



# Dialogue

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## Interviewing LRIS Panel Members: The Path to Quality Referrals

Many lawyer referral and information service (LRIS) programs use in-person interviews as part of their process for handling applications by lawyers to join the referral panel. These interviews vary, ranging from informal chats to complex processes involving multi-person interviewing teams. The purposes of the interviews also differ, from actually qualifying panel members to ensuring that applicants understand the LRIS program rules. Since interviewing is an important step in assembling and maintaining a quality panel, *Dialogue* recently obtained the views of several LRIS program directors from across the United States to learn how their programs conduct and utilize interviews.

### Association of the Bar of the City of New York: Establishing qualifications

The Legal Referral Service of the Association of the Bar of the City of New York firmly endorses the concept that eligibility for LRIS panel membership should not “be defined merely by time in practice.” (Commentary to Rule X, ABA Model Supreme Court Rules Governing LRIS)

Experienced practitioners review the applications and participate in applicant interviews. They consider factors such as the complexity of matters handled, the lawyer’s knowledge, preparation, analysis, results, ethical practices and client relations. After candidates have completed an extensive written application, interviews are scheduled.

The interview group includes the managing attorney or executive director, attorneys chosen from a pool of highly experienced lawyers in the relevant areas of law, and a member of the lawyer referral service committee. Each member of the interview panel is sent a copy of the application and any attachments. Any member of the interview panel may request additional information. *(continued on page 2)*



The ABA Standing Committee on Lawyer Referral and Information Service Commemorates the 10th Anniversary of the Adoption of the ABA Model Rules Governing LRIS.



## DIALOGUE

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## Panel Members

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The role of experienced lawyers in the interview and evaluation process is invaluable. Applicants sometimes state on paper that they have handled the number of matters required by our experience standards, but when questioned it turns out that it was only a small part of the matter. Some may not be aware of important changes in the law because they haven't handled a similar matter in a long time. The applicant may have actually done a poor job and not really understood the matter. Only by having experienced practitioners participate in the interview are such deficiencies spotted.

An unsuccessful candidate is told the reason the application is being denied, which may help in preparation for re-application. It can help propel an attorney into improving his or her practice and developing professionally.

Although this process is a good indicator of future performance, the evaluation of panel members must be continuous and not limited to inquiries prior to the lawyer's participation. Quality control is a subject that merits an article by itself.

—Al Charne, director of the Association of the Bar of the City of New York Lawyer Referral Service

### Akron Bar Lawyer Referral Service: Building relationships

As an LRIS director, the goals for the interviews are to build rapport



Jeffries

with attorneys and to clarify the mission, rules and regulations of the service. I think it is important for an LRIS director to know the panel

members. That relationship facilitates the necessary paperwork and remitting of fees, and helps build a lasting connection so the panel member remains on the panel.

The interview is a requirement for applicants with less than two years experience, and for these attorneys the interview must be conducted in person. This interview allows me to explain the requirements of using a mentor to the new attorneys. For seasoned practitioners, I will settle for a phone call, although I much prefer a face-to-face interview for all attorneys.

The interview rarely causes us to deny panel membership to an attorney. Red flags might be raised if the attorney seems reluctant to follow our rules or is argumentative about them, or if the attorney discloses a disciplinary, drug or criminal problem. If I have concerns after the interview, I will ask the chair of the LRIS committee to call or meet with the applicant to discuss the LRIS program.

—Claire Jeffries, director of the Akron (Ohio) Bar Lawyer Referral Service

### San Fernando Valley Bar Association LRS: Worth a thousand words

There is recognized value in putting a face with a name, and our interviews have demonstrated this over and over. Our initial reason for beginning this practice

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## From the Chair...



by James B. McLindon  
Chair of the ABA Standing  
Committee on Lawyer Referral  
and Information Service

Recently, the Standing Committee on Lawyer Referral and Information Service received an offer from the American Bar Association's information services department. The department's network infrastructure group has offered to counsel state and local LRIS programs with respect to their telephone systems. The offer includes providing technical help in designing phone systems, selecting a vendor among various competitors, and obtaining a good price. A preliminary trial with two LRIS programs resulted in substantial cost savings and, as you can imagine, some very happy LRIS directors and bar association executives.

At the LRIS Committee's summer meeting, the members voted to accept the offer of assistance, to publicize it and to make it available to LRIS programs nationally. That decision was a no-brainer. But the next decision facing the committee was more difficult. The amount of time the engineer in question has available is limited, and the committee expects a substantial response to the offer of free assistance. How then do we prioritize the requests that we

*(continued on page 6)*

## The Need for Immigration Experience Panels

by Ken Matejka

In the United States, nearly every jurisdiction contains an immigrant population with its own particular set of legal issues. For example, a Cuban immigrant's political asylum case in Florida will be very different from that of a Mexican software engineer seeking a work visa in Los Angeles. The immigration problems these individuals face can be overwhelming. In a deportation case, a political refugee may face the prospect of being separated from his or her loved ones residing in the United States, as well as the prospect of criminal prosecution in a hostile homeland.

As newcomers, unconnected to the local community of lawyers and not knowing where to turn, individuals from these immigrant populations often contact local bar associations for help in finding competent, experienced legal representation.

### Case study

San Francisco attorney James Mayock has been representing clients with immigration problems for almost 25 years. He believes that experienced counsel for immigration matters is of paramount importance because "these matters are usually of critical significance to the immigrant's life." Mayock describes a case in which he represented a young Latin American man who was facing deportation following a criminal charge. The defendant was brought to the United States as a small child by his parents, had no memory of the "Old World," and wasn't even aware that he was in the United States illegally. Because of the underlying criminal charge, Mayock says the case required "some delicate footwork." He noted, "There are certain pleas in a criminal proceeding that may seem beneficial on the criminal side, but a good immigration lawyer should know that they can be fatal on the immigration side." Because Mayock knew the issues and problems raised by the criminal proceeding (which was ultimately dismissed) he was able to keep his client in the United States, the only home he had ever known. And since the thwarted deportation, the man has become a permanent resident, married a U.S. citizen and has had five children.

Mayock describes much of his practice as "rescue work" where he attempts to repair an immigration case that has been mishandled by prior counsel.

### Setting up an immigration experience panel

The first step in establishing an immigration experience panel is to talk with practitioners in your area to determine exactly what your experience requirements should be. These requirements may differ from one bar association to another depending on the composition of your local immigrant population.

If you are not sure how to get in contact with experienced immi-

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## Panel Members

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was to strengthen the application process prior to developing a new application form.

As the LRIS director, I interview candidates after reviewing their application forms. My prior experience as a litigator has given me knowledge of a professionally run legal practice, which helps in the interviews.

The interview is minimally structured, although some aspects are consistent from one interview to another. I explain how the LRIS program operates and provide information about the intake consultants. I describe our marketing tools and our relationship with the local courts and self-help legal access centers. The focus of the interview is to acquire a sense of the attorney's professionalism and the importance of client service to the attorney. Based on the application, the attorney is asked questions about his or her legal experience and qualifications. We provide the subject matter forms at this interview, and the attorney's experience is reviewed. I often ask an attorney to discuss in some detail a case that was of particular interest. This exchange often sheds light on how the attorney approaches the practice of law and deal with clients or opposing counsel.

The unstructured part of the interview is often most revealing. An attorney may have public service interests, pictures or books that give insight into his or her attorney's interests, or even a celebrity photo that might lead to an appearance at a bar-sponsored event. (This is Southern California!)

I also meet staff members that may be scheduling appointments

for the attorney, and other attorneys in the office. Seeing the office can provide useful insight.

The information from the interview is processed along with the written application. So far, we have not denied membership on the basis of the interview, but a few times we have required the applicant to appear before the LRIS committee. Since our rules do not permit home offices without a special waiver, the visit can determine whether the waiver is appropriate.

The interview is also an excellent way to establish a working relationship between the attorney and the LRIS. The attorneys always mention that they appreciate the opportunity for the personal interview. It also shows that LRIS is serious about insuring the quality of the panel. In my view, this snapshot of the attorney is worth a thousand words on a written application form.

—Michele Morley, director of the San Fernando Valley (California) Bar Association Lawyer Referral Service

### Lawyer Referral Service of Central Texas: Orientation to the LRIS

The Lawyer Referral Service of Central Texas has required new panel members to interview with the director for the past five years. The purpose of the interview is to acquaint attorneys with the rules, regulations and goals of the organization. In addition, it is a way to meet new panel members and introduce them to the LRIS staff.

The interview is helpful in clearing up any questions the attorney may have and for identifying any special practice areas or interests.

As director, I conduct the interview, which is informal. I start by explaining the mechanics



Rollo

of the referral system, from the telephone message to screening to transferring the call. We discuss the attorney's office arrangements, staff and general range of fees. Using the rules and regulations as an outline, we discuss all the operational procedures. I solicit input from the attorney on marketing ideas, and encourage calls with questions or concerns.

This one-on-one interaction with panel members works very well. It gives the panel members a sense of personal attention and allows the LRIS staff to put a face with a name. It also gives me a sense of how that panel member views membership in the lawyer referral service and feedback on how the program is viewed in the legal community.

I have never denied membership to an applicant based on the interview, but I have occasionally kept a closer eye on some who did not seem to understand the public service aspect of LRIS programs.

—Jeannie Rollo, director of the Lawyer Referral Service of Central Texas

### The Brooklyn Bar Association LRIS: A tool for assessment

The Brooklyn Bar Association LRIS does not currently have a formal subject-matter panel application procedure. However, in interviewing the attorneys, I can set similar standards. I began interviewing candidates when I noticed that some attorneys checked off every category on the application. I once asked a recently admitted panel member whether

(continued on page 5)

## Panel Members

(continued from page 4)



Lawrence

he had set up his office. He said, "I was hoping to rent an office and buy equipment with the retainer I got from the first client you're going to refer to me." Needless to say, I quickly reconsidered his membership on the panel.

Prior to sending the application, I find out how many years the attorney has practiced and in what areas of practice. We currently require at least one year in practice, and ask for a resume as well as the application form.

The interview is very similar to a job interview—focused on assessing the attorney's skills and abilities and describing the requirements of membership. I ask questions about work experience, including non-legal experience. Non-legal experience often gives attorneys greater depth of experience and dimensions that are not found in law. Often such attorneys are much better at managing their practices and more sensitive to client needs.

I then ask the attorney to describe the number and nature of cases they have handled in the categories they have applied for, and to elaborate on any particularly interesting or unusual cases. In some areas I am most interested in the variety of cases, the settlement numbers, and jury trials. It is important to cover the last two years, since we are interested in verifying up-to-date experience as well as the attorney's comfort level in handling complex cases.

I discuss the program's policies and procedures, including the consequences of not keeping up-to-date on dues, fees, insurance and other paperwork. I give the attorney a realistic estimate of the number of referrals that can be expected in a month, based on the areas of law handled. I explain the nature of our client population and caution them that many seek only information. I gauge their commitment to our public service mission by observing how they react to these realities.

I ask for a copy of the attorney's retainer agreement, because I can learn about the attorney's client-relations skills from the content of the retainer. Finally, I ask about any complaints filed and how they were handled.

At the end of the hour, I feel I have developed an honest assessment of the candidate's legal abilities, interest, practice management skills and potential success as a panel member.

—Julie Lawrence, director of the Brooklyn Bar Lawyer Referral Service

### Philadelphia Bar Association LRIS: Establishing expectations

"Really? I have to pay part of my fee to Lawyer Referral?" The prospective panel member was stunned. This meeting was the last step in the process before he would be added to the LRIS panel, but he knew very little about how the program works or about his obligations to it.

The Philadelphia Bar Association's application for panel membership includes an acknowledgement in which the applicant agrees that he or she has reviewed and will comply with the LRIS Operating Rules and the LRIS Fee Share Schedule. Most referral services require appli-



Klitsch

cants to sign similar statements. But is that enough? Common experience tells us that it is not. We click "agree" on Web site disclaimers without scrolling through the text. And when was the last time you read one of those "Privacy Policies" you receive week after week? An in-person panel member interview is the best way to get the applicant's attention and is required to join our LRIS. Applicants try to get out of it; such requests are politely, but firmly, turned down.

In general, the meeting is more an orientation than an interview. My main goal is to review the operating rules with the applicant and make sure that he or she understands what we expect and what the panel member can expect from us. I walk the applicant through our intake and referral process so the applicant knows how calls are handled and the limits of our screening process.

Enforcement procedures are discussed. I advise the applicant that we conduct client surveys, review case filings in our local daily legal paper, and do name searches in online court dockets. I also review complaint and fee dispute procedures.

On a more positive note, I

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## From the Chair..

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expect to receive?

After some debate, the LRIS Committee has decided to give priority to programs that have been certified as being in compliance with the ABA Model Supreme Court Rules Governing Lawyer Referral and Information Service. I believe that this is the first time that any benefit provided by the committee has been so prioritized (other than use of the logo and slogan). I doubt that it will be the last.

A bit of history is in order. When the model LRIS rules were first approved by the ABA House of Delegates 10 years ago, relatively few programs were in compliance with them. In those early years, it would have been perhaps unfair to make compliance with the new rules a requirement before a program could be eligible to receive one of the many services that the LRIS Committee provides to lawyer referral programs.

A decade later, however, every

program has had ample time to come into compliance. Indeed, at last count, 37 percent complied with the model rules (although curiously not all had applied for certification). The committee has sought, and continues to seek to encourage LRIS programs to comply in every way it can. To date, that effort has primarily taken the form of extensive support with respect to the model rules and the satisfaction of their requirements.

Now, a decade after the passage of those rules, we believe it is appropriate, in most circumstances, to reward compliant programs by granting them top priority in accessing our resources when they are limited. Such a policy, of course, also acts to encourage noncompliant programs by making the pluses of compliance and the minuses of non-compliance quite concrete.

Let me hasten to add that I for one do not think that it would make sense to limit an ABA benefit that itself may be critical to helping a program come into compliance, such as PAR visits

or clearinghouse materials concerning the establishment of subject matter panels and the like. Nor do I think that the LRIS Committee would favor such an approach. However, for benefits like the telephone expertise in question—where the resources available may well be outstripped by the demand generated—it is more than appropriate to reward programs that are providing a superior public service.

At the same time, of course, we will gladly work with any program that seeks to comply and will continue to encourage programs to comply every way that we can.

I don't want to overstate this sea change. But I don't want to understate it either. If you have had a reluctant board, LRIS director or executive director who heretofore has not seen the (monetary) value of complying with the model rules, here it is. Such reluctance may begin to cost real dollars. Please bring this column and this policy to their attention. And please bring your requests for assistance to ours.

## Panel Members

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describe our advertising campaign and emphasize the benefits of building a client base through LRIS. I invite the panel member to call me with questions or problems.

It would be very unusual for an applicant to be denied panel membership based on the interview. Ordinarily, an unqualified

applicant would be screened out earlier. However, adjustments are often made as a result of the interview. For example, an applicant may list a home office in order to receive referrals in two geographic areas. If the applicant does not have an office separate from living space, that location will be eliminated. Also, an applicant may change panel choices at the interview or will be rejected from panels without proof of

qualification for those panels.

We regard the interview as the most important step in the application process. It personalizes the relationship between the panel member and LRIS. The interview also ensures that the panel member is familiar with our rules and that yes, part of the fee is paid to LRIS.

—Charles Klitsch, assistant director  
of Public and Legal Services for the  
Philadelphia Bar Association

## From the Chair . . .



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

Let me begin my inaugural chair's column by thanking a few folks. First, allow me to thank ABA President Dennis Archer for appointing me chair of the Delivery Committee this year. I am not only personally honored, but also grateful that Dennis appointed a current member of the committee as chair. It is an affirmation of his support for our work. Second, I thank Mary K. Ryan for her service as my predecessor. Mary is an outstanding advocate for the delivery of legal services to those of moderate income. She was dedicated to changing the policies that help advance affordable access and demonstrated true leadership, resulting in the success of the committee's work over the past three years.

I know that it is common to beat your own drum in the chair's column and I will take plenty of opportunities to write about the fine work of the Delivery Committee in upcoming columns. But for today, I'd like to focus on some extraordinary work recently completed by other ABA entities. These include the Final Report of the ABA Presidential Commission on Access to Lawyers and the Handbook on Limited Scope

Legal Assistance from the Section on Litigation's Modest Means Task Force.

The Commission on Access to Lawyers was established as a Presidential Initiative by Immediate Past ABA President Alfred P. Carlton, Jr. and was charged with the task of examining the gap between lawyers who offer personal legal services and individuals who can benefit from those services. Under the guidance of its chair, Dean Burnele Powell, the Commission held a series of meetings during 2002 and 2003 and filed its report with the Board of Governors at the 2003 Annual Meeting.

The report analyzes the state of personal legal services delivery in America and presents a series of strategies designed to "optimize the abilities of lawyers to reach those of modest means." Within these strategies the commission urges:

- The legal needs of moderate-income people should be met through the marketplace, rather than through sustained subsidies
- The ABA should provide research to assist lawyers understand the market for personal services
- Policy-makers should act on laws, rules, regulations and other policies that unnecessarily impede the delivery of personal legal services to those of moderate income
- Support systems for newly admitted lawyers, such as programs advanced by the Law School Consortium, should be tested and embraced
- Bar associations should expand resources that assist practitioners with office management and risk avoidance
- The bar should assist lawyers in developing practice formats

that respond to consumer needs

- The ABA should produce an annual report assessing the status of access to legal services

Many of these recommendations have been on the radar screen of the Delivery Committee. With the end of the Commission on Access, the committee anticipates assuming the responsibility for advancing these strategies both within its agenda and in collaboration with other interested entities.

The Litigation Section's Handbook on Limited Scope Legal Assistance is also the result of a yearlong initiative. The section's Modest Means Task Force was appointed by Scott Atlas and co-chaired by Mark Tuohey, Steve Rosen and Judge Laurie Zelon. The task force retained Prof. Michael Millemann of the University of Maryland Law School as its reporter.

The Handbook serves dual purposes. It is a practical guide for practitioners who are interested in providing unbundled legal services to those who choose not to hire a lawyer for full representation. To achieve this end, the book includes numerous case studies of law firms that feature unbundled services within their practices. It also provides information to determine when limited services are appropriate, steps in providing the services and an analysis of the ethical aspects of unbundling.

The book also serves as an invaluable resource to policy-makers who are considering ways in which rules can be structured to enable lawyers to unbundle their services in responsible ways and help meet the demands of the latent legal

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## Immigration

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gration lawyers in your area, a valuable resource to consult is the American Immigration Lawyers Association (AILA) (on the Web at [www.aila.org](http://www.aila.org).) Based in Washington, D.C., AILA is a national association of over 8,000 attorneys and law professors who practice and teach immigration law.

The Lawyer Referral and Information Service at the Bar Association of San Francisco, after considerable feedback from local, experienced immigration lawyers, recently revised its immigration panel application to include the following four experience categories:

- Employment-based immigration
- Family-based immigration
- Deportation defense
- Deportation defense (in-custody adjudications)—involving deportation cases in which an immigrant is in custody, usually on account of a separate criminal charge.

After you have decided exactly what your experience requirements should be, and have had the requirements reviewed and approved by your governing committee, you will need to contact the attorneys who partici-



Matejka

pate in your program and who currently accept immigration cases to inform them of the newly established experience requirements for the upcoming membership year. If you anticipate that some of your current members will be unable to meet the new experience requirements, you may wish to solicit new attorneys directly by mail, inviting them to apply for panel membership. If your state bar is like the California State Bar, you can get a list of immigration law specialists and write to those attorneys with offices in your area. You may also get information on experienced immigration lawyers in your area from your local AILA chapter or from Yellow Pages listings.

Naturally, you want to get the word out to local immigrant communities. Print up multilingual LRIS brochures explaining that the lawyer referral service is the trusted source for experienced, pre-screened immigration lawyers. Distribute the brochures to your local INS office and to all of the organizations in your commu-

nity that provide outreach to immigrant populations. Consider placing a small ad in local foreign language newspapers, or running public service announcements on local foreign language radio.

### Conclusion

People in need of legal help contact local bar associations when they don't know where else to turn. Because immigration cases typically involve matters of critical importance to individual lives, it is imperative that immigrant clients receive the best legal representation possible. When someone gets a referral to an immigration attorney through a bar-operated Lawyer Referral Service, implicit in that referral—whether intended or not—is an expectation that the attorney is better, more experienced, more trustworthy, or to some degree “bar-approved”. Individuals rely on this expectation when deciding which attorney to hire. The implementation of experience requirements for immigration law, where none currently exist, would go a long way towards fulfilling that individual's expectation.

**Ken Matejka** has served several roles at the San Francisco Bar Lawyer Referral Service, where he is currently billing coordinator.

### Delivery

## From the Chair...

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marketplace of consumers who are unable to pay for full traditional legal services. The Handbook provides bar and judicial leaders with 1) information about rule changes in states that have addressed this issue, 2) a series of

recommendations based on broad input from jurisdictions around the country, and 3) appendices with rules, forms and sample agreements. Overall, this is an invaluable collection of resources.

The reports will be posted online soon. You can link to them from the Delivery Committee's home page at [www.abalegalservices.org/delivery](http://www.abalegalservices.org/delivery)

**Nominations for the 2004 Brown Award** are due by November 30, 2003. Programs that help meet the need for affordable legal services among moderate-income people are encouraged to submit nominations. Details are at [www.abalegalservices.org/delivery](http://www.abalegalservices.org/delivery)

## From the Chair. . .



by John Jenkins, RADM,  
U.S. Navy, Retired  
Chair of the ABA Standing  
Committee on Legal Assistance  
for Military Personnel

I am honored by ABA President Dennis Archer's action in appointing me chair of the Standing Committee on Legal Assistance for Military Personnel. I have been involved with legal assistance for over 40 years—beginning my career as a uniformed lawyer providing legal assistance to military personnel at the old First Naval District Headquarters in the Fargo Building in Boston in 1962—and have been a player in legal assistance ever since, in one capacity or another.

I want to pay tribute to Brigadier General David Hague, the outgoing chair of the LAMP Committee, for the great job he has done over the past four years. David's leadership permitted the committee to make great progress on a wide range of subjects. He was without doubt the right man at the right place at the right time. I also want to recognize the men and women—officers, enlisted persons, and civilians—who have provided high quality legal assistance to thousands of military personnel and their dependents during difficult times. To General Hague and to those who have worked so hard in the legal

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## Celebrating the 60th Anniversary of Military Legal Assistance

by Daniel Bean

In announcing his primary initiatives for his tenure as president of the American Bar Association, Dennis Archer stated that the largest voluntary professional membership association in the world needed to focus on ensuring that members of the Armed Forces received adequate legal representation in state courts. For individuals who have spent any time in the legal assistance arena, President Archer's words were one of the best 60th anniversary gifts that could ever be received.

"This is a particularly outstanding initiative," stated Admiral John J. Jenkins, USN(Ret.), chair of the ABA Standing Committee on Legal Assistance for Military Personnel. "The LAMP Committee is excited that this critical area of need is being addressed by one of President Archer's initiatives, and the committee is ready to do whatever is necessary to ensure that this initiative is successfully completed."

### Sixty years of progress

Placed in its proper perspective, there is no doubt that legal assistance in the Armed Forces has marched a long way in over 60 years of existence. Indeed, it is amazing to witness the progress of legal assistance from its auspicious beginnings in the early 1940s to the day when an ABA president announces that one of the ABA's primary initiatives is ensuring *civil* representation in state courts for members of the Armed Forces.

While Archer's words may be amazing, they should not come as a surprise. The ABA was a major factor in the formalization of military legal assistance when it began in the early 1940s and has been a constant force ever since. Specifically, on September 12, 1940, the ABA created the Committee on National Defense, the predecessor of LAMP. The committee's original mission (which remains today) was to promote the delivery of legal services to military personnel and their dependents.

During the following months, numerous "advisory boards for registrants" were established for every county in the nation and staffed by military and volunteer lawyers. These lawyers counseled individuals on their respective legal problems at induction. Also during this time period the Soldiers and Sailors Civil Relief Act of 1940 (SSCRA), a seminal piece of federal military legislation, was enacted.

In 1941, the committee published the Manual of Law for Use by the Advisory Board of Registrants. In addition, it organized 47 state bar committees to assist in the implementation of the SSCRA.

Following the attack on Pearl Harbor, the committee changed its name to the ABA Committee on War Work, and in conjunction with both the Army and Navy Judge Advocate Generals, developed a formal program whereby counsel was to be made available within and outside of the military to advise members on personal legal problems. Two years later, recognizing that staff judge advocates could not satisfy the rapidly growing need, military legal assistance programs were insti-

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## From the Chair...

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assistance field, a hearty Well Done—Bravo Zulu.

Let me set out some of the accomplishments of the LAMP Committee over the last several years. We need to be prepared to build on the solid foundation that has been established in the following areas:

- **Operation Enduring LAMP:** Organized in response to the terrorist attacks of September 11, 2001, this program provides a coordinated array of organized bar voluntary assistance for active-duty military personnel and reservists called up for duty. Fifty-six pro bono efforts are now operating in 42 states to supplement the services of military legal assistance attorneys in providing legal assistance to the military and their family members. We continue to work with this network of pro bono programs to insure that they will be ready when our military legal assistance network calls on them for assistance.
- **Expanded Legal Assistance Program:** ABA President Archer has made the implementation of ELAP Programs across the country a priority in his presidential year. Through ELAP, which now exists in nine states, military attorneys are armed with the additional advocacy tool of appearing in courts and at administrative hearings in states other than where they are licensed once they have met state regulatory authority requirements. ELAP is a proven success story in protecting service members in situations such as consumer fraud schemes targeted at

members of the military, and enforcing statutes that protect rights, such as those guaranteed in the Soldiers and Sailors Civil Relief Act (SSCRA). The LAMP Committee's goal is to pass and implement an ELAP provision in every state.

- **SSCRA Revision:** The ABA continues to monitor and advocate on behalf of modernizations of this act that will result in the adoption of the Service Members' Civil Relief Act. In 2002, then-ABA President Robert Hirshon spoke on behalf of the ABA to a congressional committee to emphasize the importance of this issue to our country's military. We continue to monitor the progress of this act, which at press time seems to be a near certainty for passage through Congress.
- **Entitlement to Legal Assistance (Amendment to 10 USC §1044):** As our American society has become more complex, so have the legal issues confronted by many of our military. Service members cannot perform adequately if they are distracted by legal concerns at home. Legal readiness should be a priority equivalent to medical care, dental care, physical fitness, and combat and occupational training. All too often legal preparedness is equated with a hastily executed will in a massive deployment situation. Service members who proactively address the myriad legal concerns that can arise during extended absences can then focus their full attention on their military duties without being confronted by problems arising from unresolved legal problems. The ABA LAMP Committee devoted its May 2003 gathering to meetings with Congressional representatives to discuss changing 10

U.S.C §1044 to provide such a statutory entitlement for our service members.

- **Passage of the Military Tax Fairness Act** to restore equity to military homeowners: The mobile nature of the military lifestyle often harms service members who relocate frequently pursuant to military orders, and thus become ineligible to take advantage of the homeowners exemption granted to other taxpayers. Passage of this act will rectify an inequity that resulted from the enactment of the Taxpayer Relief Act of 1997, whereby single taxpayers are eligible to exclude up to \$250,000 of the capital gains on the sale of a principal residence. Unfortunately, this provision penalizes service members who are unable to use their principal residences for the required period due to overseas deployments or requirements to move elsewhere. The LAMP Committee and the ABA Governmental Affairs Office continue to educate members of Congress on the value of this act to the members of our military.

We need to redouble our efforts in each of these areas. In addition, the committee will continue to present CLE programs so that providers of legal assistance will have all the tools necessary to do their jobs.

On behalf of the LAMP Committee, the providers of legal assistance, and the men and women of the Armed Forces who receive legal assistance, I would like to pay tribute to the ABA leadership—former presidents Robert Hirshon and Alfred P. Carlton, Jr., and President Dennis Archer—for their strong support of the legal assistance efforts of the Association. We are indebted to them in many ways.

## 60th Anniversary

(continued from page 9)

tuted in both the Navy (including the Marine Corps) and the Army (which included the Air Corps, the predecessor of the Air Force).

Not surprisingly given the circumstances, there were over four million legal assistance cases within the first two years of the formation of legal assistance. Moreover, as a result of ABA coordination, over 27,000 volunteer civilian attorneys provided legal services nationwide for military personnel and lawful dependents during World War II.

### Readiness

What is obvious today with respect to the critical role legal assistance plays in the Armed Forces, was obvious as well in the 1940s. The Under Secretary of War wrote to the Army TJAG in August 1942, discussing legal assistance and stated, "it would meet a definite need and would contribute to the maintenance of morale of the men in the Army." The Under Secretary of War also wrote to the ABA president in December 1942, "[a]nything which can be done to keep a soldier from worrying about his personal and family problems is a definite contribution to morale."

The recognition of the direct impact legal assistance had on morale and ultimate victory on the battlefield resulted in the ABA and the Armed Forces making legal assistance a permanent program after the conclusion of World War II.

From that point legal assistance steadily matured, and has realized particularly significant gains in the past 20 years. In 1984, Congress enacted 10 USC §1044, which formally recognized that which had been a reality for nearly 40 years. Section 1044 has since been amended several times and Congress has supplemented Section 1044 with Sections 1044(a)-(d). Each amendment and addition to the statute serves as a reminder that military legal assistance continues to evolve and provide increased services to its clients.

One innovation instituted in the early 1990s was the electronic tax-filing program. Literally hundreds of thousands of personnel have been served, culminating in millions of dollars being saved.

### Other legislation

In addition to Section 1044 and its progeny, other federal legislation has been enacted to increase the rights and privileges of the members of the Armed Forces, as well as the reserves. The Uniformed Services Employment

and Reemployment Act of 1994, 38 USC §4301-33, is but one example of the progress that continues to be made. Additionally, 10 USC §1588, Acceptance of Voluntary Legal Services, was passed recently to increase the number of lawyers that may provide legal assistance.

Finally, taking a page from the 1940s legal assistance play-book, the "advisory board for registrants" concept was revived in the form of Operation Enduring LAMP after the attacks on September 11, 2001. Unveiled by then-ABA President Robert Hirshon, Operation Enduring LAMP has established pockets of volunteer lawyers throughout the entire nation, and prepared them to answer the call to assist members of the Armed Forces when active duty and reserve military attorneys are stretched too thin.

Reviving and revamping military legal assistance programs from the 1940s into the modern day Operation Enduring LAMP is what the ABA does best. It is also a wonderful testament to the effort that so many individuals have provided during the past 60 years. Military legal assistance has rapidly progressed—with the constant support of the ABA—from its formative stages in the 1940s, to a sophisticated provider of a panoply of legal services.

## Writing About Legal Assistance: The Second Annual LAMP Essay Contest

For the second consecutive year, the ABA LAMP Committee inspired attorneys, paralegals and students to think about the challenges currently facing Legal Assistance, and how to best face those challenges, through the LAMP Essay Contest. Of the 13 submissions, Colonel Linda Strite

Murnane's entry, *The Prickly Problem of Privatization Legal Assistance Fraught with Peril*, won top honors and the \$1,000 cash prize.

Murnane is a member of the Air Force Legal Services Agency and a military judge. Her essay focuses on the government's move toward privatization of housing,

advance travel pay and other services, and the potential conflicts of interest this privatization can create. These conflicts would require a service member with a legal issue to seek civilian counsel, which might be cost prohibitive or geographically impossible.

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# The ABA Continues its Commitment to Military Legal Assistance

## New ABA Working Group to Examine Legal Needs of Service Members

ABA President Dennis Archer recently announced the formation of a new Working Group on Protecting the Rights of Service Members, which will examine the legal needs of U.S. service members in light of the quickly-changing face of the country's military.

The new working group will function under the auspices of the ABA Standing Committee on Legal Assistance for Military Personnel, building upon and expanding the Committee's substantial success and continuing efforts in Operation Enduring LAMP.

"Both the shape and face of the Armed Services are in great transition, and the role of the citizen-soldier is increasing in prominence and importance, while the nation's role in international peace-keeping efforts continues to expand," said Archer. Archer noted that the role of members of the National Guard and reserves has also expanded greatly, with volunteers being called on to serve greater lengths of time while fulfilling their military duties. Further, the increased presence of the U.S. military in international peace-keeping and nation-building efforts has meant that all service members may face long-term deployment to distant locales. These circumstances create new legal challenges for the men and women of our Armed Forces, both in preparing for, and returning from, their tours of duty.

"The Working Group on Protect-

ing the Rights of Service Members will take the lead in analyzing and recommending protections that may be needed to ease the legal burdens our men and women in uniform bear as they are deployed around the globe to protect our freedom," said Archer.

### Legal challenges

Archer explained that extended periods away from home can pose serious legal difficulties for service members. Some service members have faced the prospect of losing custody of their children in the face of legal challenges by ex-spouses because they were unable to attend custody hearings while deployed. There have been reports of reservists returning home from active duty to find their businesses in financial trouble, life savings spent, and credit records tainted. In instances of rapid deployment, service members have been forced to terminate leases or personal property agreements when they are called on to abruptly change their residences.

The working group will address these and other legal issues, with particular attention paid to the broad areas of consumer law and family law that can present special concerns to military personnel. The working group will first focus on four central policy initiatives:

- The Soldiers' and Sailors' Civil Relief Act and legal rights related to consumer issues
- Family law issues such as child support, child custody

and visitation rights

- The Uniform Services Employment and Reemployment Rights Act and employment law
- The Expanded Legal Assistance Program

Other areas that the working group will examine are in-state tuition assistance to service members and their families, and loan forgiveness or loan repayment assistance.

In addition to reviewing these main policy areas, the working group will identify and evaluate existing state laws that protect service members, and that may serve as models for others. The group will consider producing a report proposing model rules and procedures for potential submission to the National Conference of Commissioners on Uniform State Laws.

"With the creation of this working group, the ABA is taking the lead to ensure that all service members and their families are protected from unequal treatment, discrimination and economic disadvantage," said Archer. "The group will go a long way toward mitigating inconsistencies among state and federal benefit programs, so that members of the armed services may enjoy the full extent of the rights and protections that flow from their service to our nation."

The Working Group will include representatives from a number of ABA entities, including: the ABA Sections of Family Law; Real Property, Probate and Trust Law; Labor and Employment Law; Taxation; Government and Public Sector Lawyers; State and Local Government Law; Tort Trial and Insurance Practice; as well as the Young Lawyers Division and the Military Lawyers Committee of the General Practice, Solo and Small Firm Section.



## Serving Those Who Answer the Call

### ABA President Advocates Greater Support for Military

Earlier this fall, the following op-ed piece by ABA President Dennis Archer was published in several newspapers, including the Detroit Free Press and the San Antonio Express-News.

published in several newspapers, including the Detroit Free Press and the San Antonio Express-News.

The recent news that untold thousands of reservists and members of the National Guard will have their tours in Iraq extended to 12 months reminds us once again of the tremendous sacrifice these brave men and women are making to protect the rights and liberties you and I enjoy.

Since the terrorist attacks of 2001, roughly 300,000 Guard and reserve troops have been activated. These volunteers exemplify the concepts of service and sacrifice. They give their time, their talent, and sometimes their lives to protect our nation. They willingly leave their homes, families and businesses to travel thousands of miles to stand in harm's way. Some have been rotated home, back to the lives they left suspended, but thousands of others remain in Iraq, Kuwait, and elsewhere. Now they, like those who will be activated in the weeks and months to come, are facing an even longer commitment as they serve their country.

While we at home and in the rest of the world wait, so do the deployed service members and those who will soon join them. As we wait to see whether democracy will take root in Iraq, as we wait to see what role the global community will play, as we wait to see how the price of the war in Iraq

**There are some simple steps Congress can take to ease the burden on our National Guard and reserves, the "citizen-soldiers" who are such a vital part of our military.**

will be paid, they also wait to see if their country will commit to addressing their needs while they are protecting the needs, rights and liberties of their fellow Americans.

There are some simple steps Congress can take to ease the burden on our National Guard and reserves, the "citizen-soldiers" who are such a vital part of our military.

One example is the Foreign and Armed Services Tax Fairness Act, which would help deployed service members comply with the ownership and use requirements of a homeowners capital gains tax exemption enacted in 1997. The bill has languished in Congress for far too long; enacting it would be one quick way to help some of our bravest citizens participate in our nation's prosperity through homeownership.

Another would be to amend Title 10 of the U.S. Code to make

legal assistance for members of our Armed Forces, National Guard and Reserves an entitlement, rather than just a benefit provided "subject to the availability of legal staff resources."

The military has made great strides in preparing soldiers to live healthy, safe, and socially responsible lives. Physical fitness tests, medical and dental examinations, and occupational, safety, and health instruction are all part of their regimen, and they are taught fiscal accountability. But what about their "legal health?" Regular legal checkups to ensure that those who need wills and powers of attorney have them, or that a service member's wishes concerning life support are explicit and written, should become as integrated into military life as are medical and dental checkups. Guaranteeing access to military legal assistance lawyers would be an important step toward making this a reality.

Finally, Congress should enact the Servicemembers' Civil Relief Act. This legislation—which the House of Representatives approved in May, but has not yet been passed by the Senate—would update and modernize the current Soldiers' and Sailors' Civil Relief Act by offering broader and more consistent protections for the jobs and financial resources of those who answer America's call, very often to the detriment of their careers.

Through these measures, Congress could help ease the lives of the men and women who protect us all. It is, I submit, the least they deserve.

# Legal Assistance Expedites Citizenship for Marines Wounded in Action

by *Chris Rydelek*

For several Marines severely wounded in combat in Iraq, war indirectly resulted in obtaining citizenship and the personal interest of the President of the United States. While Master Gunnery Sergeant Guadalupe Denogean and Lance Corporal O.J. Santamaria were treated at Bethesda Naval Hospital in April 2003 for combat-related injuries, both expressed strong desires to become U.S. citizens to visiting representatives from the Secretary of Defense's office. Shortly thereafter, the topic caught the attention of the President and his staff, who queried whether citizenship ceremonies might be conducted during his visit to the combat wounded, in three days.

As there are presently more than 6500 active duty Marines who are not U.S. citizens, immigration and naturalization law has become an area of increased importance to the Marine Corps legal assistance attorneys who provide direct legal support and representation to the Marines, retirees and family members that populate their military communities.

## Obtaining citizenship

Federal law provides military members with two methods of obtaining citizenship that are unavailable to the general population. Both methods require certain periods and types of military service in order to be eligible for naturalization. The first category requires three years of honorable

service in the Armed Forces, either in active duty or in reserve status. The second category authorizes naturalization of service members who have served honorably (even for one day) in an active duty status during periods of military hostilities during any period designated by the President. (On July 3, 2002, the President designated September 11, 2001 and forward as such a period.) Until approximately 1999, Marines who desired naturalization proceeded on their own, and waited an average of 24 months for their applications to be processed.

In June 2000, the Marine Corps launched a service-wide program implemented under a Department of Defense Bureau of Citizenship and Immigration Services (BCIS) agreement, designed to expedite the processing of citizenship applications for active duty Marines. The program implemented an array of changes that reduced average application processing time from 24 to 6 months. Significant changes included:

- USMC legal assistance offices aboard every Marine Corps installation began assisting Marines with the localized completion and submission of all forms and supporting documents necessary to apply for citizenship.
- HQMC began coordinating with the single BCIS facility that processes military applications for citizenship. This office provides instant update

information to HQMC staff on the status of naturalization applications from Marines stationed around the world.

In 2001 and 2002, Marine Corps legal assistance offices submitted a total of 1747 naturalization applications on behalf of active-duty Marines, virtually all of which resulted in citizenship within six months of the initial application date.

For Sergeant Denogean and Lance Corporal Santamaria, the Marines at Bethesda, this program enabled Marine Corps and BCIS representatives to coordinate the application completion and submission process, photograph and fingerprint the Marines, and complete background investigations and interviews in time for the President's visit. None of this would have been possible without the existing Marine Corps legal assistance program, and the extraordinary support from the BCIS agents from the Lincoln, Nebraska and Baltimore offices. All of which is noteworthy, not because of the speed or type of legal services that were provided, but rather because of the Marines for whom they were provided. All of our Marines and families deserve our best every day, which is exactly what they give us, every day.

**Chris Rydelek** is head of the legal assistance branch of Marine Corps Judge Advocate Division.

## From the Chair...



by *Debbie Segal*

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

Some years ago, as a member of the ABA's Pro Bono Committee, I had the opportunity to work on the creation of The Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means. The Standards were developed to educate pro bono programs and their boards about the essential elements of a highly successful pro bono program. Though the language of Standard 3.5-8 (Relations with Volunteers – Recognition)<sup>1</sup> is very straightforward, and maybe obvious, it was considered by the committee to be one of those key components that can often be overlooked by programs.

The commentary to Standard 3.5-8 advises that recognition by pro bono programs can provide volunteers with much satisfaction and will be a factor in their continued participation in the program. Recognition events also provide an opportunity for recruiting new volunteers who might learn, for the first time, about the tremendous personal and professional satisfaction pro bono lawyers gain from their volunteer experiences.

During the ABA Annual Meeting in August, the Standing Committee on Pro Bono and Public Service presented, as it has for 20

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## Bringing Pro Bono to the Bar: 1984 Pro Bono Publico Award Winner James L. Baillie



**J**ames L. Baillie, who received the ABA Pro Bono Publico Award in 1984, the first year it was given, assumed the office of Minnesota State Bar Association president on July 1, 2003. One of his first official acts was to convene a group of approximately 60 leaders from Minnesota law firms and in-house legal departments to issue a challenge for increasing pro bono activity in their organizations. Baillie and Minnesota Supreme Court Chief Justice Kathleen Blatz co-hosted the event, called "Minnesota Lawyers: A Call to Honor." Baillie and Blatz

invited the attendees to lead an effort to increase the number of new pro bono attorneys in the state over the next year by 500, and to raise the number of pro bono clients served by at least 1000. Ambitious as it is, this type of advocacy and leadership is nothing new to Baillie.

According to Baillie, he received the ABA Pro Bono Publico Award on behalf of many people involved in pro bono efforts in Minnesota prior to 1984. He believes that he symbolized their activities and leadership as a group. After receiving the award, his pro bono leadership grew only more extensive. Among other things, Baillie served on the Minnesota Supreme Court Legal Services Advisory Committee (LSAC) from 1984 to 1990, chairing the committee during the final three years. In 1991, he was appointed to the ABA Standing Committee on Lawyers' Public Service Responsibility (now the Standing Committee on Pro Bono and Public Service) and served as chair from 1993 through 1996.

### Improving the stature of pro bono

As a member and chair of the ABA Pro Bono Committee, Baillie helped bring about significant changes in the stature of pro bono in the legal community on a national scale. As a result of the committee's work during his tenure, the ABA adopted significant revisions to Model Rule of Professional Conduct 6.1 (the pro bono publico rule); approved the Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means; and added provisions in the law school accreditation standards pertaining to pro bono. Although Baillie's role in these accomplishments was demanding, he found it very rewarding to be a part of important efforts that he knew would make a long-term impact.

Baillie's dedication to pro bono legal services has stretched well beyond his work with the Pro Bono Committee. In 1992, he established the Minnesota Bankruptcy Pro Bono Project with the help of local bankruptcy judges, the clerk of the bankruptcy court and the local Volunteer Lawyers Network. It became a model for other cities and states around the country. In 1999, he edited the ABA Section of Litiga-

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## From the Chair...

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years, the ABA Pro Bono Publico Award. This is the committee-sponsored national pro bono recognition program. I have attended all but a few of these lunches, and consider them to be one of the highlights of the Annual Meeting.

This year I shared the podium with Judge Pamila Brown, who has chaired the Pro Bono Committee's Awards Subcommittee for the past three years, as we recognized the 2003 ABA Pro Bono Publico Award recipients. Their impressive pro bono qualifications are highlighted on pages 18 and 19 of this issue of *Dialogue*.

Over the years the Pro Bono Committee has found that the Pro Bono Award recipients are the last ones who expect or think that they deserve recognition. This is a wonderful quality in a volunteer, as any pro bono program manager will tell you, and it makes presenting an award that much more special. It is not surprising to discover, when you talk with these individuals about their pro bono work, that these people are not only wonderful volunteers, but they also have something to say to every lawyer about why doing pro bono work is so special.

Kimball Anderson, a partner in the Chicago office of Winston & Strawn, gets right to the heart of the matter when he observes that:

Although it is a thrill to receive this award, the thrill pales in comparison to the satisfaction that comes with helping exonerate an innocent man, helping a homeless mother and her daughter back on their feet, freeing the wrongfully convicted from death row, and arguing a

pro bono case before the United States Supreme Court. I have been privileged to experience this kind of professional satisfaction. I recommend it to all lawyers. It is good for the soul.

Jacqueline Valdespino, recognized for her outstanding pro bono representation of children in custody cases, sees her pro bono as just being part of the profession's shared responsibility to serving those most in need in our society. She comments that:

As I accept this award...I am conscious of the fact that today is really a celebration of our collective efforts. Together we represent individual capabilities brought together for a greater good; the greater good of those less fortunate. I am blessed because I know that I am only one in a large set of unselfish individuals that collectively do more for the underprivileged than any other professional group.

Our two institutional Pro Bono Award recipients have long understood that what is good for the individual lawyer's soul is also good for business. Latham & Watkins, an international law firm with 21 offices worldwide, recognizes that their lawyers have a duty to help ensure that the doors of justice are open to all persons, regardless of income. The goal of the firm's pro bono program is to provide free legal services to those in our communities least able to pay and most in need of those services. Time spent on pro bono client matters is credited to attorneys and paralegals to the same extent time is credited for any other client matter. In 2002, Latham & Watkins provided approximately 106 hours of pro bono services per lawyer.

The Legal Department of Pfizer, Inc., also understands how important it is for the company's lawyers to step up and make a commitment to doing pro bono work. Jeff Kindler, Pfizer's general counsel, noted that:

[This honor] reinforces what I have known for a long time... both as a practicing attorney and business leader before joining Pfizer, and, now, as general counsel for the company. Pfizer takes its value of community very seriously, and Pfizer's legal community truly cares, and will always be ready to help.

Lawyers who do pro bono work do not do it for the recognition. They do it because it feels good to be a lawyer and to use their education to make a difference for people who really need the help. Nonetheless, recognition is good for them and good for those of us who get to bask in the glow of their accomplishments and become inspired to do the same.

If your bar association—state, local or specialty—does not already have such a program in place, I encourage you try it out and see what I mean. There is no better feeling than hearing one of your awardees, like this year's recipient Mary Pat Toups, charge up a crowd with the words, "I'll do pro bono until I drop!"

From the perspective of an awards program sponsor, I've decided that as honored as the recipients feel to be recognized, I am honored, representing the ABA and the Pro Bono Committee, to have the opportunity to meet these wonderful people.

### Endnote

<sup>1</sup> Standard 3.5-8 (Relations with Volunteers – Recognition) A pro bono program should develop effective methods for the recognition of its volunteers. The standards are available at [www.abaprobono.org](http://www.abaprobono.org)

## Baillie

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tion and Section of Business Law publication, *How to Begin a Pro Bono Program in Your Bankruptcy Court: A Starter Kit for Lawyers and Judges*.

Baillie was president of the Hennepin County Bar Association from 1996 to 1997. In 1999, he received the John Minor Wisdom Public Service and Professionalism Award from the ABA Litigation Section. This award goes to lawyers who have made outstanding contributions to the quality of justice in their communities, ensuring that the legal system is open and available to all.

### Pro bono always part of career

Baillie cannot pinpoint his initial motivation for participating in pro bono activities. He always

thought that being a lawyer meant being involved in providing legal services to people who couldn't afford them. While in law school, he expected pro bono would be part of his career, but he didn't expect then that it would occupy the large part it has.

Mainly, he participates in pro bono through bar leadership. He believes that bar leaders can make progress by influencing the culture of the legal profession. Bar leaders have the opportunity to facilitate the delivery of legal services to the poor in a way that Baillie finds gratifying.

He hopes that during his presidency, the MSBA will adopt a business law pro bono program similar to "A Business Commitment, The ABC Project", which is sponsored by the ABA Section of Business Law. The ABC Project provides business lawyers with opportunities to make pro bono contributions by volunteering

their special skills and legal expertise to community-based groups that cannot afford to hire a lawyer. Baillie has had intimate involvement with the ABC Project through his role as the former chair of the Section of Business Law's Pro Bono Committee.

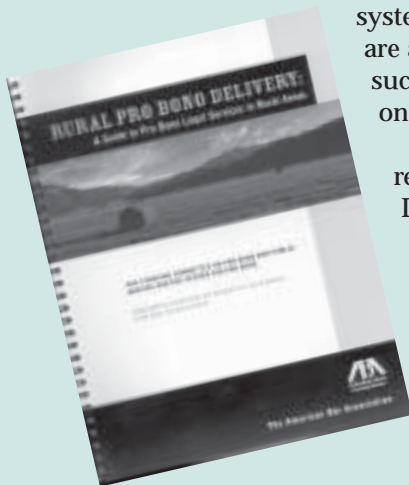
In addition to his work as a pro bono advocate, Baillie also provides direct pro bono representation in bankruptcy matters. Each year, he has provided at least 50 hours (and often more) of direct representation to clients, helping to stabilize financial situations, protect assets, and negotiate debt restructuring.

Baillie's lengthy string of accomplishments and honors show that he has zealously taken ownership of his responsibility as a lawyer to provide legal services to those unable to pay. His ambitious goals combined with his refined leadership skills make him a dynamic pro bono advocate.

## Center for Pro Bono Releases Guide to Rural Delivery

The ABA Center for Pro Bono has released *Rural Pro Bono Delivery: A Guide to Pro Bono Legal Services in Rural Areas*. The guide is designed as a resource for legal services providers, bar associations and volunteer lawyer programs looking for ways to serve clients in rural areas and strengthen the support system for pro bono advocates who help rural clients. Included in the guide are an analysis of the barriers to rural legal services delivery, examples of successful strategies for serving rural clients, and links to other resources on rural delivery.

Many of the rural pro bono delivery methods highlighted in the manual received funding during two mini-grant rounds of the ABA Rural Pro Bono Delivery Initiative from 2000 through 2002. The Center for Pro Bono administered the Rural Delivery Initiative, which was funded through a grant from the Open Society Institute. As part of the Rural Pro Bono Initiative, the guide highlights successful models for serving the legal needs of particular segments of the rural poor population and outlines ways to develop pro bono delivery strategies that serve the entire rural poor community. The guide can be downloaded for no charge at [www.abaprobono.org](http://www.abaprobono.org)



## Pro Bono Committee Honors 2003 ABA Pro Bono Publico Award Recipients

Three lawyers, a law firm and a corporate legal department received the 2003 American Bar Association Pro Bono Publico Award during the ABA Annual Meeting in San Francisco on August 11. ABA President Alfred P. Carlton, Jr. hosted the Pro Bono Publico Award luncheon, and San Francisco Mayor Willie Brown was the keynote speaker.

The ABA Standing Committee on Pro Bono and Public Service established the award in 1984 to recognize lawyers, law firms and other legal institutions for extraordinary or noteworthy contributions to extending free legal services to the poor and disadvantaged.

Receiving awards were:



**Kimball Anderson**, partner at Winston & Strawn in Chicago. Anderson was recognized for his exemplary, multi-dimen-

sional commitment to pro bono work. He has devoted much of his thirty-year career to helping expand access to justice through direct pro bono representation, advocacy for procedural fairness and contribution of his own money and time toward improving the legal system. His direct pro bono work focuses on helping those who have confronted procedural injustice, and he has helped to exonerate many wrongfully convicted clients. He led the private bar's efforts in 2002 to

persuade then Illinois Gov. George Ryan to review the fairness of the Illinois death penalty and commute the death sentences of all Illinois death row inmates. He was instrumental in leading his law firm to adopt an individual attorney pledge to undertake a minimum of 35 hours of pro bono work, a significant departure from the "collective" goals most firms establish. Also in 2002 Anderson and his wife, Karen, created a loan forgiveness program with a \$100,000 donation to the Chicago Bar Foundation to establish the Anderson Public Interest Fellowship. Each year the fellowship will honor and assist one outstanding law school graduate, who has decided to pursue a law career in public service, by helping to repay the graduate's law school debts.

**Mary Pat Toups** of Laguna Woods, California. Mary Pat has made pro bono service her career—not only through her outstanding representation of children and senior citizens, but also through her advocacy for the expansion of pro bono service by other lawyers. She is a courageous, committed advocate, and the ABA, her clients and her community are lucky to have her on our side. Since being admitted to the California Bar in 1974, she has been a volunteer lawyer at the



Legal Aid Society of Orange County and the Public Defenders Office at the Orange County Juvenile Court. She worked pro bono at the Volunteer Attorneys Office of the Superior Court of the District of Columbia, where she represented abused children. She has worked as a volunteer lawyer on the American Association of Retired Person's legal hotline, and serves as a volunteer lawyer to senior citizens at the Senior Citizens Legal Advocacy Program of the Legal Aid Society of Orange County. In addition to the many hours of free legal service she provides, Toup publishes a column in the *Laguna Woods News*, "Legal Issues for Seniors," which explains elder law to readers.

**Jacqueline M. Valdespino** of Coconut Grove, Florida. For her tireless pro bono advocacy representing children in custody disputes,



Valdespino is the recipient of the 2003 ABA Ann Liechty Pro Bono Child Custody Award, presented in memory of a former Pro Bono Publico Award recipient to honor a lawyer who has provided outstanding free legal services to children in custody cases. Valdespino has dedicated her 16-year legal career to enhancing the lives of children through the delivery of free legal services to children in child custody proceedings. She has

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## Publico Awards

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served as a guardian *ad litem* in numerous family and matrimonial cases, and in 1997 was named as the Put Something Back organization's guardian ad litem of the year. Since 1992, when she established her own law practice, Valdespino has accepted 33 pro bono guardian ad litem assignments, to which she has dedicated nearly 2,000 hours of work. She also served on the board of directors of the Child Abuse Prevention Program in Miami and as a mentor in the Florida Bar Family Law Section Mentor Program.

**Latham & Watkins**, an international law firm with more than 1,400 lawyers in 20 offices worldwide, has a longstanding commitment to providing pro bono legal services, financial support and volunteer time to charitable organizations and to individuals throughout the world. It has

established a project to address the critical legal needs of unaccompanied refugee children. Through its Child Refugee Project, the firm's lawyers have provided direct representation to dozens of children. Latham & Watkins also has engaged in many reform efforts to improve the legal system's means of addressing the legal needs of refugee children.

### LATHAM & WATKINS LLP

The firm has made pro bono an integral part of its business. It is a founding member of the Law Firm Pro Bono Project and is a signatory to the Law Firm Pro Bono Challenge, a commitment to devote an annual average of 60 hours per lawyer to free legal representation. In 2002 Latham & Watkins provided more than 131,000 hours.

The **Legal Division of Pfizer Inc.** has a long record of pro bono work, which it formalized in 2001 by establishing its in-house pro bono program. The unique

program features a full-time legal division staff position dedicated to the delivery of pro bono services, the first corporate law offices to do so. Among the



Pfizer General Counsel  
Jeff Kindler

division's innovative efforts is the seminar program it launched in 2001 on "Strategic Legal Thinking for Not-for-Profit Executives." In a short time, the Pfizer program has become a recognized leader in providing pro bono legal service to New York's not-for-profits. Lawyers, paralegals and others in Pfizer's legal division are encouraged to participate in pro bono projects. In 2002, 13 Pfizer lawyers and four other Pfizer professionals in their New York headquarters provided pro bono expertise to a number of individuals and non-profit organizations.

## Rule Changes Support Pro Bono

Amendments to ethics rules in Washington State and Wyoming were recently approved in an effort to encourage greater pro bono participation.

The Supreme Court of Washington recently amended its Rule of Professional Conduct (RPC) 6.1 to include an annual aspirational goal of 30 hours of pro bono service. The amendments also provide a vehicle for voluntary reporting of pro bono activities on the Washington State Bar Association annual fee statement, and institute a recognition award program for lawyers who contribute at least 50 hours of pro bono each year.

Rule 4 of the Rules for Continuing Legal Education of Members of the Wyoming State Bar was recently amended to include continuing legal education (CLE) credit for pro bono activity. A maximum of three hours of accredited CLE may be granted to lawyers who provide pro bono representation or mentoring activities that are approved by the Wyoming Pro Bono Organization. An attorney may receive one hour of CLE credit for every five hours of pro bono work, with the number of CLE credits not to exceed three per year. Other states that are offering CLE credit to encourage pro bono activity include New York, Tennessee and Washington.

## How To Lose A Volunteer In Ten Days

by David Ackerly

*Pro bono programs can only be successful if they recruit, train and retain good volunteers. As many pro bono program managers know, this can be a challenging task. David Ackerly, director of Private Attorney Involvement at the Legal Aid Foundation of Los Angeles and chair of the Pro Bono Subcommittee of the State Bar of California Standing Committee on Delivery of Legal Services, has been a student of volunteer management for some time. He compiled this list of “tongue in cheek” tips for other program managers as a good reminder of what works and what does not.*

- ✓ Don't introduce the volunteer to your staff.
- ✓ Don't let the staff know what projects the volunteer will be working on. Let the volunteer surprise them.
- ✓ Don't clearly explain your expectations to new volunteers.
- ✓ Don't provide volunteers with an orientation.
- ✓ NEATV: Never explain acronyms to volunteers.
- ✓ Don't take volunteers and their concerns seriously—and don't make responding to them a priority.
- ✓ Always assume that since

volunteers are “free,” you don't have to keep them busy. They'll be happy to sit around for hours waiting for you to give them something to do.

- ✓ Don't explain how what the volunteer does contributes to the firm's mission to help your clients.
- ✓ If you and your co-workers are going out to lunch, never invite your volunteers to join you.
- ✓ Don't respond when volunteers call with concerns. Just ignore the calls—eventually they will stop trying to reach you.
- ✓ Don't tell your volunteers and coworkers about your schedule—including court dates—so when volunteers come in, they won't find you and no one in the office will know where you are.
- ✓ Always expect volunteers to be nicer to clients than your staff is to its volunteers.
- ✓ Don't recognize volunteers for the work they do for you. It's a waste of valuable time and resources you could be devoting to other things.
- ✓ They knew what they were asking for when they agreed to help and should not expect you to make a big deal out of it.

✓ Have all the chairs in your office filled with papers so volunteers don't feel too comfortable and will never sit down in your office.

- ✓ When a volunteer approaches your office, always be too busy to look up and say hello so they know their questions are not welcome. Better yet, keep your door shut and your blinds drawn.
- ✓ Don't give them any feedback on their work, especially their written assignments. They should know by now if they are any good or not.
- ✓ Save the worst tasks of your job for volunteers. Take all those things that you don't even want to do for pay and make someone do them for free. They should see what the staff has to put up with everyday.
- ✓ Constantly remind them how awful it is to work for your program. That will inspire them to come back.
- ✓ Give cryptic assignments, with no regard for spell check and complete avoidance of capitalization or punctuation. If they can't read your mind, they shouldn't be volunteering anyway.
- ✓ Never say “thanks” when a volunteer leaves for the day.

### 2004 Equal Justice Conference Scheduled for April

The Equal Justice Conference, co-sponsored by the American Bar Association and the National Legal Aid & Defender Association, will be held at the Hilton Atlanta Hotel in Atlanta from April 15 through 17, 2004.

The theme of this year's conference is partnering to make a

difference to clients and communities. The conference brings together members of the legal community to discuss equal justice issues as they relate to the delivery of legal services to low and moderate-income people in need of legal assistance. Through plenary sessions, workshops,

networking opportunities and special programming, the conference provides a wide range of learning and sharing experiences for all attendees.

Information about the conference will be updated regularly during the coming months at [www.equaljusticeconference.org](http://www.equaljusticeconference.org)

## From the Chair . . .



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

Every August, the ABA Annual Meeting marks the end of one bar year and the beginning of another, and thus presents a logical reference point from which to review the accomplishments of the past 12 months, and to look ahead to the challenges of the next year. For the IOLTA community, the 2003 meeting in San Francisco was no exception to this rule. The Summer IOLTA Workshops focused attention on ways IOLTA programs can increase their effectiveness in the coming months and years. And in celebrating a huge victory for IOLTA, the ABA and the National Association of IOLTA Programs recognized the legal advocates who came to the defense of IOLTA before the Supreme Court, which issued its decision in *Brown v. Legal Foundation of Washington* last March.

You can read the details of the IOLTA Litigation Team Award and its presentation in conjunction with the ABA Pro Bono Publico Awards luncheon elsewhere in *Dialogue* (see page 18). But it is worth commenting here that bringing together and recognizing the far-flung members of the litigation team, made for them a very special day that will be remembered for a long time. The

(continued on page 22)

## IOLTA's Role in Student Loan Repayment Assistance

by David Holtermann

The problem of skyrocketing law school debt burdens and attempts to address them have been high profile issues within the equal justice community for several years, and are beginning to attract broader attention. In recent months, media outlets including the *New York Times* and National Public Radio have devoted attention to law school debt burdens and the obstacles they pose to lawyers who aspire to public interest work. In August, Supreme Court Justice Anthony Kennedy spoke during the ABA Annual Meeting about student debt and the importance of debt relief measures for public sector attorneys.

While many who are familiar with the struggle of providing legal services to the poor may have an instinctive understanding of the issues raised by high law school loan repayment obligations, it may be less clear what role IOLTA programs can and should play regarding this issue. This article will describe loan repayment assistance programs (LRAPs) and their benefits, and look at how and why IOLTA programs in Arizona, Florida, Maine and New Hampshire support LRAPs for legal services attorneys in those states.

### What is an LRAP?

According to a report issued by the ABA Commission on Loan Repayment Assistance, most graduates of law school today enter the workforce with a cumulative educational debt (undergraduate and law school) that exceeds \$80,000.<sup>1</sup> As a consequence, civil legal services providers and other public interest and government employers have encountered great difficulty recruiting and retaining qualified attorneys.

Loan repayment assistance programs are designed to ease the burden of educational debt on lawyers who are pursuing careers in public interest law. For 2002 law graduates, the median entry-level public interest salary was \$36,000.<sup>2</sup> However, debt service on the median loan amount —\$86,378—requires payments of \$1065 per month on a ten-year repayment plan.<sup>3</sup>

Studies show that in light of these kinds of debt burdens, nearly two-thirds of recent law graduates forgo public interest or government work in favor of higher-paying positions in the private sector.<sup>4</sup> Legal services providers are especially apt to suffer from the problems posed by escalating student debt due to the modest salaries their attorneys earn even in comparison to other public sector attorneys. Not surprisingly, they have reported difficulty with recruiting lawyers, particularly in rural areas.<sup>5</sup> Studies also show that these same programs have difficulty retaining attorneys more than two or three years, as their financial constraints run up against personal goals such as buying a house or starting a family. The loss of experienced attorneys is especially difficult for legal services grantees, because many attorneys

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## LRAPs

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become most effective only after gaining several years of experience.

Although they do not address underlying issues such as the rise in law school tuition or the amount of debt incurred by law students, LRAPs help fill the gap

for legal services organizations and attorneys by relieving that debt burden while new (or experienced) attorneys pursue public interest employment. Although LRAP programs have operated according to several models since they first came on the scene 15 years ago, the general principle remains the same: an

LRAP program will make a loan to a public interest lawyer, typically covering the cost of the lawyer's monthly student debt payment.<sup>6</sup> The lawyer is then indebted to the LRAP, not a bank or other student lender. The debt held by the LRAP program is then relieved or forgiven according to

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## From the Chair...

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Commission is grateful to the ABA Board of Governors for authorizing the award, and to former ABA Presidents Alfred P. Carlton, Jr. and Robert Hirshon for finding time in their busy Annual Meeting schedules to recognize the team.

The IOLTA Workshops were as successful and well received as ever. Attendees were treated to a program with topics ranging from funding objectives (such as loan repayment assistance programs, legal needs studies, racial justice initiatives) to program operations (such as time management and grantee evaluation). Among the most important sessions were those directed at revenue enhancement, including dealing strategically with interstate banks, and using IOLTA rule changes to improve income. The first session allowed states to discuss possible collaborations among IOLTA programs to negotiate for better treatment by major interstate banks. The session on rule changes focused on amendments to IOLTA rules that can improve IOLTA yields, and how to successfully obtain and implement those changes.

Focusing on revenue enhance-

ment is always timely, but it is especially important now, since the protracted slump in interest rates has sapped revenues from the vast majority of IOLTA programs. The latest data compiled by the IOLTA Clearinghouse shows that in 2002, national IOLTA income was \$142.6 million, a drop of over \$20 million from the previous year. However, I am happy to report that despite this decrease in revenue, IOLTA programs nationwide did an outstanding job of limiting its effect on their grantees. In 2002, total IOLTA grants dropped \$6.2 million, and grants for legal services dropped by \$5.25 million. Many programs dipped into reserves and other sources of available funds, or found other creative ways to soften the blow on their grantees.

There is no silver lining in news like this, but I am heartened to see that revenue enhancement has become a priority for so many IOLTA programs. This pursuit of increased revenue is not an abstract goal. Rather, more IOLTA income means increased grants to the many legal services and other programs that depend on IOLTA's financial support. I hope that in the coming year, the creativity and hard work of IOLTA programs regarding revenue en-

hancement will push IOLTA revenues upwards.

\* \* \* \* \*

The Annual Meeting also marks a time of transition for the Commission. We bid farewell to departing members Judy Garlow and Zona Hostetler during the meeting. Judy brought to the Commission an exceptional level of insight, knowledge and dedication to IOLTA. Her service included active participation in workshop planning, technical assistance to other IOLTA programs, innumerable discussions related to the IOLTA litigation, and most recently, participation in the Joint Rules Task Force. Zona added her own knowledge and experience of IOLTA, as well her extensive understanding of the ABA, which has been critical during the past three years. Her tenure included participation in communications and technical assistance activities. Both Judy and Zona will be missed.

This transition gives me the opportunity to welcome some new faces to the Commission. Joanne Garvey and Margaret Nichols join us as new Commission members, and Jane Curran returns to the Commission as a special advisor on behalf of NAIP. Please read more about them on page 25.

## LRAPs

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criteria specified by the LRAP program. While those criteria differ from program to program, they often involve a progressive forgiveness of the debt as a lawyer's tenure with a legal services organization grows

longer, and in some cases ultimately result in the complete elimination of the student debt.

### Why IOLTA?

Currently, four IOLTA programs in the United States provide the primary funding for LRAP programs in their states, and IOLTA plays a smaller role in two

other states. These programs have concluded that using IOLTA funds to support LRAPs is important to their mission and those of their grantees. Others, including the ABA LRAP Commission in its final report, urge that state programs (including IOLTA programs) take a leader-

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## IOLTA-Operated LRAPs

### The Arizona Foundation for Legal Services & Education Loan Repayment Program

- Created: In 1990
- Funding: \$30,000 in 2003
- Criteria: Recipient income must not exceed \$50,000 per year in 2004. Income adjusted for dependents and other household income.
- Assistance: Distributed as prepayments quarterly, and annual loan amounts forgiven on a monthly basis, for each month of employment completed by the attorney. Assistance is capped at \$6000 per year.

### The Florida Bar Foundation LRAP

- Created: In 2002 after earlier program was discontinued in early 1990s
- Funding: \$90,000 from IOTA (80 percent of the total) and \$18,000 from participating grantees (20 percent) for 2003. \$118,000 total funding for 2004
- Assistance: one-year loans forgiven at end of year for each attorney who remains employed by grantee. Total assistance capped at \$6000 per year, and limited to a total of five years per recipient.
- Criteria: Recipients must be employed by FBF grantees; recipient income must not exceed \$40,000
- Other features: FBF operates a supplemental program funded solely by elective reductions to IOTA grants to participating programs. Although the supplemental program is operated in a manner similar to the main program, it does not have the same eligibility requirements, leaving grantees maximum flexibility in determining how to use the program for their benefit.

### The New Hampshire Bar Foundation Law School LRAP

- Created: In 2000, with considerable input from New Hampshire Legal Assistance.
- Funding: \$63,000 for 2003
- Criteria: Recipients must work for one of three legal services providers in New Hampshire
- Assistance: Distributed twice a year, and loans forgiven on an annual basis. The LRAP holds back 20 percent of the available funds at the beginning of year in order to accommodate any additions to the program. At end of year, any remaining funds are distributed as assistance according to formula.
- Other features: Assistance is distributed based on formula that compares individual attorney debt to total student debt of all attorneys participating in the LRAP.

### The Maine Bar Foundation Law School LRAP

- Created: In 2002
- Funding: \$21,800 each year for first two years
- Criteria: Restricted to employees of legal services grantees, which must opt into participation
- Assistance: Awards made twice a year, and loans forgiven provided that recipient serves in the legal services organization not less than six months after receiving the loan. Assistance is capped at \$5000 per year per recipient.
- Other features: The program does not rely on formulas or income-based criteria in making awards.

## LRAPs

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ship role in creating and supporting LRAP programs.

Why should LRAPs be a funding and leadership priority for IOLTA? With continued evidence that many poor people are denied access to the justice system, shouldn't the priority be to use IOLTA funds to maximize the availability of direct legal services?

Dwight Williams, chair of the Washington State Bar Association Student Loan Crisis Task Force and a liaison to the LRAP Commission from the ABA Commission on IOLTA, understands but doesn't agree with those concerns. He cites the importance of providing clients with high quality representation, and points out that retaining attorneys is key to this goal. "We have to ensure that indigent people get high quality representation and that people who want to provide that representation are not barred from doing so by their income. Losing attorneys after one, two or three years has a detrimental effect on programs investing time and money in training attorneys. There is a significant amount of savings to the system and gains in efficiency if programs retain experienced attorneys. As a result, some IOLTA programs find that supporting LRAPs is a better use of funds in that it ensures continuity of representation."

Paul Doyle, director of Legal Assistance for the Poor and Law Student Assistance Grant Programs for the Florida Bar Foundation, echoes this analysis. "LRAPs do maximize the availability of legal services. LRAPs are designed to ensure that legal services programs retain high performing people. Programs

spend lots of time and money training attorneys, and the benefits of that are lost when they leave. A five-year attorney can do more and better legal services for clients than an attorney with two years of experience. When there is a revolving door, there is an incredible loss of capacity. To ignore that is short-sighted and wasteful."

According to Doyle, another good reason for supporting LRAPs is that they can enable minorities and lawyers from low-income backgrounds to work in legal services if they choose. Doyle worries that high debt levels mean only well-heeled attorneys can afford to work in legal services, but says that LRAPs help to "lower the economic bar."

### Unique IOLTA capacity

Funding is only part of the equation. As state-based organizations attuned to the localized needs of their grantees and attentive to the political realities in the state, IOLTA programs are among the few—and in some cases, the only—organizations capable of taking a state leadership role necessary to create and support LRAP programs. Precisely because so many grantees are primarily occupied with serving their clients and running their organizations, IOLTA programs are uniquely suited to pursue broader solutions. This is one reason the Maine Bar Foundation created its LRAP program in 2002, according to Executive Director Calien Lewis. "In smaller states like Maine, IOLTA programs fund a significant portion of legal services budgets, and are leaders in policy. Especially in rural, isolated areas, our grantees have problems with recruitment

and retention. If you can't attract and retain qualified staff, you get a diminished return on your investment. Therefore it was important for the bar foundation to take the lead in finding a solution in Maine."

There are also important tax reasons for an IOLTA role. The Internal Revenue Service considers loan relief provided by an employer to an employee to be taxable income to the employee, thus diluting the effectiveness of the limited LRAP dollars available. In contrast, a third-party entity can make loans and then forgive debt to lawyers without income tax consequences for anyone. Again, the importance of an IOLTA role becomes clear—IOLTA programs can either serve as a third-party entity (as in Arizona, Florida, Maine and New Hampshire) or support the creation of one for the sole purpose of administering an LRAP. (In Minnesota and North Carolina, IOLTA funds comprise part of the funding for freestanding LRAP entities.)

### Support from grantees

Not surprisingly, support for using IOLTA funds for loan repayment assistance also comes from grantees themselves. John Tobin, executive director of New Hampshire Legal Assistance (NHLA), observes, "LRAPs are a good way to target IOLTA funds to deal with a very serious problem for us." Doyle explains that in Florida, the bar foundation surveyed its grantees about their interest in LRAPs before committing to fund the program. "The overwhelming response was 'yes,'" according to Doyle. "Local programs are very enthusiastic about participating in the program." Tobin adds that

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## IOLTA News and Notes

### Commission on IOLTA update

The ABA Commission on IOLTA welcomes two new members and a special advisor appointed by ABA President Dennis Archer.

**Joanne Garvey**, of San Francisco, has a long-standing involvement with the ABA and state and local bar associations.



She is a shareholder at Heller Ehrman White & McAuliffe LLP, where she practices in the areas of state and local taxation. She is currently a member of the ABA House of Delegates and previously served on the ABA Board of Governors. Garvey also is a former president of the Bar Association of San Francisco, a former vice president and member of the board of governors of the State Bar of California, and a fellow of the American Bar Foundation.

**Margaret Nichols** joins the commission after serving as a board member of the Michigan State Bar Foundation



since 1995 and as president since 2000. She practices family law with Nicholas, Sacks, Slank & Sendelbach in Ann Arbor. Nichols received the State Bar of Michigan's Michael Franck award in 2002 for outstanding contributions to the profession and to the public. She is a member of the State Bar's Access to Justice Task Force and

is a former president of the Washtenaw County Bar Association, former chair of the Family Law Council of the State Bar of Michigan and is a Fellow of the American Academy of Matrimonial Lawyers.

**Jane Curran** becomes special advisor to the commission after two years of service as the president of the National



Association of IOLTA Programs. Since 1982, she has been executive director of the Florida Bar Foundation. Curran also serves on the board of the National Legal Aid & Defender Association and chairs its personnel committee. She is a past president of the National Conference of Bar Foundations. She has, for several years, served on the design team for the joint ABA/NLADA Equal Justice Conference, and served as a member of the ABA Law Day Working Group and Ad Hoc Committee on State Justice Initiatives

### New director for New Hampshire program

**David Snyder** joined the New Hampshire Bar Foundation in June as the organization's new executive director. Snyder brings to the bar foundation his background and experience in fundraising, grant-making and non-profit management. Before



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## LRAPs

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NHLA has benefited from New Hampshire's LRAP. "It's worked very well. It's been great for recruitment and retention."

### Endnotes

- <sup>1</sup> ABA Commission on Loan Repayment and Forgiveness, *Lifting the Burden: Law Student Debt as a Burden to Public Service*, 9 (2003)
- <sup>2</sup> *Lifting the Burden*, 9
- <sup>3</sup> *Lifting the Burden*, 21
- <sup>4</sup> Equal Justice Works, National Association for Law Placement and Partnership for Public Service, *From Paper Chase to Money Chase: Law School Debt Diverts Road to Public Service*, 19 (2002)
- <sup>5</sup> *Lifting the Burden*, 27, 28
- <sup>6</sup> In 1988 Maryland became the first state to adopt legislation to provide assistance to public service lawyers. See ABA Commission on Loan Repayment and Forgiveness, *A Resource Guide for Creating State Loan Repayment Assistance Programs for Public Service Lawyers*, 5 (2003).

**David Holtermann** is assistant counsel to the ABA Commission on IOLTA.

*This article draws on the reports prepared by the ABA Commission on Loan Repayment and Forgiveness. Both reports, Lifting the Burden: Law Student Debt as a Burden to Public Service and A Resource Guide for Creating State Loan Repayment Assistance Programs for Public Service Lawyers are available online at [www.abalegalservices.org/sclaid](http://www.abalegalservices.org/sclaid). The ABA Standing Committee on Legal Aid and Indigent Defendants will continue the work spearheaded by the commission and assist state entities interested in developing LRAPs. For more information, contact Bev Groudine at [bgroudine@staff.abanet.org](mailto:bgroudine@staff.abanet.org) or 312-988-5771.*

## IOLTA Litigation Team Award Presented in San Francisco

In honor of their contributions to the defense of IOLTA, more than 26 lawyers, law firms, government offices and public interest organizations were honored with the IOLTA Litigation Team Award during the ABA Annual Meeting in August. The award recognized the defense of the Texas and Washington State IOLTA programs during many years of litigation. Earlier this year, the Supreme Court upheld the constitutionality of Interest on Lawyers' Trust Accounts (IOLTA) programs under the Just Compensation Clause of the Fifth Amendment in *Brown v. Legal Foundation of Washington*.

The award recognized those most involved in the lawsuits filed against the Washington State and Texas IOLTA programs: counsel to the named defendants, attorneys who authored amicus briefs in support of IOLTA, and several others whose advice and guidance have been essential to the IOLTA community during the years these cases have been litigated.

Past-ABA President Robert Hirshon presented awards to 18 recipients in San Francisco for the occasion. The award recipients were also recognized during the ABA Pro Bono Publico Award Luncheon by then-ABA President Alfred P. Carlton, Jr.

### The IOLTA Litigation Team

The following were recognized:

#### Counsel to the Legal Foundation of Washington:

- Perkins Coie
- Sidley Austin Brown & Wood

#### Counsel to the Washington Supreme Court:

- O'Melveny & Myers
- Washington State Office of the Attorney General



ABA President Alfred P. Carlton, Jr. recognized members of the Texas team, including (left to right): Bob Long of Covington and Burling; Rich Johnston of Hale and Dorr; Beth Bivans of Hughes & Luce; Kim Askew, chair of the board of the State Bar of Texas; Carlton; Betsy Whittaker, president of the State Bar of Texas; Darrell Jordan (formerly of Hughes & Luce); and David Schenck of Huges & Luce.



Carlton with counsel for the Washington State IOLTA program: R. Clark Wardlow of Sidley Austin Brown and Wood; Katie O'Sullivan of Perkins Coie; Maureen Hart of the Washington State Office of the Attorney General; Dave Burman of Perkins Coie; Carlton; and Walter Dellinger of O'Melveny & Myers.



Amici and other counsel honored included (left to right) Rob Mahnke of Heller Ehrman White and McAuliffe, Tom Brown of Heller Ehrman; Drew Days III of Morrison Foerster; tax counsel Henry Zaprunder; Randy Berg of the Florida Justice Institute; Marc Goldman of Jenner and Block; Andrew Schwartz of the Office of the San Francisco City Attorney; and Christiana Tiedemann of the Office of Attorney General, State of California .

#### Counsel to the Texas Equal Access to Justice Foundation:

- Hughes & Luce
- Covington & Burling
- Hale and Dorr
- Public Citizen

#### Counsel to the Supreme Court of Texas:

- Office of the Attorney General

for the State of Texas

#### Counsel to Amici:

- Jenner & Block (on behalf of the American Bar Association)
- Davis Wright Tremaine (on behalf of the American Bar Association)
- Heller Ehrman White &

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## *IOLTA Grantee Spotlight...*

# *Beyond the Front Range: The Northwest Colorado Legal Services Project*

**T**o outsiders, the mountains of Colorado evoke images of alpine splendor, ski resorts and the affluence of communities such as Aspen and Vail. However, this vision of upscale second homes and fancy restaurants does not take into account the working poor who make beds in the hotels and wait tables in the restaurants. And from an access-to-justice perspective, those same mountains deepen the isolation of poor people, and present formidable obstacles to meaningful access to the justice system and legal assistance.

Since 1981, the Northwest Colorado Legal Services Project (NCLSP) has been working to bring legal assistance to low-income people scattered across the vast area comprising 11-counties in the northwestern part of the state. Now a project of Colorado Legal Services and a grantee of the Colorado Lawyer Trust Account Foundation (COLTAF), NCLSP relies on longstanding ties to the community and an ethic of pro bono service among the bar associations and lawyers in the region to make access a reality.

NCLSP serves its far-flung client population with a core of approximately 200 local attorneys who provide representation on a volunteer or contract basis. While contract work is an important component of NCLSP's services, volunteers have donated over 11,000 hours of their time, and more than \$1 million in legal

services in the past five years. In that same time, they have helped over 1,000 clients with problems such as domestic violence, evictions, foreclosures, and debts.

### **Challenges**

The 2000 Census estimated that over 13,000 low-income residents live in the region served by NCLSP. This represents only 3.5 percent of Colorado's poverty population, but they live in an area that covers close to 25 percent of the state's territory. Due to a lack of affordable housing, the clients served by NCLSP live in communities an hour's drive over winding mountain roads from the resorts where they work. Sometimes they have health insurance but more often don't, sometimes they have their immigration papers in order and sometimes they don't. They are single parents struggling to provide for their kids, persons with disabilities getting by on small—and rapidly disappearing—welfare benefits, non-citizens whose fear of deportation makes them easy targets for unscrupulous employers and landlords, and seniors who have lived in their communities for decades and find themselves unable to keep up with the explosion in costs as second homeowners fill the neighborhoods and “locals” move further and further away to survive.

These realities have required that NCLSP rely on private attorneys in local communities to provide representation, either

on a volunteer or contract basis, a departure from delivery models that rely primarily on staff attorneys. According to Colorado Legal Services Executive Director Jon Asher, NCLSP's utilization of local legal help is the best option: “We revisit this issue frequently, but I think we would deliver less with staff attorneys since the area is so hard to serve. For the dollars we have, one or two staff attorneys would spend their professional lives in their cars. In the winter, some roads are not passable at all.”

At the core of NCLSP is its small staff of four pro bono coordinators, each staffing a one-person office in small towns located around the region. Three staff members are part-time; one is full-time. They handle everything that comes up, including emergency client calls, case referrals and fundraising. Each coordinator works with local attorney advisors for help in evaluating cases, and with staff attorneys of Colorado Legal Services for help in poverty law areas such as public benefits. The coordinators are also crucial to recruiting new attorneys and maintaining community ties.

According to NCLSP Administrator Patricia Craig, cases are handled almost entirely by the program's volunteers, who represent approximately 80 percent of the lawyers in the area. They typically handle cases pro bono, but NCLSP also uses

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## Grantee Spotlight

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attorneys on a contract basis to ensure maximum representation of its clients. Contract attorneys are paid \$40 to \$50 per hour (depending on whether the work is performed in or out of court). Craig explains that because most of the attorneys involved with NCLSP handle cases on both a pro bono and contract basis, contract funds are used only in selected circumstances. These include emergency cases in which clients are at imminent risk of domestic violence or other harm, “above and beyond” cases such as complex child custody matters, or when attorneys take on more than one case at a time.

Clients are referred to NCLSP by local agencies, former clients, and the courts. They are screened briefly by telephone, and then sent to their local libraries to pick up applications and handouts. Applications are faxed or mailed to the four local offices, where each coordinator reviews the materials, consults with the volunteer attorney advisors, and refers appropriate cases to the volunteer attorney panel. Coordinators track the cases and record attorney donations and client satisfaction at the end of each case.

Attorney volunteers also staff advice clinics, speak at workshops, help with the development of educational materials, and advise the paralegal staff on cases. Local bar associations encourage attorney participation and make pro bono a regular topic on agendas.

### Community ties

NCLSP succeeds because of the many partnerships it has forged with local bar associations and

communities. Community ties are what Craig cites as the chief reason for the program’s high rate of volunteer participation. Craig says the attorneys are already motivated and involved. “It’s just part of what they do,” she says, adding that the NCLSP nurtures its relationship with its volunteers by respecting their time and needs. “Volunteer attorneys are our most precious resource, and they know that,” Craig explains. “Clients are screened carefully, and they have usually been asked to do something—obtain an application, get a copy of a court order—which demonstrates that they are serious about taking action to solve their problems. Attorneys know that when they get a call, the client is needy and committed, and the case has legal merit.”

Looking at the program’s success, Asher also cites NCLSP’s community presence and close relationships with local bar associations, lawyer and courts for its success. “Colorado Legal Services can—and does—send checks and thank you letters from Denver, but we don’t go to local bar meetings, and we don’t see lawyers and judges in the grocery store. The pro bono coordinators are in the communities and can do those things,” says Asher.

These ties are also key to what Asher describes as a “surprising” level of financial support from local community groups and governments. NCLSP relies on direct pro bono grants from COLTAF and general operating support from Colorado Legal Services (itself an IOLTA grantee). In addition, however, local communities make considerable donations to NCLSP. From 1998 through 2002, those donations were over \$500,000—about 45

percent of its total budget. Local bar associations contributed over \$50,000 of that total. The contract funds that enable the program to assign more than one case at a time to its small panel of attorneys are often raised locally. Other support is not financial: two pro bono offices have been housed rent-free in county courthouses since the program began over 20 years ago.

### Conclusion

The Northwest Project is evidence that access-to-justice is possible even in the most remote corners of the United States. Employing an unconventional delivery model, the project can rely on resources in its local communities to provide legal representation across a vast area of Colorado. A strong base of financial support from IOLTA and other sources helps ensure the program’s ongoing success.

*Dialogue is grateful to Patricia Craig for her assistance with this article.*

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## News and Notes

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coming to the bar foundation, Snyder was director of philanthropy of the Concord Area Chapter of the American Red Cross. He previously worked for the New Hampshire State Council on the Arts and the League of New Hampshire Craftsmen. In addition to his responsibilities to the bar foundation, Snyder currently serves on the Concord school board.

## Litigation Award

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- McAuliffe (on behalf of the National Association of IOLTA Programs)
- Richard Cordray (on behalf of the National Association of IOLTA Programs)
- Florida Justice Institute (on behalf of the National Association of IOLTA Programs)
- Arthur England, Jr. (on behalf of the National Association of IOLTA Programs)
- Wilmer, Cutler & Pickering (on behalf of AARP, the National Legal Aid and Defender Association, and the Brennan Center for Justice)
- Brian Serr (on behalf of the Conference of Chief Justices)

- Morrison & Foerster (on behalf of the Conference of Chief Justices)
- Office of the Attorney General, State of California (on behalf of the attorneys general of 39 states)
- Office of the Attorney General of Massachusetts (on behalf of the attorneys general of 39 states)
- Community Rights Counsel (on behalf of the National League of Cities)
- Office of the San Francisco City Attorney (on behalf of the City and County of San Francisco)
- John Echeverria (on behalf of the City and County of San Francisco)

### Other Counsel:

- Nory Miller (former partner,

Jenner & Block)

- Nancy Trease (former assistant attorney general, Office of the Attorney General for the State of Texas)
- Henry Zapruder (partner, Baker & Hostetler and tax counsel to the National Association of IOLTA Programs)

With tremendous gratitude, the American Bar Association Commission on IOLTA and the National Association of IOLTA Programs recognize those who successfully defended IOLTA. Without their generosity and dedication, this vital funding source for the provision of legal services would not be secure, and the goal of equal access to justice would be further out of reach.

Legal Assistance for Military Personnel

## LAMP Essay

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Murnane contends that placing this burden on service members can have a negative impact on their legal as well as military readiness. She proposes that making legal assistance a statutory entitlement would be the first step toward ensuring that our war fighters are legally ready to deploy and defend our country.

The honor of second place and a \$500 cash prize was awarded to LTC Duncan Dayton Aukland for his thought-provoking article, *The Greatest Challenge Facing Legal Assistance: Overcoming the Problems of Mobilized Reservists*. Aukland serves with the Ohio Adjutant

General's Department, and therefore has the benefit of seeing what happens to reservists before and after they are called up in time of need. For example, what happens when a reservist, who is making a great salary as a doctor, gets called to active duty for 12 months and is now making half of what he was making before? How does he meet his financial obligations?

The Soldier's and Sailors Civil Relief Act (SSCRA) can often provide some assistance to reservists called to active duty. However, there are difficulties in implementing and enforcing many of the rights granted in this Act. Aukland's essay suggests ways the SSCRA could be amended and implemented to better meet the needs and

challenges of today's Total Force.

Brigadier General David Hague, USMC (Ret.), immediate past chair of the ABA LAMP Committee, remarked, "the submissions were outstanding. Choosing a winner was a difficult task for the five-member subcommittee who reviewed the submissions." Hague credited the ABA and the generosity of contest co-sponsor Luce, Lombino and Riggio, a Tacoma, Washington law firm, with making the essay contest a success.

Watch upcoming issues of *Dialogue* for details on next year's contest, or visit the LAMP Committee's Web page at [www.abalegalservices.org/lamp](http://www.abalegalservices.org/lamp), where you can read full versions of the winning submissions for 2003.

# ABA Loan Repayment Commission Releases Final Report and Brochure for Law Schools

by Dina R. Merrell

On August 8, 2003, the ABA Commission on Loan Repayment and Forgiveness released its final report, *Lifting the Burden: Law Student Debt as a Barrier to Public Service*, during the ABA Annual Meeting in San Francisco. The report was unveiled during the ABA Division for Legal Services Access to Justice Reception, which featured remarks by U.S. Supreme Court Justice Anthony Kennedy and ABA Past-President Robert Hirshon, who both spoke about the importance of loan repayment programs to lawyers pursuing public service careers. Jennifer Keith, a managing attorney at Bay Area Legal Aid in San Mateo, California, also spoke about the positive impact her employer's loan repayment assistance program (LRAP) has made on her legal services career.

The report concludes the work of the commission, a two-year project created in 2001 by the ABA Board of Governors at the request of Hirshon at the beginning of his term as president. The commission examined the effects of increasing educational debt burdening law school graduates and developed recommendations to lower this barrier to public service.

The commission's report, *Lifting the Burden*, notes that many of today's law graduates finish school with over \$80,000 in law school loans. Graduates who aspire to public service jobs are faced with great challenges as they attempt to meet monthly educational loan obligations while facing the prospect of earning

lower salaries. Many either forego public service legal careers, or leave public service work after two or three years to take higher-paying jobs.

The report analyzes the problem and discusses its implications for the legal profession and for society. It notes that between 1992 and 2002, the cost of living in the United States rose by 28 percent while the cost of tuition at public law schools rose 134 percent for in-state and 100 percent for out-of-state students. During the same period, private law school tuition increased 76 percent.

The vast majority of law students borrow money to finance their legal education, and they are borrowing increasingly larger sums. Public service salaries have not kept pace with rising law school debt burdens. The median starting salary in 2002 for private practice was \$90,000, while the median for public interest lawyers was less than half that, at \$36,000.

*Lifting the Burden* summarizes strategies that address the issue of law school debt. Chief among the solutions identified is establishing loan repayment assistance programs to provide financial assistance to legal aid lawyers, prosecutors and public defenders. In addition to benefiting the attorneys who receive assistance, LRAPs help employers attract and keep quality personnel, thereby avoiding the costs of recruiting and training frequent replacements. The report notes, however, that the number of LRAPs, as well as their resources,

is limited. Most of these programs are able to provide assistance to only a small number of public service lawyers.

*Lifting the Burden* outlines several recommendations, offering a comprehensive approach to providing relief for and incentives to lawyers who want to serve their communities through public service careers. Among the recommendations:

- Congress should extend loan forgiveness under the Stafford and Perkins Loan programs to lawyers working in public service, such as public defenders and legal aid lawyers.
- Congress should enact legislation, or the secretary of education should amend existing regulations governing the income-contingent repayment option of the William D. Ford Federal Direct Loan Program, to permit forgiveness sooner than 25 years after a borrower begins repaying loans, and to eliminate or reduce the marriage penalty.
- State, local and territorial bar associations and foundations and IOLTA programs should promote the creation of programs, such as LRAPs, so that law graduates can enter into and remain in public service legal jobs.
- Law schools should create programs such as LRAPs, public service scholarships and post-graduate public service fellowships to help reduce student debt burdens and facilitate a student's decision

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## From the Chair . . .



by *Bill Whitehurst*  
Chair of the ABA Standing  
Committee on Legal Aid and  
Indigent Defendants

I am delighted this year to begin a term as chair of the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID). Advocacy on behalf of legal services to the poor has been a central part of my activities for many years. In the early 1980s, I co-founded the national organization, Bar Leaders for the Preservation of Legal Services to the Poor. I have been active in the work of the National Association for Public Interest Law (now Equal Justice Works), the National Legal Aid and Defender Association and with the public service activities of the State Bar of Texas, the Texas Young Lawyers Association, and the Texas Trial Lawyers Association. These activities have allowed me to work on important issues with many wonderful people in our community over the years, and I am delighted to have the opportunity to chair SCLAID and continue this important work.

During my tenure in leading SCLAID, we will continue and expand upon the ambitious schedule of committee projects and activities that immediate past chair Jon Ross has ably guided for the past three years. The committee will continue to focus its efforts in several areas: providing

## Harrison Tweed Winners

The ABA Standing Committee on Legal Aid and Indigent Defendants presented the 2003 Harrison Tweed Award to the Santa Clara County Bar Association and the New York County Lawyer's Association during the ABA Annual Meeting in August.



The Santa Clara County Bar Association (SCCBA) was honored for its leadership in a collaborative campaign that has raised funds and recruited volunteer attorneys for seven legal services programs. Representatives of the bar association included (front row, left to right): Christine Burdick, SCCBA executive director; Debra Zumwalt, general counsel of Stanford University; Patricia White of Littler Mendelson and current SCCBA president; Lisa Herrick, of the Santa Clara County Counsel's Office and SCCBA president-elect; and Barbara Beerstein, consultant to the Silicon Valley Campaign for Legal Services. Pictured in the back row are (left to right) John Place, former general counsel of Yahoo! Inc.; Emmett Stanton of Fenwick & West; Phil Hammer of Hammer & Jacobs; Bill Priest of the Priest Law Offices, and Jim Towerly, of Hoge Fenton Jones & Appel.



The New York County Lawyers' Association was recognized for its successful litigation against the state and city of New York, which resulted in higher hourly rates for court-appointed counsel representing indigent clients. Pictured are (left to right): Stephen D. Hoffman, Michael Miller, Norman Reimer, past SCLAID Chair L. Jonathan Ross, and Klaus Eppler.

information to bar leaders nationwide on topics relating to legal services and indigent defense, and in facilitating the work of bar and legal services leaders in designing and funding effective civil and defender legal services delivery systems.

We anticipate that the committee will focus a great deal of its energies this year in three areas:

- Continuing to support expanded funding for legal services for the poor. This includes seeking an increased appropriation for the Federal Legal Services Corporation,

and nurturing expanded contributions from state and local sources;

- Completing a yearlong examination of the extent of compliance with the dictates of *Gideon v. Wainwright*, in conjunction with the 40th anniversary of that landmark U. S. Supreme Court decision. This project includes four regional hearings on the status of state indigent defense systems.
- Continuing the important work on loan repayment assistance programs, or LRAPs, that was

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## From the Chair...

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begun by the ABA's Commission on Loan Repayment and Forgiveness (which sunset in August). Our Loan Forgiveness Project will continue to serve as a national source of information on state and employer LRAPs, and will coordinate with other relevant groups in promoting the concept and in seeking appropriate changes in relevant laws and regulations.

The committee is gaining, and losing, members as it enters the 2003-2004 bar association year. The terms of three members concluded in August; each has made very significant contributions to the work of the committee and the ABA: Phyllis Holmen, Jon Ross and Janet Studley. At the same time three new leaders who will bring new perspectives to its work will join the committee. We welcome, and look forward to working with Deborah

Hankinson, Bruce Iwasaki and Mike Pratt. I also look forward to working with all of the members of the bar, poverty law and defender communities throughout the next year.

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## Loan Repayment

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to enter and remain in a public service job.

In August 2003, the commission also released a brochure designed to promote law school loan repayment assistance programs and to help law school deans educate prospective donors about the importance of loan repayment assistance programs. The brochure, along with *Lifting the Burden* and the commission's State LRAP Tool Kit (a resource manual to interest and encourage states to create LRAPs) are available online at

[www.abalegalservices.org/lrap](http://www.abalegalservices.org/lrap)

Although the commission disbanded in August, loan forgiveness for public service lawyers remains an important issue for the ABA. Loan forgiveness is one of the ABA's 10 legislative priorities. The ABA Standing Committee on Legal Aid and Indigent Defendants recently created a Loan Forgiveness Project to continue building on the national momentum generated by the commission and to expand the commission's work.

**Dina R. Merrell** served as staff counsel to the ABA Commission on Loan Repayment and Forgiveness. She currently is staff counsel to the ABA Center for Pro Bono.

*An article about IOLTA funding for LRAPs is on page 21 of this issue. For information about the SCLAID Loan Forgiveness Project, please contact Bev Groudine at [bgroudine@staff.abanet.org](mailto:bgroudine@staff.abanet.org) or at 312-988-5771.*

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