the operation of our Project, we also sought to encourage them to find ways to provide funding for pro bono legal services that would further expand access to justice for active-duty military families.

Senator Herb Kohl (D-WI) understood our message and joined with Senator Lindsey Graham (R-FL) to introduce bipartisan legislation, titled the Justice for Troops Act of 2011, authorizing the Department of Defense to allocate funds to support private organizations operating services connecting military

members with pro bono legal services. A large number of military service organizations, like the Military Officers Association of America and the National Military Families Association, expressed their support for the act, along with the Department of Defense itself. Not long after the bill was introduced, Senator Mark Udall (D-CO) joined as cosponsor and was instrumental in having the act's language incorporated into the Senate's 2012 National Defense Authorization Act (NDAA).

Ultimately, once the Senate's version of the NDAA was reconciled with the U.S. House's previously passed version of the Act, the Justice for Troops language was dropped from the final bill. In the process, however, we generated significant support for the concept of DoD funding for pro bono services, and we are looking forward to working with both the House and Senate to again include the bill's language in next year's NDAA. Even though we did not see Justice for Troops passed this year, we do view its creation as a milestone for our Committee. Just four years ago LAMP began promoting greater involvement by the civilian bar in the delivery of free legal services to military members. At that time, the concept represented a somewhat controversial shift away from the traditional "the military takes care of its own" model of legal assistance delivery, and our proposal to create a national pro bono referral program was not universally embraced. So to have moved the issue from that point, four years ago, to today where the Department of Defense publicly endorses spending money from its own budget to support civilian pro bono delivery programs through the Justice for Troops Act, is a testament to our Committee's success in proving that legal service delivery can be effectively coordinated between the military and civilian bars through programs like our ABA Military Pro Bono Project.

On a separate note, I would like to thank Lieutenant Colonel Elizabeth L. Schuchs-Gopaul, the Staff Judge Advocate at Davis-Monthan Air Force Base in Tucson, AZ, for preparing our feature article for this issue of *Dialogue* on the legal needs of military families with special needs children. LtCol Schuchs-Gopaul is widely recognized as an authority and advocate on this topic, and she gave an excellent presentation on these issues at the LAMP-sponsored CLE program at Davis-Monthan this past November. In running her article, we hope that civilian attorneys will better understand the unique legal issues facing military families with special needs children and the important role lawyers can play in assisting them with these matters.

In closing, we look forward to a new year and new opportunities for the LAMP Committee to continue pressing forward to ensure that the legal rights of our nation's servicemembers are protected to the fullest extent possible, and to further advance access to justice for those military members and their families in need of legal counsel. We wish all of you a very happy and successful new year!

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**2012 Harrison
Tweed Award**

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Nominations Sought for 2012 Harrison Tweed Award

Named for an outstanding leader in the promotion 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.

The ABA Standing Committee on Legal Aid and Indigent Defendants and the National Legal Aid and Defender Association will present the 2012 Harrison Tweed Award at the ABA Annual Meeting in recognition of work accomplished during the year beginning April 1, 2011. Projects that began before that date will be considered if substantial services have been provided between April 1, 2011, and March 31, 2012.

Nominations and all supporting materials must be received electronically by the close of business on **Monday, April 2, 2012**.

View the award history, criteria, and submit a nomination online at: <http://www.ambar.org/HarrisonTweedAward>



Harrison Tweed

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