

DIALOGUE

Winter 2013

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"Howard" felt like the walls were closing in around him. He knew he was getting ready to face time behind bars. [Read more...](#)

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By Lesley Rosenthal and Irina Tarsis

Charity Corps: Lawyers Helping Nonprofits is a joint initiative of the New York State Bar Association (NYSBA) and the New York State Attorney General's Office, matching volunteer attorneys with nonprofits unable to afford legal counsel. [Read more...](#)

From the Chair...

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As many of you know, the Legal Services Corporation (LSC) recently

released a report of its Pro Bono Task Force. [Read more...](#)

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Cook County's Effort to Provide a Veterans Track within the Domestic Violence Court for Chicago
By Carly Everett

Domestic violence is a serious public health concern among the veteran population, and our country cannot afford to ignore it or the veterans who require assistance overcoming serious mental issues resulting from combat. [Read more...](#)

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

As the new year has come and I look back at 2012, I continue to be impressed with the level of work put forth by the Standing Committee on Legal Assistance for Military Personnel. [Read more...](#)

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LRIS Feature

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Maximizing
LRIS Income

By Charles J. Klitsch

From the Chair

As long as percentage fees have been in existence, LRIS directors have wrestled with the issue of panel members who fail to pay the money they owe on referred matters.

2013 LRIS
Workshop

There will always be a few dishonest panel attorneys who intentionally deceive LRIS to increase their own income. This article does not focus on the punishment or removal of dishonest panel members.

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Rather, we begin with the basic premise that the vast majority of panel attorneys are men and women with a high degree of integrity who want to do the right thing. That said, LRIS directors have a responsibility to establish and communicate a clear set of rules for the application and enforcement of percentage fees. Think of these rules as a roadmap that will enable your good panel attorneys to meet the Service's expectations in terms of reporting and payment of fees owed.

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The amounts of the consultation and percentage fees owed should be easy to understand, and it is essential to use clear language to guide panel attorneys.

First, LRIS rules should inform the panel attorney whether she is expected to charge a consultation fee, and if so, how much to charge, if it is for a specific time period, whether she keeps the consultation fee or remits it to LRIS and if there are any exceptions to the collection of such a fee from the client.

The New York City Bar Association Legal Referral Service Rules for Panel Membership address all of the above concerns regarding the consultation fee in concise language as follows:

Collection of Consult Fee

Each client referred by the Service and interviewed by a Panel Member shall be charged an initial consultation fee of \$35, unless such fee is prohibited by law or waived by the Service. The initial referral fee shall be charged by the Panel Member unless the Service requires the client to pay the initial referral fee directly to the Service and informs the Panel Member that this has been done.

Waiver of Consult Fee

The consult fee is waived for the following areas:

1. tort matters typically handled on a straight contingency fee basis;
2. all social security referrals (SSD and/or SSI cases);
3. all workers compensation referrals;
4. other matters where the consult fee waiver is approved by the Executive Director, in his/her discretion, upon request of the client or a panel member.

Limitations on Consult Fees Charged

Each Panel Member agrees not to charge any fee to compensate for the first half hour consultation with the referred client other than the \$35 consult fee that is forwarded to the Service.

Similarly, LRIS rules for percentage fees should inform the panel attorney how much is due the Service and when to remit payment. Many LRIS programs have a one sentence percentage fee rule along these lines: "On any referral made by the Service, the panel member agrees to remit 15% of his or her fee to LRIS." While short, it is not very informative. Does the 15% apply to the gross fee collected or the net after costs? When should payment be made?

The State Bar of Nevada addresses the first question in its rule as follows: "Each panel members agrees to pay to the Service twenty percent (20%) of all net fees received by the panel member ... Net fees are defined as the total fees remaining after deduction of out-of-pocket costs."

Regarding the time when payment is due, the approach varies among LRIS programs. The Illinois State Bar, for example, requires the panel attorney to report on a referral with a remittance of 10% of the fee "within ten (10) days of the receipt of the fee." The Philadelphia Bar Association, under new rules soon to take effect, clarifies that payment of the percentage fee must be made "when the fee is earned," reflecting that in Pennsylvania, from an ethical standpoint, a fee is not earned until the service is provided.

Under what circumstances is LRIS owed a percentage fee? This is where panel members often stumble, often because they make assumptions when LRIS rules provide little or no guidance when work performed for a client is within the purview of LRIS.

LRIS programs vary philosophically on this issue. Some limit responsibility for payment to LRIS to the client and initial matter referred. Others include matters arising out of the initial matter, and may or may not include additional family members or others involved in the same incident or transaction. A few programs introduce a time frame — any matters the client may bring to the attorney within a specific time frame.

Whichever philosophy an LRIS program adopts, it is essential that the policy is set forth clearly in the program's rules of operation.

For example, suppose that a client is referred for a divorce matter. The panel selected was "Divorce" and that information is transmitted to the panel member. During the pendency of the divorce, the other spouse becomes violent, and the referred client asks the panel member to represent her in a protection from abuse proceeding. Does the panel member owe LRIS a percentage fee for representing the client in the abuse matter? Your instincts may say yes, but do your rules account for this situation? A common rule adopted by many programs states that a percentage fee is owed on "any matter arising out of the initial matter referred."

Let's take it one step further. A client is referred for a child support matter. During the course of the initial consultation, the client informs the panel member that she has her house on the market and would like the attorney to represent her in that transaction. Does the panel member owe LRIS a percentage fee for representing the client in the real estate matter? That question can be answered easily with a rule that states, "Any legal matters discussed during the initial consultation are subject to the percentage fee."

Of course, the above two rules are not mutually exclusive and may be combined to further clarify the obligations of the panel member.

Continuing with the above scenario, suppose the client comes back to the panel member a year after the referral and asks the panel member to represent her in the real estate transaction. Does LRIS still get a slice of the pie? For some Services, the attorney's obligation ends with the initial matter referred, all matters discussed in the initial consultation or all matters arising out of the matter referred, or some combination.

Other Services deal with this question by imposing a time limit. The New York City Bar LRIS requires the panel member to pay a percentage fee on

"any other matter which involves the same client and is undertaken within three years of the date of the Service's referral or the initial retention, whichever is later."

What if family members or friends of the referred client wish to use the panel member? This situation frequently arises in the context of an automobile accident.

An injured passenger calls LRIS and is referred to a panel member to handle his claim. At the consultation, the client tells the panel member that his sister and her boyfriend were also passengers in the car and were seriously injured. Subsequently, the panel member meets with the other two passengers and signs them up as clients. Does the panel member owe a fee to LRIS for these cases? However your program falls philosophically on this issue, it is important to have a rule in place addressing this situation. The Lawyer Referral Service of Central Texas believes that the attorney should owe a fee. Consequently, they have adopted a rule which states, "If LRS refers a caller who puts other people in touch with the LRS attorney for the same case, LRS is entitled to 15% of fees from all related cases."

Suppose the panel member is unable, for whatever reason, to handle representation of the referred client himself. He is considering whether to ask another partner at the same firm to handle the case, whether to co-counsel with a solo practitioner down the hall or refer the matter out to another firm. As this scenario may arise in a matter involving a substantial fee, it is important for LRIS programs to have rules in place that clarify the relationship and responsibilities of the panel member and LRIS.

Let's break down the above scenario. Suppose the panel member transfers responsibility for the case to a partner. Surprisingly few LRIS programs have a rule to address the question of whether a percentage fee is owed to the Service under such circumstances. Some may argue that the answer is so obvious that no rule is required. But what if the panel member leaves the firm before the referred case is resolved? What is the firm's responsibility at that point? The Philadelphia Bar Association LRIS has addressed this issue by requiring each applicant for panel membership and the managing partner of his or her firm to sign an Acknowledgement that the firm is aware of the prospective panel member's application for membership and that the firm "will abide by the LRIS Operating Rules and will comply with all LRIS requirements regarding clients referred to the panel attorney by LRIS."

Suppose the panel member contemplates co-counseling with the attorney down the hall or referring the case to another office. Alameda County Bar Association LRS confronts this issue head on in its rules, which provide, "An attorney to whom a client is referred by LRS shall not refer the client to another attorney, unless that other attorney is a partner or associate within the attorney's law firm. If the attorney refers the client to or associates another attorney in violation of this section, the attorney shall remain liable to LRS for 15% of the total attorney's fee."

Some programs address this issue by requiring a panel member who is unable to follow through on representation of the client herself or through her firm to refer the client back to LRIS for another referral. Other programs require the panel member to contact the LRIS director to obtain permission to co-counsel or refer a matter to another firm. This policy can be particularly useful when the case involves a highly specialized practice field or an extremely complex matter.

Of course, a clear set of rules for when a percentage fee is owed is only effective if the rules are adequately communicated to the panel members. Do not expect that an applicant for panel membership will read the rules. We live in an era when we click "Accept" to the "Terms of Service" for use of software or websites without reading a single word of those documents. Trusting established software firms and web hosts, we proceed on the assumption that the terms are reasonable.

Similarly, busy lawyers trust bar associations to have reasonable rules and if we let them, they will very often enter into panel membership without reading your well-crafted rules.

Talk to them. Engage them. Require that a prospective panel member have

an in person orientation with the LRIS director before activation of membership. During the orientation, make sure that the panel member leaves with a clear understanding of the rules and what is expected of her and her firm.

In addition to the orientation with the panel member, some programs, including the Maine State Bar Association LRIS, have found success in providing the panel member's office staff with a booklet setting forth the rules and procedures to be followed to remain in compliance.

For some statewide programs, a meeting with the LRIS director may not be practical. If possible, the prospective panel member may be required to meet with a nearby LRIS Committee member or to teleconference with the director.

In 2013, resolve to improve your LRIS program's operating rules. Make them clear, cover as many possibilities as you can and most importantly, make an effort to ensure that your panel members know and understand the rules from the very beginning. Your bottom line will certainly benefit.

The author would like to thank LRIS Directors Michelle Chavez of the San Diego County Bar Association LRIS and Pat Ruppert of the State Bar of Wisconsin LRIS and Philadelphia Bar Association Senior Counsel Amy Seefeld, who presented on a similar topic at the 2013 ABA LRIS Workshop and who conducted the research which forms the basis for this article.

Charles J. Klitsch is director of public and legal service of the Philadelphia Bar Association.

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From the Chair...

By John Norwine

Standing Committee on Lawyer Referral and
Information Service

Developing the Lawyer Referral Brand Promise: Partnering with Panel Attorneys

The benefits of last summer's LRIS Leadership Forum are still emerging. One of the ideas that first developed at the meeting was that the "brand promise" of lawyer referral ultimately rested with the individual panel attorney. While much attention has been paid to the individual attorney from the perspective of ensuring that the individual met the professional standards that we all want public service lawyer referral to represent — the highest integrity in professional practice management standards and professional competence — little time has been spent providing the attorney with tools to achieve competence in general practice issues.

To address that issue a Task Force on CLE Opportunities was formed, comprised of your colleagues from around the country: Brant Bittner, executive director of the Orange County Bar, FL; Carla Brown, LRIS Director, Atlanta GA; Rodney Low, Program Developer, State Bar of California; and George Wolff, LRIS Director, Oregon State Bar. A plan developed to focus on imparting technology information necessary for a solo and small firm practitioner to compete in the current marketplace. It also quickly became apparent that we would need monetary sponsorship in order to offer these programs at an affordable rate. We were able to secure the considerable talents of Dan Pinnington, Vice President of Claims Prevention and Stakeholder Relations, Lawyers' Professional Indemnity Company, of Toronto, CN to develop the program. Dan is a remarkable person who knows everyone and is respected by everyone. His area of particular expertise is legal technology, and he has the distinction of chairing a past ABA TECHSHOW which is the annual premier event for legal technology professionals. Dan developed the program and secured the speakers for our CLE series — Future Friday Seminars: Strengthening your practice through technology.

We were also able to put our plan in front of CEO's of the National Association of Bar-Related Insurance Companies, the mutual legal malpractice insurance companies that serve solo and small firm practitioners in their respective states. Recognizing that their insured attorneys were also the solo and small firm practitioner, we were able to secure sponsorship for the series from: Minnesota Lawyers Mutual, Wisconsin Lawyers Mutual, The Bar Plan (MO); Oklahoma Lawyers Mutual; and Lawyers Mutual Insurance Company of North Carolina.

I am pleased to announce that the plan has come together. Under separate cover you will already have received information about the series and its availability for your LRIS panel attorneys. As part of the effort, we are also collaborating with the Group and Prepaid Legal Services Committee to offer the series to their panel attorneys. We are eager to hear what thoughts you may have about other CLE programs that would be helpful to your panel attorneys.

On another note of collaboration, in past years, the ABA Standing Committee on Lawyer Referral and Information Services would customarily meet three times a year – in January at varying locations, in June in

Chicago, and in October at the National Lawyer Referral Workshop. However, as you may be aware, the ABA has been faced with more and more difficult budgets in recent years, and has been looking for ways to cut costs.

Consequently, the Standing Committee on Delivery of Legal Services, the Standing Committee on Group and Prepaid Legal Services, and the Lawyer Referral and Information Service Committees held a joint meeting to discuss common issues, and we did so at the ABA Mid-Year meeting a few weeks ago in Dallas.

Each committee discussed its mission and identified its major projects. On behalf of our committee, I explained our Program of Assistance and Review (PAR) and also our certification of lawyer referral services as meeting ABA standards and receiving the authorization to use the ABA LRIS logo and slogan. It is very clear to me that no one else does — or even could attempt to perform — these two functions.

During the course of the discussion with the other two committees, I did see some synergies with the other committees. Prior to this meeting we had already discussed collaborating on the CLE series, with the Group and Prepaid Legal Services Committee and the Standing Committee on Delivery of Legal Services.

While I have gazed into my crystal ball, I cannot yet tell you what other future collaborations may emerge. We remain open to possibilities and look forward to hearing from you on what we can do to make your lawyer referral program more productive.

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SAVE THE DATE!

Please join us for the **2013 National Lawyer Referral Workshop at the Westin Peachtree Plaza in Atlanta, Georgia**

October 23–27, 2013



Woodruff Park Waterfall
Downtown Atlanta

PHOTO CREDIT: Colin Jaccino

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By Gerry Singen

**Don't Forget
Your Umbrella**

The Weather Report

From the Chair

**Grantee
Spotlight**

Funding for civil legal services fluctuates as the economy rises and falls and as political preferences change. For civil legal services, the IOLTA boom (2005–2008) and crash (2009–Present) and renewed opposition to LSC funding in Congress (2010–2012) have been recent examples of such fluctuations. Taking a longer view of patterns, the push by legal aid programs to diversify funding sources in the 1980s and 1990s brought increases in funding from other federal agencies than LSC, from state governments and from law firms. Support from these sources has continued to increase as state Access to Justice Commissions have emerged as powerful leadership institutions. Is it possible that civil Gideon or a broad commitment of charitable dollars is coming into view?

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It's a little like the weather. We can't know the future but we can make predictions and protect ourselves in many circumstances. Rain or shine tomorrow? Carry the umbrella. Hurricane shaping up out to sea? Tie everything down and move the family to a safe location for a few days. Global climate change? Buy property in the mountains.

Facing Uncertainty

Facing such uncertainty, legal aid programs and their funders need to strengthen their planning and decision-making in order to lead our institutions to stable operations and to maintain high quality advocacy. IOLTA Boards and staff are every bit as responsible for this leadership as the board members and executive directors of grantee programs.

There are a few lessons that our history has taught us about these circumstances:

First, an organization facing a dramatic loss of resources needs to examine its fundamental mission. At the new level of resources, in a new political, social and legal environment, what should the organization be trying to accomplish? Become the best possible organization under the new conditions.

Second, a grantor faces the same types of retrenchment issues as its grantees. What is the best use of resources? How does the grantor's mission change?

Third, a major grantor can be a powerful source of assistance for grantees facing the unpleasant and challenging need to retrench.

Fourth, funding is cyclical. It is absolutely certain that grantees and grantors will grow, and shrink, in the future. Neither retrenchment nor abundance is a crisis. Both are predictable management challenges that can be planned for.

Projecting Future Revenue and Planning Pessimistically

When planning for the future, the obvious place to start is to make estimates of future revenue. The goal in such an exercise is to see that the

organization's actual revenue could turn out to be much more, or much less, than the current expectations. Consider the following **Revenue Projection Worksheet**:

PROJECTION STANCE	YEAR		
	2013	2014	2015
OPTIMISTIC			
REALISTIC			
PESSIMISTIC			

Fill in the Worksheet based on educated guesswork.¹ Start with the current year's budget as the "realistic" revenue, and recognize that even the current year's revenue contains contingencies. Then move to the next year (2014 in the Worksheet) and estimate the three numbers. How good could it get? How bad? The third year is the hardest. Consider each major funding source and how it could grow or shrink. Where might the program be in two years?

In times like these, many funding streams are uncertain. As a result, most revenue projections are going to show a significant decline in resources in the Pessimistic 2015 box. The critical lesson of this Worksheet is that each organization needs a plan for 2015 in which it provides clients with high quality services for the highest priority legal problems they face despite reduced circumstances. If the pessimistic future comes to pass, the program is going to be substantially reduced in size and capability unless steps are taken now.

What kind of steps? The Wharton papers² suggest that a program should seek stability over a multi-year period. The Worksheet uses a three-year period. Figure 1 illustrates a projection of declining revenue. To bring stability to the revenue over three years an organization needs to reduce its current operations to a level that the total revenue over three years can achieve. The horizontal line in Figure 2 represents that level. The area under each line — representing the total funding over three years — is the same.

Figure 1

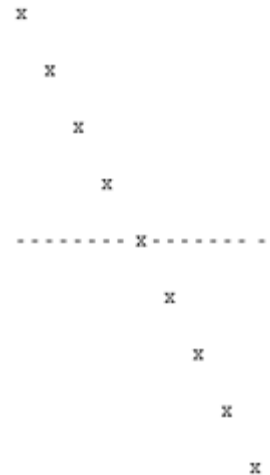


Riding the Razor vs. Right Size

Legal Aid Programs have had experiences with retrenchment. Some have tried to deal with declining revenue by cutting services and expenses as revenue drops. This strategy involves reduced hours for staff, reduced compensation, furloughs, payless paydays, offices with just one lawyer and layoffs as a last resort. It leads to low morale, a constant state of dissatisfaction in the staff, departures by those who can find more stable jobs elsewhere and a decline in the effectiveness of advocacy. I call this strategy "riding the razor" because the program is taking cuts all the way down.

In contrast, other programs figured out what their "right size" was for the planning period and cut their operations to that size at the start of the period.³ That meant lay-offs in most cases, but the remaining staff experienced a consistent work environment for an extended time. Because the capacity of the program was reduced, moving to "right size" often meant a change in service delivery patterns or even mission. Offices were closed. Case acceptance practices had to be adjusted; some kinds of work could no longer be afforded. Some programs replaced high-volume practices with systemic advocacy; they represented fewer individuals but they sought remedies that

Figure 2



affected many eligible individuals.

A full analysis must include a program's expenses and operating reserves. Materials for such an analysis can be found online here: [Sample Projection Worksheet](#) and [Projection Worksheet Form](#). The lesson is the same: plan to be a stable but smaller organization, prepare to be the size suggested by the pessimistic projection and then become the best program possible at this reduced level. As time passes, adjust for actual revenue. It's easier to add services based on better revenue than to ride the razor if revenue is lower than planned for.

Preparing for Abundance

The Revenue Projection Worksheet has an Optimistic row! Hard work has already been rewarded in a number of states by new revenue from state legislatures that has more than overcome the drop in IOLTA and LSC funding. The national mortgage settlement has brought substantial funding in many states. Programs and funders should be preparing now for more such contingencies, and for an upturn in LSC grants, more awards of attorneys' fees, an eventual rise in interest rates and new revenue from filing fees, cy pres awards, license fee add-ons and fund raising campaigns among lawyers or in the broad philanthropic community.

If "riding the razor" describes making cuts without a long-term strategic adjustment, perhaps "riding the up escalator" can bring to mind taking planned steps to prepare for new future revenues. For example, every state should pursue the types of revenue listed in the previous paragraph. Access to Justice Commissions do this work in many states, but IOLTA programs could be an option.

This is a good time to address important deficiencies in a program or state delivery system. What needs improvement? It may be a good time to re-examine state planning issues, identify low-cost steps to improve practices and do the research and priority-setting that will guide the use of new resources when they are obtained.⁴

The IOLTA Programs Role

A funder has many ways to influence its grantees without spending much money. In dealing with declining revenue, it can support training that teaches effective planning, pursue new streams of revenue, offer technical assistance to challenged managers, discourage razor riding, and support better fiscal controls in programs.

Finally, looking toward future abundance, there are a number of policy issues that could best be resolved now. What will be the future IOLTA reserve policy? Will new funding be channeled into improving salaries, or should salaries be kept up by "right size" organizations so that new funding can be used for new services? What is the role of legal services programs with regard to evolving court practices for dealing with self-represented

litigants? Who will do state planning? What research data does the state funder need in order to best support its grantees?

Getting It Done

Effective state planning on these issues is far more complex than planning for an individual Legal Aid program, but it is increasingly essential. The Wharton Papers give no guidance here. We have a lot to learn.

Gerry Singen is a consultant to legal services and access to justice programs.

1 Guessing is essential. There are no "correct" answers. The planner can always make another guess tomorrow, as new information becomes available.

2 In 1981 the Legal Services Corporation hired scholars at the University of Pennsylvania Wharton School to prepare materials LSC-funded legal services programs could use to plan and carry out a retrenchment process. The resulting "Wharton Papers" are available in the online library of the Management Information Exchange, www.m-i-e.org. See J.Arango, "An Overview of the Wharton Papers," MIE Journal, Spring 2009, p. 49.

3 An extensive exploration of this strategy can be found in the Wharton papers, Note 3, *supra*.

4 See the Second Interim Report of the Massachusetts Access to Justice Commission's Special Planning Committee at www.massaccesstojustice.org for an example of such planning.

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From the Chair...

By *Penina Lieber*

Commission on Interest on Lawyers' Trust Accounts

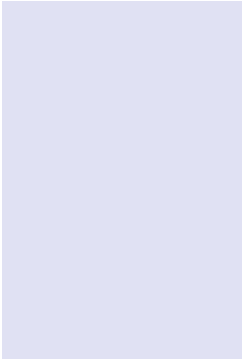
Kudos to the Joint Meetings Committee on another round of outstanding workshops in Dallas on February 7th and 8th. The Winter IOLTA workshops covered a wide breadth of relevant topics to help IOLTA programs press ahead as the low interest rate environment continues.

The work of the California IOLTA program regarding the Community Reinvestment Act (CRA) prompted the development of a plenary session. Elena Enzweiler, Senior Accountant, IOLTA Compliance/ Bank Relations for the California IOLTA program; Dan Foley, Senior VP/ Compliance Manager at Plains Capital Bank; and Eloy Villafrance, Community Affairs Office for the FDIC formed a comprehensive panel of speakers who discussed an innovative approach to bank relationships. The presenters spoke on a bank's ability to receive CRA credit for providing IOLTA accounts an interest rate above that which is provided to similarly situated customers or through grants to IOLTA programs. This plenary was followed by concurrent sessions on delivery systems, grant making software, and cy pres, as well as, the ever popular speed dating.

The Joint Meetings Committee had the opportunity to collaborate with the National Conference of Bar Foundations (NCBF) on the final plenary session, which focused on fundraising. Many thanks to Amy Sings in the Timber, NCBF president and Executive Director of the Montana Justice Foundation, who was instrumental in securing the speaker, Andy Robinson. Andy provided a dynamic presentation where he offered a fresh look at strategies in fundraising, but of equal importance he provided an opportunity to discuss those ideas in smaller groups.

Dallas also provided a time to discuss local repercussions to the sunset of unlimited FDIC insurance coverage for non-interest bearing accounts, including IOLTA (see News and Notes). While our community was hopeful for an extension to the sunset, we were well aware that unlimited coverage was always intended to be temporary. Although full coverage has expired, IOLTA accounts are now insured up to \$250,000 per owner per financial institution, an amount higher than the \$100,000 limit in effect prior to the unlimited coverage.

I want to take a moment to thank Sandy Klebanoff, Executive Director of the Connecticut Bar Foundation and Liz Drummond, Assistant Director of the Connecticut Bar Foundation, for hosting the Commission in Connecticut during our fall meeting. Not only did we conduct Commission business, but we had the distinct pleasure of hearing from leaders of the Connecticut IOLTA and ATJ communities. Peter Arakas, Vice President of the CT Bar Foundation and Ingrid L. Moll, Grant making Co-Chair of the CT Bar Foundation, provided valuable insight into the foundation's grantees, fellows programs and grant making process. In addition they shared information on Connecticut's IOTA program, which requires mortgage lenders to put funds in IOLTA-like accounts. This was of particular interest because Connecticut is one of only four states that require non-lawyers to participate in IOLTA like programs. Alice Bruno, Secretary of the CT Bar Foundation and Executive Director of the CT Bar Association; Barry Hawkins, President of



the CT Bar Association and The Hon. Raymond R. Norko, Chair to the Ct. Access to Justice Commission described the Connecticut Bar Association's pro bono programs and the Hartford Community Court.

It is my hope that the workshops in Dallas gave renewed energy to many programs in their various efforts to fund legal services. That being said, the completion of one set of workshops brings us now to the planning of the next. As issues, questions and innovations arise, the Joint Meetings Committee welcomes and appreciates your input and ideas for future sessions and topics. In the same vein, the Joint Technical Assistance and Joint Banking/Resource Development are available to offer support and answer questions as you press forward with the good work of IOLTA.

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Grantee Spotlight: Just Needing a Second Chance: South Carolina Center for Fathers and Families' Alternative to Incarceration Program

By Shannon Willis Scruggs and Patricia Littlejohn

"Howard" felt like the walls were closing in around him. He knew he was getting ready to face time behind bars. He also knew that the jail sentence would not put him any closer to being able to pay child support, but what else was he to do? Thankfully, the judge had another idea. She ordered Howard to the South Carolina Center for Fathers and Families' Alternative to Incarceration (ATI) program. As he was led to another room in the court house to meet with fatherhood staff, he felt a slight sense of hope.

Howard is one of many men who have come before a judge for not being able to pay or falling behind in child support. The stereotypical name of "dead beat dad" is often used but, in many cases, that nomenclature does not accurately describe a father like Howard. A 2006 study done by Duke University and the University of Wisconsin revealed that fathers could not meet the financial needs of their children due to incarceration, unemployment and a lack of resources. The study found that fathers supported their children **if they had the means to do so**. That is where the South Carolina Center for Fathers and Families (the Center) steps in — changing the lives of men and their children. The Center has been one of the South Carolina Bar Foundation's *Administration of Justice* grantees since 2007.

It Makes More than Cents

The Center is responsible for the oversight and administration of six fatherhood programs in eleven locations in South Carolina. ATI is just one component of these fatherhood programs that provide a different strategy for non-violent, low-income fathers who are behind in paying child support. Fathers are either court ordered into the program or may enter voluntarily. In either situation, once enrolled, the father has a much better chance of meeting his financial obligations to his children. And, even more, graduating fathers end up reconnecting with their children. The successful ATI program must have excellent relationships with the Family Court, Child Support Enforcement and the Department of Social Services. The Center has worked tirelessly to educate judges and others in the child services system on the societal benefits of having a father in the program verses being sent to jail. When fathers are actively enrolled in the program versus being incarcerated for an average of six months, there are measurable savings and financial benefits to the families of these non-violent offenders and society in general. Over the past 12 months, 684 non-custodial parents were enrolled in the ATI program. Of the 684, only 133 (19%) dropped out or were terminated for non-compliance with the program.

In addition to the cost savings cited in figure 1, a father who is enrolled in the Center's ATI programs earns a livable wage so that they can pay child support.

High Expectations

Enrolling in an ATI program is

FIGURE 1

**Cost to operate ATI component in 11
locations: \$ 928,509**

**Estimated cost to have incarcerated
participants*: \$4,408,000**

no "get out of jail free" card. The expectations placed on fathers who participate are not insignificant. Fathers must work. If they are under-employed or unemployed, part of their time in the program is spent readying themselves for the work force. Preparation can include anything from completing GED requirements, getting fathers ready for WorkKeys testing — a job skills assessment system — and taking part in skills training courses. To assist the fathers through this process, each fatherhood program has an on-site job recruiter. The recruiter's role is critical as he or she serves as the liaison between the fatherhood program, local companies that are willing to hire fatherhood program participants as well as all of the entities that are providing training and support to the fathers.

In addition to getting and maintaining a job, fatherhood program participants must take part in weekly group meetings. These meetings provide dads with practical advice on responsible fatherhood and a plethora of issues such as effective communication, understanding child support and legal system and parenting. Such services would not be a part of a father's life if he was behind bars.

For Howard, working with his job recruiter was a game changer. He began to see and feel differently. With the support of the recruiter, Howard was able to earn livable wage employment in the field of construction. Not only did Howard's job help him meet his child support obligations, but he was also able to start attending college evening classes. He later went on to receive HVAC certification and has since secured employment in that field. Howard also made great strides with his daughter, spending more time with her and reconnecting as a family. As of July 2011, Howard had reduced his child support debt to zero and is currently showing a surplus.

Trends and Technology

Using Technology to Augment Services

One characteristic of any successful organization is its ability to modify and adapt. The Center does an exceptional job understanding the barriers fathers face and how those barriers can evolve over time. For example, an initial issue for staff was in determining how to quickly assess the eligibility of fathers who were court ordered into the program. It was essential that staff be able to respond quickly to Family Court judges who wanted to order men into the program. To address this, the Center determined that taking laptop computers into the court room would allow for "on-site" assessment such as criminal background checks and other possible pending charges. The use of the laptops also increased the credibility of the fatherhood ATI option throughout the Family Court system as the Center was able to standardize procedures across each of the fatherhood sites. In addition, the Center determined that the laptops would benefit the presentations made when meeting with community and employment partners.

Boot Camp

One issue exacerbated by today's tough economic climate was that more fathers were entering an ATI program unemployed. They were not able to compete for jobs in the flooded job market. In general, the fathers in the program did not have the skills or experience to compete with other more qualified job seekers. In response, the Center began to work with fatherhood program directors to enhance the job readiness component of the ATI program. The Center hosted a full day meeting to strengthen the employment component so that it met the demands of employers. Center staff assessed the current curriculum, community resources, local employment needs and the capacity of fathers. The outcome of the meeting was the development of an Employment Boot Camp. The Boot Camp is an

Net cost savings: \$3,479,491

Child Support Generated

Paid in on-going child support while in the program: \$ 704,000

Earned gross wages while in the program: \$2,301,282

Total benefit to families and the economy: \$3,005,282

**The South Carolina Department of Corrections reported an increase in costs to \$8000 per inmate from a 6-month detention*

intensive one-week focus on job readiness and how fathers can access Workforce Investment Act services. The Center staff researched other effective job program curricula in order to develop the most effective job readiness program content to serve the fatherhood program population with multiple barriers to employment. The final model offers a consistent approach to preparing unemployed participants to deal with the world of work. They must complete the Boot Camp in order to access employment opportunities identified by the job recruiters.

Technology and Teammates

As the economy continued to decline, the Center began to see that even more fathers were having trouble meeting child support obligations and needed to seek modifications. However, the opportunity for a father to receive a modification through Child Support Enforcement or the Court was further complicated due to the backlog of cases. To address this issue, the Center's goal was to ensure that child support orders were set consistent with the non-custodial parent's ability to pay. Realistic orders based on the father's ability to pay would increase the likelihood that fathers would be able to make payments. The Center applied for funding from the Office of Child Support Enforcement to develop collaborative strategies so low-income non-custodial and custodial parents affected by child support obligations have an increased access to child support modification in a reasonable timeframe. The cadre of partners included the South Carolina Department of Social Services Child Support Enforcement Division (CSED), South Carolina Legal Services, South Carolina Court Administration, the South Carolina Access to Justice Commission and the South Carolina Bar Foundation. As a team, the Center worked to develop an accessible avenue to child support modification via the pro se process. As of this writing, the partners are now working to automate the pro se forms through HotDocs and A2J™ guided interview software. It is anticipated that, in early 2013, the Center's work with child support modification through the pro se process will be underway.

A Good Investment in Dads

The ATI effort funded in part by the Foundation has served as a model in the importance of investing in such programs for non-violent, low-income fathers. The investment of IOLTA support gives fathers the opportunity to have a second chance with their kids by putting child support dollars in the hands of the neediest citizens of South Carolina.

Shannon Willis Scruggs is the Executive Director of the South Carolina Bar Foundation and the current President of the National Association of IOLTA Programs (NAIP)

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Pro Bono Feature

LRIS

New York's Charity Corps Initiative Matches Pro Bono Counsel with Nonprofits in Need

IOLTA

By Lesley Rosenthal and Irina Tarsis

Pro Bono

**New York's
Charity Corps
Initiative**

From the Chair

**2013 Equal
Justice
Conference**

Charity Corps: Lawyers Helping Nonprofits is a joint initiative of the New York State Bar Association (NYSBA) and the New York State Attorney General's Office, matching volunteer attorneys with nonprofits unable to afford legal counsel. The program, which matched more than 50 organizations with volunteer attorneys in its initial round in 2012, has proven effective in strengthening a culture of governance and compliance at charities, helping them better achieve their missions, while providing unique opportunities for service to attorneys with a transactional law background. In 2013, the program is maturing from a pilot to a second round of matching, scaling up in numbers and offering observations about how the program might be replicated elsewhere.

LAMP

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New York State is home to approximately 80,000 charities that enrich communities and provide crucial services to residents across the state, including health, economic development, arts and education. This robust sector also helps fuel the state economy, generating over \$150 billion in revenue annually and employing hundreds of thousands of New Yorkers — more than the financial, real estate and insurance industries combined.

Good governance and compliance with the legal requirements of state nonprofit laws help ensure that charities are operating effectively and efficiently. Unfortunately, many organizations do not have access to even basic legal advice, leaving to chance such important matters as board duties and policies, fulfillment of filing requirements, and compliance with fundraising laws. The Charities Bureau of the State Attorney General's Office estimates that 60,000 of the state's 80,000 charities lack regular access to counsel.

While New York has a number of well-established legal services organizations that serve nonprofits, gaps remain throughout the state. To meet this need, the State Attorney General's Office and the State Bar Association joined forces to establish Charity Corps. In addition to matching organizations with legal volunteers, Charity Corps also provides trainings across the state and aggregates information on its website.

The Charity Corps concept was developed and refined by an all-volunteer Leadership Committee consisting of experienced nonprofit attorneys, law firms and pro bono provider organizations across the state. The Committee draws on members' expertise and includes pro bono activity already in place at NYSBA, including the President's Committee on Access to Justice, Pro Bono Coordinators Network, and others.

Over 180 organizations applied to participate in the initial pilot year. Of those, 56 qualified to be matched with outside counsel, meeting the income and geography requirements and stating a legal need within the program's scope. In accordance with State Bar directive, organizations serving indigent populations were matched first, followed by other types of charities including environmental, educational and cultural organizations. Those charities that qualified for placement under existing programs represented on the Leadership Committee were referred out to those organizations for matching. The remaining charities were matched with volunteer attorneys

who had submitted forms to Charity Corps directly. Ultimately all 56 qualifying charities were matched.

The missions of the organizations served included:

- generating resources to fund veterans' initiatives such as educational opportunities for retirees and their families;
- bringing high quality financial development services and increasing economic opportunity and sustainable financial independence;
- initiating community enhancement projects;
- promoting a sustainable agriculture social enterprise;
- providing financial assistance to families in financial crisis;
- inspiring environmental awareness and action to preserve, protect and enhance local environmental resources;
- providing basic math skills to under-performing middle school students to prepare them for high school and beyond;
- promoting maternal-neonatal nutrition and bonding through breastfeeding;
- teaching personal responsibility through a youth bike program.

Dozens of attorneys volunteered to assist the organizations. Members of the Leadership Committee sorted volunteers' applications into three categories: experienced, somewhat qualified, and inexperienced. Experienced attorneys were matched immediately with selected organizations, while other attorneys were offered training opportunities. In a few cases, where project scope, geography and interest level permitted, the Leadership Committee was able to match up a client with both a more seasoned attorney with a less experienced one, providing a mentorship opportunity between the counsel as well as a pro bono opportunity.

After making the proposed matches, a member of the Leadership Committee individually contacted each attorney who was selected to serve, giving the attorney a week to accept or reject the match after reviewing the organization's application materials and running a conflict-of-interest check with his or her firm's database. Upon acceptance by the attorney, NYSBA staff informed the client of the match and invited the organization to contact their pro bono counsel.

After making the initial matches, NYSBA and members of the Leadership Committee followed up with all participants in succeeding months to make sure the relationships had launched successfully and were proceeding. About three-quarters of the way through the pilot year, the Charity Corps Leadership Committee evaluated the overall success of the program by surveying the attorneys and organizations. Results of the survey were highly positive for both the charities and the volunteer counsel. Among the charities that responded:

- 100% said their needs were timely met
- 100% said they would recommend the program to others
- 100% said their participation improved the culture of governance and compliance in their organization

Their narrative responses were enthusiastic:

- "Our Charity Corps attorney was a great help" (veterans' association)
- "Because of our attorney's advice about NYS fundraising laws, we were able to hold fundraisers that allowed us to pay for new science learning resources"
- "This is such a useful and very generous endeavor!"
- "We thank Charity Corps and the NYSBA members for their participation and assistance."
- "My board and I want to thank Charity Corps for connecting us with our attorney, who was responsive, thorough and knowledgeable."
- "We cannot think of any better legal help and we thank our attorney for her time and Charity Corps for this opportunity."
- "No nonprofit organization should pass on the opportunity to be part of this program."
- "This is the State's gift to your organization to help you be compliant and effective. Remember you started your organization to help others. Let their pro bono service help you realize your mission

statement by providing you with the tools and knowledge you need to reach your goals."

The responding attorneys, too, reported a rewarding experience:

- 100% said they would like to participate in the program again in 2013
- 92% said they would consider partnering with or mentoring junior attorneys or law students
- 85% said the program increased their pro bono hours

The last statistic suggests that Charity Corps had found a sweet spot for corporate and transactional attorneys, who sometimes have difficulty finding suitable pro bono opportunities. Typically, pro bono representations draw on litigation skills, such as landlord/tenant, political asylum, death penalty, domestic violence and other matters. Charity Corps projects serve organizations meeting important societal needs, and the assignments — revising bylaws, assisting with disclosure filings, drafting policies — are a better fit for many business lawyers.

The participating attorneys' narrative responses were as enthusiastic as those of the charities they served:

- "Fantastic initiative"
- "Excellent service"
- "Charity Corps connected us with a great nonprofit that needed corporate counsel, which gave us the chance to give back to the Central NY community"
- "Charity Corps is yet another wonderful opportunity sponsored by NYSBA bringing together lawyers and charities to serve and improve our communities for all New Yorkers"

The Charity Corps chair reported these results to the Executive Committee of the New York State Bar Association during the November meeting.

Throughout the pilot year, the State Bar ran Charity Corps trainings in New York City, Buffalo, New Paltz and Rochester. The trainings used state specific materials as well as *Good Counsel: Meeting the Legal Needs of Nonprofits* (John Wiley & Sons 2012), authored by Charity Corps chair Lesley Rosenthal, the general counsel of Lincoln Center for the Performing Arts. The trainings have been well attended and well received.

The State Bar also established a website, www.nysba.org/charitycorps, which includes information about the program, with application forms and links to resources. The website aggregated information is pertinent to nonprofits and counsel in the state, including listings of resources and trainings hosted by other organizations.

At the end of the pilot year, the Leadership Committee sent out messages to the participating organizations and counsel, thanking them for their participation and input, and encouraging them to serve and spread the word for a second round of matching in 2013. Then, using feedback and information gleaned from the survey, the Leadership Committee updated the application forms. The Attorney General's Office challenged the Corps to set a goal to serve 75–100 new charities in the new year, and the Leadership Committee has embraced the challenge.

Although the Attorney General's Office developed and helped launch Charity Corps, it does not receive data about individual applicants or participants. Instead, the Leadership Committee shares only aggregated data with it.

Charity Corps' successful initial pilot year proved out the concept, and its second round of matching will bring additional opportunities for service and learning. It is doing a world of good for New York nonprofits, while also providing a unique opportunity for attorneys statewide to put their corporate legal skills to work for a local charity.

Lesley Rosenthal, Chair, and Irina Tarsis, Program Manager Charity Corps: Lawyers Helping Nonprofits

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From the Chair...

By *Larry McDevitt*

Standing Committee on Pro Bono and Public Service

As many of you know, the Legal Services Corporation (LSC) recently released a report of its Pro Bono Task Force. The report contains a variety of ideas and recommendations for building stronger pro bono programs within the LSC network and for engaging more lawyers with those pro bono projects. I had the honor of serving as a member of the LSC Pro Bono Task Force and commend the LSC Board for their leadership in addressing the challenge of expanding pro bono service across the profession.

The ABA's Pro Bono Committee recently had the opportunity to meet with the LSC Board to engage in a discussion regarding the Pro Bono Task Force's report. In advance of that meeting we provided the LSC Board with information providing a snapshot of the Committee's mission, major initiatives and extensive resources. We also provided the Board with some preliminary thoughts based on the Pro Bono Committee's review and analysis of the LSC pro bono report.

The Pro Bono Committee communicated to the LSC Board that we welcome their full engagement in fostering pro bono service and, more importantly, we shared with the Board what we identified as major reaction themes developed during our internal conversation. These themes included:

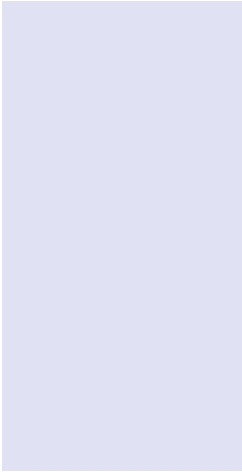
Tap into existing resources.

Many resources and relationships already exist to support pro bono endeavors. As LSC implements its recommendations the Pro Bono Committee hopes that LSC will take advantage of existing capacities so as not to reinvent or duplicate resources. With respect to ABA resources alone, our Center for Pro Bono has since 1980 offered clearinghouse and technical assistance services to LSC grantees and freestanding pro bono programs on all aspects of their structure, governance, funding, operations and administration. Our committee works closely with the National Conference of Bar Presidents and the National Association of Bar Executives in supporting state and local bar efforts to promote pro bono. We have developed ethical guidance for judges on the contributions they can make to foster pro bono, have extensive resources on judicial involvement and support for pro bono and have recently reached out to the Conference of Chief Justices and the National Judicial College as part of our National Pro Bono Summit follow-up.

Coordinate with national organizations.

A number of groups (LSC, ABA, PBI, EJW, NLADA, etc.) are engaged in various efforts to develop new leadership strategies for promoting and expanding pro bono. We believe that an executive summit or some other coordinating event should be convened so that these groups can structure their activities and identify opportunities for collaboration.

Let's work together.



The Standing Committee on Pro Bono and Public Service is eager to work closely with LSC in implementing as appropriate the recommendations of your report. This would include joint efforts on recruitment, training, technical assistance and sharing of intellectual capital. We believe we have much to contribute and that together we can achieve a national rebirth of the pro bono movement.

I am pleased to report that we had a very productive meeting with the LSC Board. As LSC moves to the implementation phase of its Pro Bono Task Force report we are grateful to have been offered the opportunity to participate with them on their implementation working groups, to coordinate with them on developing a national gathering of pro bono leaders, and to share with them the wealth of resources we have developed over the years. When we meet with the LSC Board again, in January of 2014, we anticipate having much to celebrate as the result of our collaborative efforts.

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St. Louis
ABA/NLADA
Equal Justice Conference
May 9-11, 2013 (Pre-conference, May 8)
Hyatt Regency St. Louis at the Arch



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LAMP Feature

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Cook County's Effort to Provide a Veterans Track within the Domestic Violence Court for Chicago

IOLTA

By Carly Everett

Pro Bono

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Cook County's Effort to Provide a Veterans Track within the Domestic Violence Court for Chicago

From the Chair

Domestic violence is a serious public health concern among the veteran population, and our country cannot afford to ignore it or the veterans who require assistance overcoming serious mental issues resulting from combat. Since 2001, the United States has sent nearly two million soldiers to serve in the Global War on Terror. As soldiers return home, the country is seeing a devastating surge of individuals suffering from serious mental illnesses like post-traumatic stress disorder (PTSD) and from traumatic brain injuries. Research shows that mental illnesses arising as a result of service or combat correlate with increased criminal behavior, substance abuse, and domestic violence. Besides causing negative physical and psychosocial outcomes to victims, domestic violence can be extremely costly. A 2009 article, *Intimate Partner and General Aggression Perpetration Among Combat Veterans Presenting to a Posttraumatic Stress Disorder Clinic*, published in the American Journal of Orthopsychiatry (Taft, *et al.*) estimated that domestic violence results in a loss of almost 10 million days of paid work per year, and medical costs of over \$4 billion per year.

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The prevalence of mental health illness, and the troubling corresponding rate of criminality and substance abuse among veterans, has prompted legislative and judicial intervention. The first veterans' treatment court began in Buffalo, New York in 2008. Today there are nearly 90 veterans' treatment courts across the country, with more on the way. The general observation about these veterans' treatment courts is that they generate a lower rate of re-offense and a higher return on financial investments than with traditional courts.

But, with few exceptions, there is a glaring omission from these treatment courts: veterans convicted of crimes of violence (including domestic violence) are ineligible. This limitation blocks the door to many of the veterans whose crimes are most significantly tied to combat trauma and PTSD. Tiffany Cartwright's 2011 Stanford Law and Policy Review article "*To care for him who shall have borne the battle": the recent development of veterans courts in America*, explains that many soldiers suffering from PTSD remain hyper-vigilant and respond to everyday threats with violence. Further, in 2010 the American Bar Association adopted Resolution 105A, wherein it urges states, local, and territorial courts to facilitate the development of Veterans Treatment Courts. The ABA Resolution and Report recognized that many veterans suffer from paranoia and feel the need to carry a weapon (which, by definition under most state laws, turns their offense into a violent offense).

The veterans treatment court in Illinois is no exception to the problem. The Illinois Military and Veterans Act identifies a "critical need" to "create specialized veteran and servicemember courts or programs with the necessary flexibility to meet the specialized problems faced by these veteran and servicemember defendants" (330 ILCS § 135/5). In keeping with this "critical need," the Illinois General Assembly created the Veterans and Servicemembers Court. Under the Veterans and Servicemembers Court Act, veterans are eligible for the court's procedures provided that, among other things, the individual has not been convicted of a crime of violence within the past ten years, including any offense where serious bodily injury

occurred (730 ILCS § 167/20). The Illinois General Assembly has, thus, undermined its own clear intent to provide a system that accounts for service-related mental illnesses by excluding the countless veterans who have been convicted of crimes of violence, including domestic violence.

The Cook County State's Attorney's Office's solution is to create a veterans track within the Domestic Violence Court for Chicago. Planners of the program expect its implementation in early 2013. The program is premised on the belief that a veterans track will provide veterans convicted of domestic violence with much-needed specialized considerations that parallel those in the veterans' treatment courts across the country. The veterans track within the Domestic Violence Court for Chicago will likely include many of the best practices observed across the country's veterans court program, which are as follows: deferred sentencing; housing assistance; and vocational training; voluntary participation; veteran mentors; case managers; information sharing with the VA; daycare; family counseling; transportation assistance; education assistance; and partnerships (*e.g.*, with the court, VA, public agencies, and community-based organizations).

While the details of Cook County's program are not finalized, planners of the program envision that it will also have characteristics similar to the few veterans' treatment courts in the country that accept violent offenders, including domestic violence offenders: the San Diego Veterans Treatment Court, the Orange County Combat Trauma Court, and the Hennepin County Veterans Treatment Court. (An October 2012 story on "60 Minutes" covered a veterans program within the court system in Harris County in Texas. That program also appears to accept violent offenders, but the details relating to that program's characteristics are limited.) The San Diego, Orange County, and Hennepin County programs are all voluntary, include drug/substance abuse testing, veteran mentors, and a treatment team; share information with the VA; provide access to housing assistance and family counseling; and have formed partnerships with the court, the VA, public agencies, and community-based organizations. Only one (Orange County) also provides access to vocational training, transportation assistance, and education assistance.

Hennepin County's system is unique in that it does not require a nexus between military service and domestic violence. That is, there is no requirement that, as a threshold matter, an offender must be involved in domestic violence only as a result of combat; he or she is accepted even if he or she was involved in domestic violence prior to service. Hennepin County's primary consideration is whether the program will be beneficial to the participant. If so, the participant is eligible. Hennepin County is finding success in treating veterans and reducing the rate of veteran-related domestic violence with this approach.

Unlike Hennepin County, but consistent with the majority, Cook County's program will likely include a process whereby a psychiatric fellow at Northwestern Memorial Hospital will evaluate veterans to determine whether there is a nexus between the veterans' domestic violence and combat. Veterans are eligible only where the psychiatric fellow observes a nexus.

Additionally, following the lead of San Diego, Orange, and Hennepin County, planners of the Cook County program have gauged its jurisdiction's political climate and have considered how it may impact the program. In San Diego, program administrators are in the process of gaining trust among battered women's advocates to earn referrals of domestic violence cases to the treatment courts. Much of Hennepin County's success has been due to passionate community supporters, including battered women's groups, who understand the goals and benefits of a treatment court. Planners of Cook County's program have identified relevant stakeholders and have ensured they are at the planning table. The planners envision that the program will include collaboration with the VA, the Cook County State's Attorney's Office, area public defenders, the Cook County Adult Probation Department, the Veterans Legal Support Center and Clinic at John Marshall Law School, Northwestern Memorial Hospital, and, importantly, the victim advocate community. The victim advocate community's seat at the planning table is essential to guarantee the program satisfies the concerns and fears of victims; that is, victims have a voice in the planning process to ensure the

program holds offenders accountable and aims to prevent future violence.

Cook County's creative veterans track within the Domestic Violence Court for Chicago is a groundbreaking solution to the restrictions inherent in the Veterans and Servicemembers Court Act, and in many statutes across the country that limit eligibility to nonviolent offenses. Other jurisdictions should observe the implementation and, likely, success of this program, and look to Cook County as a model for their own programs.

Carly Everett, J.D., M.P.A., is an Associate Attorney practicing complex commercial litigation at Segal McCambridge Singer & Mahoney, Ltd. in Chicago, Illinois. Ms. Everett obtained her J.D. from Indiana University and her M.P.A. from the University of Colorado.

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From the Chair...

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

Standing Committee on Legal Assistance for Military Personnel

As the new year has come and I look back at 2012, I continue to be impressed with the level of work put forth by the Standing Committee on Legal Assistance for Military Personnel. For example, we put on two all-day live CLE programs in Washington, D.C., and Colorado Springs, for a combined audience of nearly 200 registered attendees, as well as holding an online CLE program in the summer for nearly 50 registered attendees. We supported resolutions before the ABA House of Delegates, engaged in policy advocacy on a number of fronts (as I described in my last column), and we collaborated with an array of entities, both within and outside of the ABA, on projects to advance access to legal services for military families. The LAMP Committee is, indeed, a very active committee!


Of particular note are the achievements of our Military Pro Bono Project in 2012. The Project is our ongoing initiative to connect active-duty, junior-enlisted servicemembers and their families with pro bono counsel to assist in the resolution of civil legal problems outside the scope of services that may be provided by a military legal assistance attorney. In 2012 the Project successfully placed over 200 cases with pro bono attorneys who donated about 4,000 billable hours of pro bono service, valued by the volunteer attorneys at just over \$1 million for the year. In addition, the Project, which is funded entirely without general revenue money, successfully raised enough private funds in 2012 to sustain nearly two more years of operation at current levels. Further, the Project continued in 2012 to place the Association in a positive light within the military community, Congress, and the general public. For example, the Atlantic Magazine ran an online article illustrating the outstanding work of Project volunteers on behalf of servicemembers, and the Senate Armed Services Committee Report on the markup of its National Defense Authorization bill commended the ABA for its work to meet the legal needs of servicemembers through the Project.

Since we launched the Project in collaboration with the ABA Section of Litigation in 2008, we have delivered pro bono services to over 700 military members and their families in nearly every state of the nation, and these services represent an aggregate value of donated billable hours of over \$3 million. We felt, therefore, that we were long overdue in developing a formal program to recognize the tireless work of our Project volunteer attorneys, law firms, and donors. And last fall the ABA Board of Governors approved our proposal to give an annual "ABA Military Pro Bono Project Outstanding Services Award" to lawyers and law firms that accept and provide pro bono legal services for three or more pro bono case referrals originating with the Project in a calendar year, and/or complete at least one pro bono case referral requiring a total of 50 hours or more of donated time. The LAMP Committee was similarly authorized to annually give an "ABA Military Pro Bono Project Star Ranking Support Certificate" to financial donors to the Project. Both volunteers and donor receive a certificate from the LAMP Committee commending the contributions to the Project as well as acknowledgement on a special page on our Military Pro Bono Project Website.

We are now sending out certificates and posting awardees on our website for services rendered in 2012. Of our pro bono volunteers, we are happy to say that three law firms and four individual attorneys all took on three or more pro bono matters in the past year, and twenty-two attorneys closed out pro bono cases requiring 50 or more hours. Examples abound of the exceptional work done by our volunteers on behalf of servicemembers—I thought I might just highlight a few here:

- The mother of a deceased soldier needed help to probate her son's estate. The soldier died with a will, but the mother did not know how to proceed. The Project located a dedicated volunteer attorney who spent almost two years helping the deceased soldier's family. The volunteer attorney opened, administered, and closed the probate estate for the deceased soldier, and represented the mother as personal representative of the estate and trustee of a new testamentary trust. The volunteer also handled an insurance claim and helped establish a trust for the soldier's minor daughter and helped with the administration of the trust with the beneficiary's legal guardian. In this tragic situation, this volunteer attorney went above—and-beyond to help this family.
- A Marine wanted to adopt his step-child, as the child's biological father had no involvement in the child's life. The Marine discussed this matter with a military legal assistance attorney, who referred the case to the Project. The Project located a volunteer attorney who spent a great deal of time helping the Marine with the adoption process and successfully completed the step-child adoption for the Marine.
- A default judgment involving a landlord/tenant dispute was ordered against a Marine while he was deployed in Afghanistan. The Marine had many problems with his landlord. Thus, before deployment, the Marine took his landlord to small claims court and won a judgment in his favor. However, after the Marine deployed, the landlord appealed and got the judgment reversed in the absence of the Marine, in violation of the Servicemembers Civil Relief Act (SCRA). After the Marine returned to the United States, he visited a military legal assistance attorney to discuss this situation. The military attorney referred the Marine's case to the Project, which placed this case with a volunteer attorney. The volunteer attorney worked with the small claims court and was able to successfully set aside the default judgment against the Marine.
- An Air Force servicemember sought help with a matter involving a title to a vehicle. After purchasing a vehicle from a car dealership, neither the servicemember nor the finance company received the title to the vehicle. It was discovered that, after purchasing the vehicle, the car dealership went out of business, and an individual had the vehicle on consignment at the car dealership, but the individual never received the money from the car dealership after the servicemember's purchase. This individual held title to the vehicle. A military legal assistance attorney referred this matter to the Project, which located a volunteer attorney who was able to successfully resolve this case through a settlement.
- The mother of an Army servicemember's son did not allow the soldier to visit his son before deploying to Afghanistan. The soldier talked to a military legal assistance attorney about this issue, and that he wanted to establish a visitation order that would allow him to spend time with his son before and after his deployment. The military attorney referred the soldier's case to the Project, which located an attorney who volunteered to help. The volunteer attorney successfully established a visitation order for the soldier. As a result, in the days before his deployment, the soldier was able to spend time with his son, and the soldier looks forward to seeing his son after he returns home from Afghanistan.

There are many, many more case examples like these arising from the work of our [Project volunteers](#). And while you're at it, visit our [Awards page](#) and see all of the 2012 award recipients. We again thank all of our outstanding



volunteers and financial contributors that make it possible to meet the civil legal needs of our servicemembers and their families.

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