

Defender Chiefs Make History with Call for Balanced Justice

By Jo-Ann Wallace
NLADA Vice President & Chief
Counsel for Defender Operations

For the first time ever, chief executives from the nation's public defense systems descended upon Capitol Hill to call on Congress and other federal policymakers to support "balanced justice." Members of the American Council of Chief Defenders (ACCD), a section of NLADA, also met with leaders from the U.S. Department of Justice and the president of the Conference of Chief Justices

as part of the historic, February 25–27 Washington, DC, conference.

In group meetings with key Congressional leaders and individual meetings with representatives and senators from ACCD members' home states, the chiefs discussed the negative consequences that disparities in the distribution of federal resources have on the local administration of justice. Meeting participants applauded members of Congress for supporting federal funding to promote innovation and efficiency in local criminal justice systems, but stressed the importance of balanced funding to the inextricably connected



(l to r) Rep. Howard Coble (R-NC), chair of the House Judiciary Subcommittee on Courts, the Internet, and Intellectual Property; Cait Clarke, director of NLADA's NDLI; and House Sergeant at Arms William Livingood at an ACCD reception honoring members of Congress.

To Lead is To Serve: NLADA's Exemplar Awards to Honor Tom Gottschalk and Esther Lardent

With the theme "To Lead is To Serve," the NLADA Exemplar Awards Dinner will be held on Thursday, May 30, in Washington, DC. The event will be held at the Renaissance Mayflower Hotel, with a reception beginning at 6:00 p.m., followed by the dinner and awards program at 7:00 p.m. NLADA will present its "Exemplar Awards" to Thomas A. Gottschalk, executive vice president for law and public policy of General Motors Corporation, and Esther F. Lardent, president and chief operating officer of The Pro Bono Institute, for their commitment to equal justice and outstanding contributions to pro bono legal services for the poor and disadvantaged. Kenneth C. Frazier of Merck & Co., Inc. and Thomas D. Yannucci of Kirkland & Ellis will serve as co-chairs of this year's event.



Thomas A. Gottschalk



Esther Lardent

components of criminal justice systems. The chiefs provided members of congress with poignant, real-life examples of the strains placed on local governments when, for example, federal funding increases prosecutorial resources in jurisdictions without authorizing similar expenditures for public defense. Focusing on training disparities, Lee Coggiola, a chief defender in South Carolina, described her walk each day past the "palatial," federally funded prosecutors' college. In stark contrast, the South Carolina chief must seek pro bono funding from the private bar in order to be able to send one attorney to a training conference each year.

ACCD executives provided members of Congress with statistics from the latest survey of federal funding resources conducted by NLADA (see story, p. 7), which revealed that indigent defense received less than 1 percent of Byrne

continued on page 13

continued on page 19

Introducing a New Feature...
Find out about "Emerging Trends" in legal aid & indigent defense (starting on page 7).

MESSAGE TO MEMBERS:

June's Litigation and Advocacy Directors' Conference is Being Held at a Critical Time for the Civil Legal Aid Community

By Don Saunders
Director, NLADA Civil Legal Services



NLADA is very excited about hosting the Litigation and Advocacy Directors' Conference in Snowbird, Utah from June 23 – 25. Plans are well underway

for this important national gathering, co-sponsored with NLADA by the Litigation Section of the American Bar Association (ABA) and the AARP Foundation. The conference also incorporates substantial involvement from the American Trial Lawyers' Association, Trial Lawyers for Public Justice, the Legal Defense Fund and the Mexican American Legal Defense Fund.

The first of its kind in almost 10 years, this conference comes at a time when providers across the country are re-examining the importance of aggressive, systemic advocacy to address the most significant problems facing low-income people. The primary purpose of the event is to convene senior people from across the country to look, together, at the substance of where we are going in this community with client advocacy.

An outstanding design team and faculty from among the most experienced litigators and policy advocates in the United States will discuss strategies around a wide variety of substantive and other related issues. We have developed an agenda that attempts to seize this important moment in time for civil legal aid by exploring with experts such issues as predatory lending, community economic development, welfare, the digital divide, employment, education, discrimination and bias, health care and housing with a view

THE PRIMARY PURPOSE OF THE EVENT IS TO CONVENE SENIOR PEOPLE FROM ACROSS THE COUNTRY TO LOOK, TOGETHER, AT THE SUBSTANCE OF WHERE WE ARE GOING IN THIS COMMUNITY WITH CLIENT ADVOCACY.

toward developing effective, aggressive strategies in a variety of forums through which all programs — LSC-funded and not — can address those issues.

Sessions will also explore recent developments affecting federal court access, sovereign immunity, Section 1983 advocacy, damage claims and multi-forum advocacy, as well as a number of topics designed to improve the advocacy manager's effectiveness in running his/her advocacy agenda.

Ample opportunity is built into the agenda for participants to network with their colleagues from across the country and within their local regions. NLADA will use this event as an opportunity to strengthen existing structures and create new means of communication among senior advocates regarding advocacy initiatives that will endure beyond the conference.

It's Not Just for Litigation Directors

You should attend if you have a primary role in setting the advocacy agenda and supervising its implementation for a civil legal aid or civil rights organization. In many programs, this will be the director of litigation or director of advocacy. In some, it may be a senior or managing attorney or the executive director. In organizations where the role is shared, it may be appropriate for more than one person to attend. We particularly encourage attendance from advocates who engage in policy advocacy.

Logistical Details

The site, a host to the 2002 winter Olympics, was chosen by the design team to maximize the ability of participants to network in a relaxed, secluded setting. Snowbird is a beautiful, mountain site, with many available activities. The location is easily accessible from the Salt Lake City airport.

A registration brochure will be distributed widely in the near future. Those of you who continued your registration for the earlier, postponed date will be automatically registered for June, but you will need to rebook your room at Snowbird.

We really look forward to this event, and urge you to attend if it is relevant for your work. For more information on the conference, contact me at (202) 452-0620 ext. 224 or via e-mail at d.saunders@nlada.org. For logistical information, contact Aimee Gabel, NLADA training and conference manager, at (202) 452-0620 ext. 214 or via e-mail at a.gabel@nlada.org. Or, visit the NLADA Web site at www.nlada.org.

INSIDE

Letters to the Editor	3
Justice for All	4
Washington Watch	5
Meet an Equal Justice Investor	6
NEW! Emerging Trends	7-13
Funding, Collaboration, Civil Rights, Sentencing, Holistic Delivery	
10 Principles of Public Defense	13
Campaign for Equal Access	14
Pensions: Kentucky Experience	15
Trainings & Conferences	16-17
Clara Shortridge Foltz Honored	18
New NLADA Staff	20
Leadership Can Be Taught	22
Defender Advocacy 2002	23
New PFEJ Study	24

Letters to the Editor

The following letters were received from NLADA Cornerstone readers in response to the “Building A New Generation of Public Interest Lawyers – The Debt Burden Challenge” and “Will 9-11 Fallout Drive Crime Rates and Defender Workloads?” articles that appeared in the winter 2001/2002 issue.

Student Debt Is Only Half of the Problem

To the Editor:

As a young public interest attorney with a good amount of debt, I appreciated your article in the [Winter 2001/2002] *NLADA Cornerstone*, as well as Robert Hirshon’s similar appeal in the *ABA Journal*. However, as I wrote in a letter to the editor [of the *ABA Journal*], the debt problem is only one half of the larger problem of getting more people into public interest law. The other half of the problem, which I believe is an even bigger problem, is that there aren’t enough jobs. And, the jobs that are out there are incredibly low-paying.

I was lucky enough to go to one of the nation’s elite law schools – Columbia. Coming out of law school, anyone who breathed and could sign her name to a legal document could get a job at a big firm paying \$100k plus. Credentials didn’t matter. However, only the most talented, committed and persistent students interested in a public interest career could find a job. And, usually, that job was a one-year fellowship with the second year not guaranteed, paying less than one-third of what our peers got. I had to apply for five different fellowships to get the one that I did receive, and that was with two prestigious appellate clerkships to my name. Don’t even ask me what I plan on doing once this fellowship is over and my organization has no money to fund my position independently.

I know countless people who were absolutely committed to public interest work and were willing to incur the debt problems it would require but who

couldn’t weather the uncertain job market. It wasn’t the pay. It wasn’t their debt. It was the fact that there just weren’t many jobs out there, and those that were open hired a few weeks before the opening had to be filled. (Let’s not even mention the fact that the jobs often require three to five years of experience, which is hard to get because there are no entry-level jobs!) Only so many people could deal with the uncertainty of the market. Even fewer could deal with sacrificing the huge amount in salary from the private sector. And that isn’t all about debt; it’s about material comfort for aging parents and new children.

The federal, state and local proposals to relieve debt are certainly admirable. But, there should be a similar if not visible campaign to increase funding for public interest organizations so there are more jobs. How are those of us willing to incur the debt burden supposed to get into public interest work [when jobs are so scarce]?

David S. Cohen
Staff Attorney and Independence
Foundation Fellow
Women’s Law Project
Philadelphia, PA

Cost-Benefit Analysis Doesn’t Apply to Most Crimes

To the Editor:

A comment on the ideas expressed in “Will 9-11 Fallout Drive Crime Rates and Defender Workloads,” [Vol. 23 Number 4, page 14].

I do not disagree with the idea that unemployment may well increase crime rates and therefore workloads. I suggest that the idea that lower income levels, that is “declining wages” do not have the effect suggested by the writers in excerpt number 1 [*Crime Rates and Local Labor Market Opportunities in the United States: 1979-1997*, by Eric Gould, Bruce Weinberg and David Mustard].

Except for people supporting a habit (drugs, gambling, alcohol), and career

criminals, economic crime is not tied to need for money, and violent crime, excepting robbery, is not either.

Situational criminals, those committing crime on occasion as an opportunity arises, are the largest number.

During the past nine years we have seen both economic crime and violent crime decline. During most of those years there was a boom in the economy.

Many previously “unemployable” young people found jobs, albeit low paying, and even part-time. Crime declined, at the same time.

My suggestion is that structure, getting up in the morning with a place to go and things to do, was a major factor in reducing crime. Opportunity for crime, impulse, status-seeking street

continued on page 6

NLADA Cornerstone

Volume 24, Number 1
Spring 2002

Editor

Elizabeth A. Arledge
Director of Communications

Managing Editor Stacy Mayuga

Deputy Director of Communications

Contributors

Bonnie Allen	Julie Justicz
Thom Allena	John Rosenberg
Martha Bergmark	Don Saunders
Julie Clark	Alan Simon
Cait Clarke	Mizue Suito
Aimee Gabel	Jo-Ann Wallace
Camille Holmes	Scott Wallace

ACCD Photos

Jane Ribadeneyra

Design

DeLong Lithographics

The *NLADA Cornerstone* is a quarterly publication of the National Legal Aid & Defender Association. ©Copyright 2002. No articles may be reprinted without the permission of NLADA. The views of writers for *NLADA Cornerstone* don’t necessarily reflect the views of the association. Comments, suggestions and inquiries are welcome.

Justice for All: Common Visions To Make It Happen

By Martha Bergmark, NLADA
Senior Vice President for Programs

Taking their cue from efforts launched in a number of states and communities, more than 30 representatives of national organizations convened in Washington on October 1-2, 2001, to collaborate in a campaign to make *justice for all* a reality. Participants shared their personal visions of *justice for all* and then organized themselves around the roles that they personally want to play in achieving it.

The personal vision statements, while unique in language, style and emphasis, expressed a common vision that was rich and compelling. Five themes were woven through the participant's individual visions of *justice for all*. Below are excerpts from the Vision Statements, organized by theme:

It really is about serving "all."

"Any individual with a legal problem gets it addressed," "meaningful assistance to everyone who needs it," "every person has access," "provide whatever level of assistance they need," "access to the courts and legal representation for everyone ..."

It is a sophisticated, integrated delivery system.

"At the state and community level, a seamless system," "integrate the efforts of all kinds of legal institutions," "a multi-point of access system," "service in harmony with other systems, such as health care and education," "holistic approaches are key... seamless integration with other social service providers," "services tailored to the person's needs in a very, very measured way," "a first-class communications system that informs the public about services."

It is deep enough to make a profound difference in our lives and in society.

"Address underlying causes not just

symptoms," "making a difference in a person's life," "it means fairness and a level playing field," "a justice system assuring not only access for all but equality of treatment and outcomes that are just," "it means economic opportunity and access through education and employment," "it means a just society," "it means, ultimately, the end of poverty."

It is the leadership responsibility of the legal services and private bars.

"(It's about)... leadership in the legal services community... a sea change among legal services leadership to make this happen," "a multi-pronged strategy involving every lawyer... every lawyer should have a role in realizing the elements of justice, which include fundraising and service delivery."

Equal justice is an achievable goal.

"(It will) cost four times what we have now. Is that an achievable goal? Yes!" "We need the resources to make it happen ... we need more stable funding that does not force us to prioritize (among) the most egregious needs."

At the meeting, participants organized themselves into six work groups to advance their visions of *justice for all*. Following are the visions from each of those work groups:

- **Resources:** *Increase overall civil legal assistance resources from the 2001 level of \$750 million to at least \$3 billion per year by creating a social contract in which four partners commit to contributing their shares: the federal government, state governments, private bar and community/local funders.*
- **"Effective futures" for Clients:** *Bring together broad coalitions of organizations to create well-defined "effective futures" for clients. Each coalition will include not just equal justice organizations*

but nonprofit and private groups committed to a particular component of an equal justice future. For example, a future of racial justice will require broad-based strategies and partnerships to eliminate barriers of bias.

- **Message:** *Increase the visibility of equal justice as an inherently important societal value by disseminating an effective justice for all message to key decision-makers and the public as a whole.*
- **Pro Bono:** *Involve the private bar in the effort to achieve social and economic justice by building, showcasing and celebrating models that tap the full range of resources private lawyers have to offer.*
- **Leadership and diversity:** *Support a diverse new generation of equal justice leaders by creating a Leadership for Justice Institute that is a movement, not a place, in which every event is an opportunity to build diverse leadership and to surface new participants and leaders.*
- **Evaluation and accountability:** *Help states and communities build justice for all systems by showing them successful, evaluated examples of each part of the system; and help states and communities manage a justice for all system by showing them how to build evaluation into each element of the system.*

Participants offered to be co-leaders or "aligners" in one or more of the work areas. These six initiatives are seen as ways that people in national organizations can (a) support the *justice for all* campaigns of states and communities

continued on page 26

Washington Watch - Civil

President Bush Releases FY 2003 Budget

LSC Funding Remains Unchanged by Federal Budget Initiatives

By Julie Clark,
NLADA Senior Vice President for
Government Relations and Support

On February 4, President Bush delivered his FY 2003 budget to Congress. The \$2.13 trillion request, which is long on increased spending for homeland security and the war against terrorism, and short on discretionary spending for other domestic programs, includes \$329.3 million for the Legal Services Corporation (LSC). This amount is identical to that appropriated in FY 2002.

In the budget overall, discretionary spending would increase by 8 percent over this year's total of \$773 billion. The amount for defense and homeland security consumes the lion's share of this increase with only 2 percent left for other programs. The budget includes \$472 billion for Social Security, \$231 billion for Medicare and \$355 billion for other discretionary spending.

The proposal also includes new tax cuts totaling \$591 billion over 10 years, with \$344 billion of that amount being dedicated to a two-year extension of last year's package beyond its expiration date of 2010. The projected deficit for next year is \$80 billion, \$26 billion less than that projected for this year.

The Bush administration's proposed FY 2003 level of \$329.3 million comes as no surprise to LSC since the Office of Management and Budget (OMB) had signaled its desire for agencies to limit any increases in their budget requests for programs not related to homeland security and defense. LSC's initial request of \$396 million was scaled down to \$375 million and, subsequently, to conform with OMB instructions, to \$329.3 million.

NLADA is not constrained by OMB directives. Last year, at our request, Senator Edward Kennedy (D-MA) and colleagues sent a letter to Senators Fritz Hollings (D-SC) and Judd Gregg (R-

Text of the President's Request for FY 2003 LSC Funding

Legal Services Corporation Federal Funds

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, \$329,300,000, of which \$310,000,000 is for basic field programs and required independent audits; [\$2,500,000] \$2,600,000 is for the Office of Inspector General, of which such amounts as may be necessary may be used to conduct additional audits of recipients; [\$12,400,000] \$13,300,000 is for management and administration; and [\$4,400,000] \$3,400,000 is for client self-help and information technology. (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002)

The Legal Services Corporation distributes appropriated funds to local nonprofit organizations that provide free civil legal assistance, according to locally determined priorities, to people living in poverty. The Congress chartered the corporation as a private, nonprofit entity outside of the Federal government.

Administrative [Provisions] Provision-Legal Services Corporation

None of the funds appropriated in this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by, or contrary to any of the provisions of, sections 501, 502, 503, 504, 505, and 506 of Public Law 105-119, and all funds appropriated in this Act to the Legal Services Corporation shall be subject to the same terms and conditions set forth in such sections, except that all references in sections 502 and 503 to 1997 and 1998 shall be deemed to refer instead to [2001] 2002 and [2002] 2003, respectively.

[Section 504(a)(16) of Public Law 104-134 is hereafter amended by striking "if such relief does not involve" and all that follows through "representation".] (Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002)

NH), chairman and ranking member of the Senate Appropriations Commerce, Justice, State and Judiciary Subcommittee with jurisdiction over LSC, requesting a FY 2002 appropriations level of \$375 million. NLADA believes that is a good starting point for its discussions with Congress regarding the FY 2003 appropriation. Of course, in determining its approach to Congress, NLADA will be mindful of the fact that many programs were cut in the president's FY 2003 budget. NLADA is grateful that LSC was not among them.

On February 28, the Commercial and Administrative Law Subcommittee of the House Judiciary Committee, chaired by Rep. Bob Barr (R-GA), held an oversight

hearing on LSC. Highlights from the hearing and the full text of written statements submitted by all panelists can be found at www.nlada.org/Civil

President Bush has not submitted a list of nominees for the LSC board to the Senate Health, Education, Labor and Pensions (HELP) Committee. There is speculation that the list is nearing completion and will be submitted in the next few weeks.

For more information, contact Julie Clark, NLADA senior vice president of government relations and support, at (202) 452-0620 ext. 227 or via e-mail at j.clark@nlada.org.

Meet an Equal Justice Investor

"Meet An Equal Justice Investor" is a new NLADA Cornerstone feature that introduces supporters whose annual investment in equal justice provides NLADA with flexibility to launch new initiatives and to respond to rapidly changing circumstances.

Jack Martin is the founder of the NLADA Corporate Advisory Committee and retired vice president and general counsel of Ford Motor Company, where he was instrumental in forming a successful pro bono program that served as a prototype for similar programs at large corporations throughout the United States. He currently teaches legal ethics and professionalism at Cornell Law School.

A former NLADA board member, Martin is also a former co-chair of the American Bar Association's Business Law Pro Bono Committee and former chair of the Pro Bono Subcommittee of the ABA Committee of Corporate General Counsel. He continues to be a valued member of the NLADA and equal justice communities.

NLADA: How did you get involved in the equal justice movement? With NLADA?

MARTIN: In the early eighties my wife Joanne went back to school to get a master's degree in social work specializing in gerontology. We decided to work together on a project, which turned out to be a corporate pro bono program dealing with the legal problems of the elderly. That led me to help set up a pro bono program at Ford, and to join both the State Bar of Michigan's Committee and the ABA's Commission on the Legal Problems of the Elderly. These and other pro bono activities prompted invitations to speak at various venues around the country and brought my name to the attention of NLADA.

NLADA: Why and how did you found the NLADA Corporate Advisory Committee (CAC) in 1992?



Jack and Joanne Martin

MARTIN: Clint Lyons invited me to join the board of NLADA and, after observing the operations of NLADA, I quickly concluded that it was an organization that deserved wider recognition among corporate lawyers, many of whom had little familiarity with NLADA or with the role of the Legal Services Corporation.

From my experience on various committees of general counsel, I knew there were many who would be very sympathetic to the mission of NLADA once it was presented to them, but they would have limited time to devote to supporting its work. The idea behind the CAC was to take advantage of the interest and support of general counsel without making undue demands on their limited time. One of the techniques I used in early recruiting was to approach newly appointed general counsel before they were weighed down with multiple other outside commitments.

NLADA: Has the role of the corporate sector in the nation's equal justice movement changed since the founding of the CAC?

MARTIN: I think there is a greater acceptance today of the responsibility of lawyers working in the corporate sector to shoulder part of the burden of assuring equal justice and a greater recognition of the necessity of government funding.

NLADA: Please share your outlook for the equal justice movement in America, especially after the events of 9/11.

MARTIN: I haven't begun to think through the implications of 9/11. But I would venture to guess that the urgency to succeed has been magnified, and the risks of failure as well.

NLADA: Why do you invest in NLADA?

MARTIN: I am a pragmatist. Achieving the goal of equal justice would benefit everyone in our society.

Letters to the Editor

continued from page 3

activities and differential association are reduced, and social control is increased, by structure.

This doesn't change the possible relation of a declining economy to crime rates, but it does give us some hints on crime prevention.

The old idea, suggested in the first excerpt, that people commit crime by "Reasonable Choice," by cost-benefit analysis, is not applicable to most crimes, as every defense lawyer has experienced.

Norman Shapiro
Vice-President, NY State Defenders
Association
Adjunct Assistant Professor, Criminal
Justice
Orange County Community College

New Report Reveals Good News, Bad News

Defenders are Doing Better Than Ever At Tapping Into Federal Grant Streams, But the White House Wants to Turn Off the Spigot

By Scott Wallace, Director,
NLADA Defender Legal Services

A new NLADA report documents that state and local indigent defense programs are having record success obtaining access to federal justice-assistance grant programs. But at the same time, the new FY 2003 budget submitted to Congress by the White House is proposing the termination of some of the major federal grant programs that defenders have utilized, replacing them with a greater emphasis on prosecution and law enforcement.

Improved Defender Access

The NLADA report, *Federal Assistance to State and Local Indigent Defense Programs*, published in January, shows that indigent defense programs nationally received a total of more than \$11 million in federal grants in each of fiscal years 1998 and 1999. This represents an increase of 27 percent over the FY 1997 total, and a 63 percent increase over FY 1996. The highest previous total was \$9.8 million in FY 1991, the year after Congress amended the authorizing legislation for the Byrne formula grant program to expressly include defenders, in order to overrule a ruling from the administration of the first President George Bush that defenders were ineligible for federal grant funding.

The principal source of federal grant funding for indigent defense programs remains the Byrne formula grant program, although the Byrne total declined somewhat in 1998 and 1999. But for the first time, non-Byrne grant programs provided substantial additional funding, accounting for the substantial rise in overall federal funding. The annual Byrne awards of \$7.2 million were augmented by \$3.9 million in non-Byrne grants, producing an overall total of \$11.1 million.

Of the non-Byrne federal grant sources, the leading programs were Juvenile Accountability Incentive Block Grants (37 percent of the non-Byrne total) and Local Law Enforcement Block Grants (28 percent). Other programs successfully tapped by defenders were Drug Court Grants (19 percent), Office of Juvenile Justice and Delinquency Prevention Grants (7 percent) and various discretionary grant initiatives designed directly by the Clinton/Reno Justice Department (8 percent).

Grants were received by defender programs for a wide range of purposes, including hiring attorneys or social workers, establishing special units, alternative sentencing, juvenile representation, technology and "expediting" case processing.

Because a state's governor has complete discretion to designate the state entity that decides how to spread federal grants around the criminal justice system, defender access varies widely from state-to-state. States with the best record of awards to indigent defense utilize a multidisciplinary board, frequently including indigent defense representatives. States with the worst records are sometimes those in which the governor has assigned the grant-allocation authority to the state attorney general or a law enforcement agency. Sixteen states have never awarded a dime to indigent defense.

Clouds on the Horizon

The White House's proposed federal budget for fiscal year 2003 recommends the elimination of some of the major justice assistance grant programs that state and local indigent defense programs are eligible.

The detailed budget for the Office of Justice Programs (OJP), the Justice Department's grant-making arm to the states, proposes eliminating the \$500 million Byrne formula grant program

and the \$400 million Local Law Enforcement Block Grant program. Byrne "discretionary" grants, awarded directly by the Bureau of Justice Assistance (BJA) rather than given to the states to allocate as they choose, are also proposed to be eliminated, since the program had become "too heavily earmarked in recent years, reducing its usefulness in funding innovative law enforcement programs." Byrne discretionary grants were a major source of grant funding during the 1990s for NLADA and other projects supporting indigent defense, through training, technical assistance, studies or publications.

The programs slated for the cuts are said to "have already served their primary purpose or are less essential to core federal law enforcement objectives." In their place, the administration proposes to create a program of "Justice Assistance Grants (JAG)," an as-yet-undefined program of "statewide initiatives, technical assistance, training and support for rural jurisdictions," funded at \$800 million. Special emphasis is placed on grant programs assisting states and localities with their "prosecutorial efforts," indicating that it is unlikely that the new JAG program will retain the Byrne program's express authorization of grants to defenders.

The Juvenile Accountability Incentive Block Grant (JAIBG) program, which specifically authorizes grants to defender programs, would be reduced by \$34.5 million, to \$215 million. Drug courts are slated for a slight increase, from \$50 million to \$52 million.

The NLADA report, as well as information and links to the detailed budget proposal for OJP, are available on the NLADA Web site, at www.nlada.org/Defender.

Federal and State Defenders Gather for Historic Conference on Quality of Criminal Defense Representation

By Cait Clarke, Director,
NLADA National Defender
Leadership Institute

The Defender Services Division (DSD) of the Administrative Offices of the U.S. Courts hosted an historic event from February 28 to March 1. For the first time, a group of federal defenders, state defenders, judges, social workers and court administrators met to discuss the quality of criminal defense representation in both state and federal systems. Panel presentations offered creative ways to think about quality representation while smaller work groups produced rich lists of key concepts relating to quality representation.

All of the ideas will be memorialized in a final document, but what was most meaningful was that the joint discussions took place at all.

Never before had the Administrative Office of the U.S. Courts' Defender Services Division joined leaders working on state public defense issues in a specific effort to build bridges between the state and federal defender worlds. Too often both state and federal defenders claim they have little in common because the laws and justice systems are so different. They emphasize that the mode of representation places entirely different demands on individual lawyers and system administrators so that sharing ideas on representation would not benefit their traditional practice. Too few state and federal defenders see the value of meeting with their counterparts in the 'other' system. Fortunately, top administrators at the Defender Services Division did not limit their thinking in this way – nor did the creative state defender leaders in attendance. Both groups saw that there were overlapping

Rather than focusing on the gaps between the two systems, the group identified common ground and potential for coalition building to improve defense services. Some of the crossover areas included issues surrounding mental health, immigration, collateral consequences of convictions, racial disparity, interpreters, cultural clashes and disenfranchisement.

issues and plenty of room for learning at the individual lawyer level and at the systemic level.

Rather than focusing on the gaps between the two systems, the group identified common ground and potential for coalition building to improve defense services. Some of the crossover areas included issues surrounding mental health, immigration, collateral consequences of convictions, racial disparity, interpreters, cultural clashes, and disenfranchisement. There was also a highly instructive discussion about concurrent and consecutive sentencing ramifications when a single client has pending state and federal charges. The group explored the skills, knowledge and attitudes necessary to improve quality representation inside both systems. During parts of the meeting, participants very clearly identified the values underlying the need for more coalitions between state and federal defenders. These included: the value

provided to clients and their families through improved access to services; the value of cross-training lawyers and staff to avoid “traps for the unwary” especially in plea negotiations; and the value of educating the community as a collective voice to raise awareness about fairness and the importance of balance in the justice system.

From the highly organized conference discussions to the informal hallway conversations, it became clear that there are many important issues that need intense study and collective analysis. Most who attended walked away with new ways to conceive of the defense function and contacts for future collaborative efforts. Both state and federal defenders have much to learn from one another. At the end of the two-day meeting defenders, judges and administrators agreed there was a need for more conversations – from more chances to discuss collateral consequences to more opportunities to learn about cutting-edge community outreach and holistic advocacy efforts. Several people volunteered to serve on a working group to explore future ways that state and federal defenders can continue to work together towards quality defense representation nationwide. This historic conference demonstrated that commitment levels are high and the time is ripe for such collaborative efforts so that equal justice will become a reality for all people, whether in a state or federal court.

**Defender Advocacy
2002**

**May 31 - June 5
(See page 23.)**

Louder than Words:

Advancement Project Report Highlights Community-Oriented and Problem-Solving Lawyering by Civil Rights and Legal Services Lawyers

By *Camille D. Holmes*
Senior Counsel, Project for the
Future of Equal Justice and Center
for Law and Social Policy

Equal justice is achievable when lawyers and communities work as partners in the struggle for change.

Louder than Words: Lawyers, Communities and the Struggle for Justice, a new report to the Rockefeller Foundation by Penda D. Hair, co-director of the Advancement Project, highlights innovative community-based approaches to achieving justice in the face of discrimination and structural exclusion.

The report finds that:

- Race and ethnicity remain central to social justice advocacy;
- Racial-justice advocates face up to the complexities of race and class;
- Racial-justice lawyers expand an approach to race to include efforts that deepen democratic participation and values;
- Racial-justice lawyers are adopting a problem-solving, community-based approach;
- The venues for racial-justice lawyering extend beyond the courtroom;
- It is possible to galvanize public opinion to support racial justice; and
- Racial-justice lawyering requires a national, regional and local infrastructure. (*Louder than Words*, p. 4-6.)

The 166-page report also includes six case studies of successful racial justice efforts that highlight the importance of community-oriented and problem-solving lawyering. Effective community advocacy strategies were pursued in the areas of education, redistricting, garment worker rights, community access to public space, transportation, and unfair labor practices. In addition to several civil rights organizations, two legal services programs – Greater Boston Legal Services (GBLS) and Mississippi Legal Services – were mentioned in the report for their community-led collaborative approaches.

The lawyers described in this groundbreaking work developed innovative legal and nonlegal strategies to address the core issues identified by the communities involved; stepped outside of their traditional legal training to engage existing community structures; and developed ways to share power with communities in determining the direction of the case. Civil rights and legal services lawyers also focused on getting existing institutions to be more responsive to community needs and developed strategies that squarely addressed the race and class realities of each case.

Community-Oriented and Problem-Solving Lawyering is Emerging Throughout the Legal and Courts Systems

Neighborhood public defender programs are restructuring their programs to include civil attorneys, social workers or drug treatment options to meet the needs of their clients. Community-based prosecutors have begun to focus on crime prevention plans to address

“hot spots” or high crime locations in communities without necessarily resorting to jail time for offenders. Law school clinical programs, community courts and holistic advocates have restructured their practices to address root causes and effect lasting change in the lives of their community partners.

There are lots of opportunities to get involved with community-oriented and problem solving lawyering. The Open Society Institute has developed a working group including representatives from all these sectors to promote the concept of community-oriented and problem-solving lawyering and advance this kind of work broadly in the equal justice community. At the Equal Justice Conference on April 18-20 in Cleveland, lawyers using community-oriented and problem-solving approaches will convene to share effective strategies and explore new directions for their work. The Community-Oriented and Problem-Solving Affinity Group will meet from 8:30 a.m. to noon on April 18. Community-oriented and problem-solving attorneys will also present a highly-interactive session at the Equal Justice Conference that will explain how these approaches can help advocates work more effectively to achieve social and racial justice for all communities.

If you would like to learn more about community-oriented and problem-solving approaches to lawyering, contact the Advancement Project at www.advancementproject.org. For more information on the OSI Working Group, contact Raquiba Labrie at RLabrie@sorosny.org.

If you would like a copy of *Louder than Words*, it is available at the Rockefeller Foundation Web site www.rockfound.org under “Publications.” Or, write to:

Rockefeller Foundation
Job #3185 “Louder Than Words”
P.O. Box 545
Mahwah, NJ 07430

**Related Opportunity at the Equal Justice Conference:
The Community-Oriented and Problem-Solving
Affinity Group will Meet
from 8:30 a.m. - Noon on Thursday, April 18.**

L.A. Criminal Courts Building Renamed to Honor Public Defender System Innovator

Clara Shortridge Foltz Changed the Justice System and Placed Women Squarely in the Legal Arena

By Alan H. Simon

Clara Shortridge Foltz, the innovator of the public defender system, was almost forgotten to history. Few attorneys had ever heard of her. That changed with the renaming of the downtown Los Angeles Criminal Courts Building to the Clara Shortridge Foltz Criminal Justice Center on February 8, 2002.

Addressing the hundreds of distinguished guests at the dedication luncheon, including many women who were first in their own right as judges and lawyers, the first female U.S. Supreme Court Justice, Sandra Day O'Connor, told of Foltz's role in advocating for a public defender office. The first public defender office opened its doors on January 9, 1914 in Los Angeles County on the very sight of where the Clara Shortridge Foltz Criminal Justice Center now stands.

Justice O'Connor told her audience:

"In addition to being a very successful trial lawyer, Foltz also made enormous contributions as a law reformer. Because she had quickly gained the reputation as a humane and sympathetic counselor, many poor, desperate people sought her out. Many of these people were charged with crimes. As an outsider, representing the accused, Foltz felt the unfairness personally and imagined a high-status officer of the court with the title and the resources to do the work that she was doing for free. She developed the idea of a public defender and advocated at the 1893 Chicago World's Fair and in many state legislatures for the creation of public defender services. An article she wrote on the subject in 1897 gives a sense of her persuasiveness and passion. I quote:

"Innumerable innocent boys and girls and men and women are recorded as pleading guilty and railroaded into jail because too

dazed to understand their rights and legal position.... Others plead guilty and suffer punishment by fine because it is cheaper than counsel and they can better stand the disgrace than the money loss. Others are ruined by payment of counsel fees in order to be protected from malicious prosecution. Others are robbed by shysters, and still others are neglected by irresponsible court appointees. The patriotism and love of country of all these dies and their hearts are filled with bitterness, to the destruction of the happiness of the individuals and the detriment of the state. . . . [The accused] cannot act for himself. The labyrinth of legal technicalities is an unknown land to him. He could not lay the foundation of an expert's testimony or impeach a witness and does not know what is competent or proper evidence. But he does know that to go into court without counsel would be equivalent to an invitation to convict, which a jury would readily accept. In this condition, when he is utterly unable to act for himself, when before him stands all the menacing machinery of the penal law, when he is deserted by friends, assailed by foes and dazed by his surroundings, counsel is absolutely necessary to secure justice. In a country whose primary function and highest duty is to protect and defend its people, one would expect to find courts provided with all the essentials of justice. But they are not. The prisoner is merely told that he may buy this essential and thus buy justice in a land that boasts that justice is free. The State has no desire to wrong its people. Its citizens are not its enemies. It is not

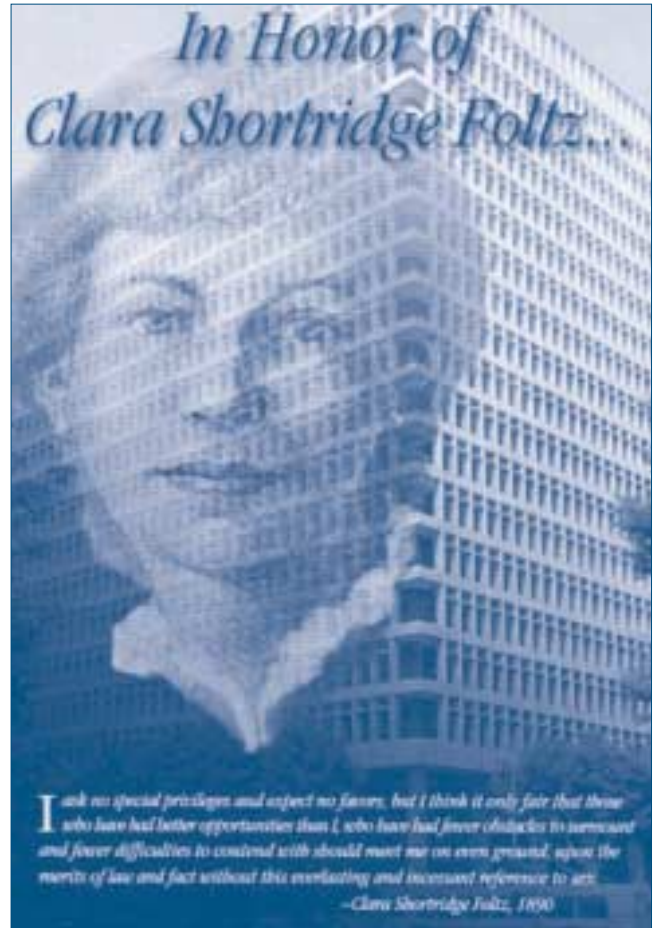


Illustration courtesy of Stanford Law Professor Barbara Babcock.

interested in convicting the innocent. It is not interested in the impoverishment or disgrace of its people. Their full protection is its legitimate care, and in giving it, the state will not only perform its duty but will promote exact and equal justice, protect the poor, save the innocent, and remove an unjust burden from a generous profession."

Another distinguished speaker at the dedication ceremony, Stanford Law Professor Barbara Babcock, the biographer of Clara Shortridge Foltz, whose book will soon be published, told the audience:

"...at the World's Fair of 1893, the cultural event of [the] century, she spoke

continued on page 19

ABA Endorses Ten Principles of Public Defense

A concise statement of 10 key principles of a quality public defense system written by NLADA leaders was approved by the full House of Delegates of the American Bar Association (ABA) on February 7. The principles were distilled from thousands of pages of national standards issued over the past quarter-century by NLADA, the ABA and the National Advisory Commission on Criminal Justice Standards and Goals.

The areas covered by the 10 principles are 1) independence, 2) mixed system, 3) prompt entry of counsel, 4) sufficient time and a confidential space to meet with client, 5) workload controls, 6) matching of counsel's ability to case complexity, 7) vertical representation, 8) parity of resources with the prosecution, and a full voice in justice-system policy matters, 9) mandatory training and 10) supervision of attorneys' performance according to national standards like NLADA's *Performance Guidelines for Criminal Defense Representation*. Most of the principles are brief restatements of pre-existing ABA standards, although the requirements for mandatory continuing legal education for defenders and full participation in criminal-justice policymaking constitute new ABA policy.

"Never before has there been such a

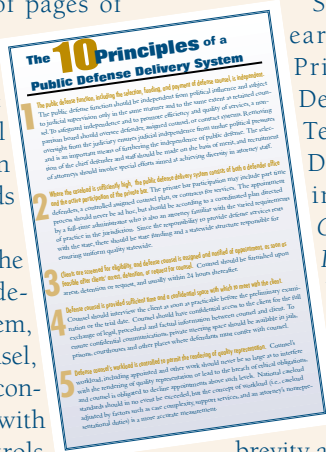
concise and authoritative statement of the key components of an effective public defense system, in plain language accessible to busy non-lawyer policymakers," NLADA President and CEO Clint Lyons said in a press release.

Since the publication of an earlier version of the Ten Principles by the U.S. Department of Justice ("The Ten Commandments of Public Defense Delivery Systems," an introduction to the *Compendium of Standards for Indigent Defense Systems*, December 2000), defenders have reported that the document has been very well received by legislators and funding officials, for its

brevity and clarity.

Public defense systems can be rated for compliance with the Ten Principles/Ten Commandments by a process of self-evaluation or outside evaluation. The endorsement by the ABA and publication by the Justice Department is expected to help motivate legislators and funders to redress funding shortfalls impeding full compliance.

For more information, visit the NLADA Web site at www.nlada.org/Defender. To obtain a copy of the "Ten Principles," contact Scott Wallace at (202) 452-0620 ext. 212, or via e-mail at s.wallace@nlada.org.



Annual Dinner, continued from page 1

Since 1991, NLADA has gathered with its members and friends at this annual dinner to pay tribute to all lawyers who labor tirelessly to represent people who are unable to pay for legal assistance and to salute outstanding individuals who set an example of extraordinary dedication, achievement, leadership and vision. This year's awards program will highlight the unflinching support of the private bar for equal justice over the last decade, in commemoration of the 10-year anniversary of the founding of the NLADA Corporate Advisory Committee (CAC).

The CAC, established in 1992 under the leadership of Jack Martin, former vice president and general counsel for Ford Motor Company, is a group of general counsel from major corporations. The committee enlists the help of America's corporate community in fostering national support for NLADA's mission of ensuring the availability of quality legal representation to persons who are unable to afford counsel. Tom Gottschalk has served as the CAC chair since 1999.

Also at the dinner, NLADA will present the **2002 Kutak-Dodds Prizes** (see page 25). These prestigious awards annually honor the accomplishments of civil legal aid attorneys, public defenders or public interest advocates who, through the practice of law, are contributing in a significant way to the enhancement of human dignity and quality of life of those persons unable to afford legal representation. The 2002 Kutak-Dodds Prizes will honor two equal justice advocates, one from the civil legal aid community and another from the public defense community. Each prize carries a cash award of \$10,000.

Plan now to join NLADA in this special celebration on May 30!

For more information, contact Mizue Suito, director of development, at (202) 452-0620 ext. 217 or via e-mail at m.suito@nlada.org. Or, visit the NLADA Web site at www.nlada.org.

Project Access continued from page 12

impact of program services and, hopefully, will demonstrate to both private and potential public funders the importance of developing these types of cross-professional collaborations.

In sum, Project Access is a unique collaboration among a group of public interest lawyers and three major neonatal intensive care centers on behalf of families striving to improve the health of their highly vulnerable infants. As providers seek to respond effectively to

the needs of their clients and communities, exploring cross-disciplinary programs and projects is essential. These types of collaborations not only provide more accessible, comprehensive services for clients, they also serve to educate providers, to inform and enhance best practices and to open up new funding channels.

For more information, contact Julie Justicz at (312) 223-9600 or jjusticz@mindspring.com.

Update on Campaign for Equal Access: Bringing Justice Home

By Bonnie Allen, NLADA Director of Outreach and Community Support

The Open Society Institute has renewed funding for the *Campaign for Equal Access: Bringing Justice Home*. Sponsored by the NLADA/CLASP Project for the Future of Equal Justice, this national initiative provides legal aid professionals and supporters with messages, message strategies and communications tools and training for building support at the national, state and community levels. Based on extensive public opinion research conducted by Belden Russonello & Stewart,¹ the campaign is designed to: (1) educate the public and target audiences about the value of legal aid and the need to expand this important public service, and (2) build long-term funding and public support for institutions that provide legal aid.

Pilot State Work Will Include LSC Support

During 2002, the Project will partner with the Legal Services Corporation (LSC) and several pilot states to develop mission-focused communications strategy frameworks. LSC has generously agreed to contribute one-third of the consulting costs to develop strategy frameworks in three states. By working in several states, the Project and LSC will begin to plant seeds for developing a national branding strategy for legal aid. The equal justice community can create brand equity for the "product" or "service" of legal aid by developing con-



sistent themes for communicating the values that underlie it. In the nonprofit sector, a good brand stands for something positive in the minds of clients, donors, policymakers and the media. The concept of "standing for" something lies at the heart of effective brand management.

The Project, NLADA and LSC will work with state and local stakeholders in the pilot states to develop a communications strategy framework that may be used by all legal aid providers throughout the state (including non-LSC funded providers). Based on the experience in the pilot states, the Project will produce and disseminate strategy notebooks that include benchmarks and other planning tools for states across the country to use in developing mission-focused communications strategy frameworks. The Project, NLADA and LSC staff and pilot state participants will report on their planning processes and outcomes at national and regional training events, on the NLADA and LSC Web sites and in a variety of publications.

Pilot projects offer many advantages to national movements or nonprofit communities building capacity and support. In the context of resource

development and communications planning, these advantages include:

- Testing the development of a communications strategy framework in a few states, which enables leaders to work out the "bugs" prior to broader implementation;
- Building an experience base of legal aid professionals and supporters who are familiar with communications strategy development and who can assist leaders in other states; and
- Growing enthusiasm and momentum for a national public awareness or "branding" campaign by enrolling state and local leaders at the grass roots level.

In the pilot states, the Project's consultants and participants from the state will engage in the following steps and processes:

- Convening a planning committee consisting of key stakeholders, which most likely will include representatives of local legal aid programs, pro bono programs, other advocacy organizations, the private bar, the judiciary, and statewide support and funding entities. The committee will develop a situation analysis of the current "market position" of legal aid in the state and identify statewide advocacy and funding goals for the coming two to three years. This analysis will involve discussion of specific strategies for achieving the identified goals, including the identification of critical allies and target audiences.
- Conducting a communications and media audit, which includes assessing recent media coverage of

Related Workshop Opportunity at the Equal Justice Conference

The Project and its consultant will conduct a half-day training on developing a communications plan at the ABA/NLADA Equal Justice Conference, April 18-20, in Cleveland. The session is open to all conference participants.

continued on page 21

NLADA Trainings & Conferences

The 2002 Annual Conference in Milwaukee

Here's What You Should Be Doing Now to be Ready in November

This year's NLADA Annual Conference will be held at the Milwaukee Hilton from November 13-16. But, there's lots going on between now and then to get ready. Here are upcoming important spring dates:

April 2: Exhibitor Registration Available. Do you know a vendor who should exhibit? The NLADA Annual Conference is the only annual national event for civil legal services and indigent defense attorneys. The Annual Conference exhibit area provides legal training and a forum for the exchange of ideas, techniques and technologies, as well as for the exchange of information about equipment and other support materials to improve program administration. Approximately 800 professionals will be in attendance. Among the interests of the attendees are legal publications; computers for docketing, brief banking, case management and litigation support; innovative inter-office and intra-office management systems and much more. Also, computers and software are of particular interest given the degree of computer utilization varies greatly among legal aid and public defender offices.

April 4: Session Request for Proposals Available. One of the primary purposes of the conference is to provide attendees with an opportunity to exchange ideas with colleagues from across the country. If you have an initiative or information to share, think about submitting a session proposal. The NLADA Conference Committee is responsible for selecting training proposals and will evaluate the proposals based on conference goals; substantive content; training design; expertise and diversity of proposed faculty; and interest and importance to NLADA's constituency. Look for the RFP in your mail box in early April and on the NLADA Web site.

April 12: Award Nomination Information Available. Each year, NLADA honors the distinguished men and women whose outstanding service, commitment and achievements have advanced the cause of equal access to justice. At the 2002 conference, NLADA will present the annual Reginald Heber Smith Award and three biennial awards: the Denison Ray Award, Arthur von Briesen Award and the Emery A. Brownell Media Award.

For more information on the Annual Conference, contact Aimee Gabel, NLADA training and conference manager, at (202) 452-0620 ext. 214. Or, visit the NLADA Web site at www.nlada.org.

The Reginald Heber Smith "Reggie" Award celebrates the outstanding achievements and dedicated services of civil legal services and indigent defense attorneys performed while employed by an organization supporting such services. The Denison Ray "Denny" Award honors persons who have given at least five years of exceptional service to the legal services community in their capacities as staff, clients or volunteers. The Arthur Von Briesen Award recognizes an attorney not employed by a legal services or defender agency who has made substantial volunteer contributions in support of Civil legal services or indigent defense delivery. The Emery A. Brownell Award affords national recognition to newspapers, magazines, filmmakers, and television and radio stations that have informed the public of the crucial role played by civil or defender organizations in ensuring equal justice for poor people.

NLADA Training Calendar

Equal Justice Conference (Co-sponsored with the ABA)

April 18-20, 2002
Cleveland, OH (see page 27)

NDLI: Nuts & Bolts of Defender Leadership and Management

May 16-19, 2002
Santa Rosa, CA (see page 22)

Defender Advocacy Institute

May 31-June 5, 2002
Dayton, OH (see page 23)

Litigation and Advocacy Directors Conference

June 23-25, 2002
Snowbird, UT (see page 2)

Substantive Law Conference

July 24-28, 2002
Colorado Springs, CO

NDLI: New Leadership

September 18-22, 2002
Austin, TX (see page 23)

NLADA 2002 Annual Conference

November 13-16, 2002
Milwaukee, WI

Sentencing Circles: The Shape of Things to Come

By Thom Allena

With the emergence of drug courts, mental health courts, community courts and a host of other problem-solving and community justice initiatives, defenders are frequently being asked to participate in venues that redefine the parameters of effective advocacy. Under the umbrella of restorative justice a number of collaborative dispositional models are becoming increasingly prevalent in juvenile and adult courts. Restorative justice considers harm to victims and in the community where a crime occurs, and then thoughtfully considers ways to repair that harm. Offenders accept responsibility for their actions and directly face their victims and their community and become part of the solution where they and others impacted by the offense have a direct voice in the outcome.

A sentencing circle is a restorative justice practice that uses a more collaborative approach. While creating an atmosphere of respect and dignity for all involved, these circles use indigenous values and practices to explore the impact of a crime on the victim, offender, family members and the community where the crime occurred. Hence, the focus of sentencing goes well beyond the traditional concern of whether to punish or treat an offender. Originating in the Yukon in Canada, sentencing circles have made their way to the United States and offer new advocacy and problem-solving opportunities for defenders.

Anatomy of a Circle

This article highlights a sentencing circle that took place in Taos, New Mexico, in January 2002. The presenting “concern” involved a drunk driving incident that resulted in the fatality of a young woman who was a passenger in the car driven by the defendant and serious injuries to a second young woman passenger and the defendant’s brother, also a passenger. Prior to the circle, a plea was entered to one count of “Homicide by Vehicle” and two

Barbara Martinez, assistant district attorney, summed it up well at a recent bar association meeting where the process was discussed in a public forum, “It was one of the few opportunities I’ve had to participate in a justice process where an offender was held accountable to his victims and his community and through it all, he was able to maintain his personal dignity.”

counts of “Great Bodily Injury.” Public Defender Alan Maestas, in concert with Assistant District Attorney, Barbara Martinez, requested that District Court Judge Peggy Nelson consider the use of a sentencing circle prior to a formal sentencing, which is required by statute.

Twenty-five of us gathered on a cold January night in a meeting room made available by the town of Taos. We came together to more fully understand the impact of this crime in a way that a presentence investigation and a traditional sentencing hearing would not likely reveal. There was also a need for healing between families, all of who knew one another before the incident and would continue to interact with one another in the months and years ahead. The first stage of the circle reviewed who was there, what we were to accomplish and what hopes and expectations people were bringing that evening.

We then heard a previously agreed upon version of the offense and a summary of the legal proceedings to date as articulated by Judge Nelson. Two of the investigating police officers gave personal versions of their involvement in the matter. Once the factual and legal aspects of the circle were estab-

lished, we turned our attention to the stories of how individuals had been impacted by this event. We first heard from Chris, the defendant who spoke of his role in this incident and his understanding of the people he had harmed. The storytelling aspect of any circle is often the most compelling. This circle was no exception. As we passed a “talking piece” many stories of pain, understanding and compassion emerged. Many of them were not what we typically hear in a sentencing of this magnitude:

- *Chris expressing his remorse for his actions to victims’ family members and his own family and accepting responsibility.*
- *A police officer speaking of his gratitude for a young girl sitting in the circle whom he did not think would survive the crash.*
- *A community member whose car was struck speaking with pride about being part of a justice process that listened to everyone and was doing something that benefited the whole community.*
- *A district attorney acknowledging the defendant for his courage in choosing to participate, and wishing him well.*
- *Support and acknowledgement for the deceased victim and her family.*
- *A community member indicating that he had never had felt so much a part of the community and requesting that the circle meet again.*
- *Several community members acknowledging the need to find constructive ways to support the justice system professionals in addressing drunk driving fatalities in our community, where many citizens are lost to drugs and alcohol.*

After hearing about the impact of the incident we turned our attention to

Defender Chiefs Make History

continued from page 1

Grant and Local Law Enforcement Block Grant (LLEBG) dollars in 1998 and 1999. Kate Stewart, of Belden, Russonello & Stewart, joined a briefing for the staff of the Senate Judiciary Committee to report on the public support for strong indigent defense systems. The "Hill Day" ended with a reception honoring members of Congress. The successful conference resulted in renewed Congressional interest in a variety of topics, including student loan forgiveness.

Following the hill visits, the chiefs carried their message to meetings with Deborah Daniels, director of the Office of Justice Programs (OJP) and Richard Nedelkoff, director of the Bureau of



Peter Loge of The Justice Project gives defender chiefs tips on how to communicate effectively with policy makers.

Justice Assistance (BJA). In separate discussions, ACCD members described many of the community defense projects that have been started across the country, as well as other ways that

defender leaders are working to promote fair and effective criminal justice systems. They urged the Justice Department leaders to consider hosting another Indigent Defense Symposium and to invite defender leaders to the table as the department seeks innovative solutions to crime and improvements in the administration of justice.

The chiefs ended the three-day conference as luncheon hosts to Chief Judge Annice Wagner, from the District of Columbia Court of Appeals, the District's highest local court. Chief Judge Wagner, president of the Conference of Chief Justices, told ACCD members in a luncheon address that she would encourage the Conference to take appropriate steps to support quality indigent defense systems.



(l to r) Anthony Benedetti, general counsel, of the Committee for Public Counsel Services in Boston; Mike Coleman, executive director, of the New York County Defender Services; and David Carroll, NLADA director of research and development, enjoy a break from the very full ACCD conference agenda.



In an ACCD briefing for U.S. Senate Judiciary Committee staff, West Virginia State Public Defender Jack Rogers explains the importance of balanced funding between prosecutors and public defense.

Clara Shortridge Foltz

continued from page 18

at the Congress of Jurisprudence and Law Reform, the first time in history that a female lawyer had participated with male lawyers at a great intellectual forum. She came forward with an original idea about the practice of law, a public defender. The idea grew out of her own experiences in representing poor people charged with crime. Her speech based on these experiences is strikingly original."

This extraordinary woman, a single parent of five, became a dynamo that changed the face of the justice system

and placed women squarely in the legal arena. In an era when women had not yet received the right to vote, and could not even sit as a juror, Foltz drafted the Women's Lawyers Bill and fought to have it enacted into law, becoming the first female lawyer in California on September 5, 1878. She successfully sued to be admitted to law school.

Among the many accomplishments during her career were the separate incarceration of juveniles from adults, a parole system for state prisoners, and the abolishment of the practice of confining prisoners in iron cages in courtrooms during trials. Foltz was publisher

of *The New American Women* and she became the first Los Angeles County deputy district attorney at the age of 61.

Alan H. Simon is a retired Los Angeles County public defender. The renaming of the Los Angeles Courthouse was the result of a conversation between Simon and the Honorable Arthur L. Alarcon, senior circuit judge, U.S. Court of Appeals, during which Simon told the judge about the contributions Clara Shortridge Foltz made to the legal profession and the criminal justice system. The rest is history.

PROJECT ACCESS: An Innovative Legal-Medical Collaboration to Improve Child Health

By Julie E. Justice
Project Director
SSI Coalition

Five of Chicago's most prominent foundations have recently invested considerable money to help develop and fund Project Access, an innovative medical-legal collaboration that is designed to improve child health. The foundations that have supported Project Access to date include: The Michael Reese Health Trust (which provided the inaugural grant), The Harris Foundation, The Elizabeth Morse Genius Charitable Trust, The Lloyd A. Fry Foundation and The Polk Bros. Foundation.

Like successful predecessor projects, such as the Boston Medical Center's Family Advocacy Program initiated in 1993, Project Access is purposefully located on-site at participating hospitals to help identify and assist infants and their families in need of legal assistance and social supports. The three hospitals currently participating in Project Access are Advocate Illinois Masonic Medical Center, Mount Sinai Hospital and the University of Chicago Children's Hospital. The SSI Coalition, a Chicago-based nonprofit policy and advocacy group, is the coordinating agency behind Project Access.

Many of the infants who are admitted to Neonatal Intensive Care Units have complex, chronic medical problems that place them at higher risk for post-discharge mortality, childhood morbidity from acute and chronic illnesses and

These types of collaborations not only provide more accessible, comprehensive services for clients, they also serve to educate providers, to inform and enhance best practices and to open up new funding channels.

long-term developmental/educational difficulties. These children often are born into socio-economically disadvantaged families, where lack of financial resources and inadequate social and emotional support can pose an additional risk. The premise behind Project Access is that helping families receive a comprehensive array of social supports and services will better enable them to provide for the often complex medical and developmental needs of their high-risk infants.

In most cases, hospitals have not seen it as their responsibility to help families obtain essential resources that they will need to support their child with special health care needs. Even if neonatal intensive care personnel were to assume this responsibility, they typically have not have the time, training, or resources to help families effectively overcome their multiple logistical barriers to enrollment in public benefits programs. Project Access, designed by a panel of legal aid attorneys, neonatolo-

gists, pediatricians and social workers, works to change the level of responsibility at participating hospitals for helping families obtain a range of support services.

Project Access hospital personnel receive extensive, comprehensive training conducted by the SSI Coalition. Each hospital team learns how to successfully register participating families for a series of support programs beyond the realm of medical insurance and medical care. Project Access infants and their families meet with specially trained NICU case managers who design an Individual Family Service Plan to help the family access programs such as Supplemental Security Income, Medicaid, Temporary Assistance for Needy Families, Food Stamps, Early Intervention Services, Division of Specialized Care for Children and WIC Nutrition, among others. The SSI Coalition also helps build the information systems to facilitate registration and tracking of actual connections. In addition, the SSI Coalition provides ongoing coaching to hospital personnel on difficult cases, as well as legal representation on behalf of clients who need help with appeals or denials.

Importantly, Project Access includes a comprehensive evaluation component. Under the guidance of a team of epidemiologists at the Sinai Urban Health Institute in Chicago, Project Access is conducting a randomized-controlled study of intensive case management and legal services, to determine whether providing these enhanced services (1) improves medical/developmental outcomes for the infant, (2) increases parents' ability to comply with follow-up medical plans, (3) decreases utilization of the emergency room and leads to fewer hospitalizations for the infants, (4) increases utilization of support services among NICU graduates and (5) improves maternal/infant quality of life. The research study will help assess the

Related Workshop Opportunity at the Equal Justice Conference

Family health collaborations involving legal and medical professionals are a growing trend across the country. Representatives from the Chicago-based Project Access and the Boston-based Family Advocacy Program will present a workshop at the ABA/NLADA Equal Justice Conference in April. Persons and groups interested in learning more about how to develop and implement similar projects are encouraged to attend.

continued on page 13

The Kentucky Experience: A Retirement Program for Legal Services Staff through a State's Retirement System

By John Rosenberg

Unfortunately, as battles for survival and minimal funding continue on from year to year, the establishment of a meaningful pension system for legal services staff throughout the country has continued to elude our community. Yet with the "graying" of legal services staff, we have come to realize how important some additional retirement income is to retiring legal services staff and that, indeed, there are presently many staff persons who will rely primarily on Social Security retirement benefits for income when their working days are over.

Luckily, in recent years, many programs have started 401(k) plans and similar retirement options. However, many legal services programs that offer tax sheltered annuity options to their staffs do not fund these programs, and only make them available to employees that choose to set aside earnings. Yet because of low salary levels, employees often simply cannot afford to do so.

During the past year, legal services programs in Kentucky were pleasantly surprised to learn that there was an available mechanism that would permit them to participate in the state retirement system, thereby providing an excellent retirement income (and health benefits) to their employees. While the organization of other state retirement systems will likely vary, the Kentucky experience should encourage legal services representatives across the country to review the statutory basis for the retirement programs in their states to determine whether they might fit into the current scheme, or to what extent statutory or regulatory changes might be proposed to make it possible in the future. For example, if a given state includes its public defenders in its retirement system, only minimal language changes might be necessary to include legal services staff. Or, if a state includes only its prosecutors and not its defenders, lobbying to include both groups could prove successful.

Kentucky's retirement system includes three separately funded components – one for teachers, one for state employees and one for county employees. The definition of the political sub-

division qualifying for "county employee" status is quite broad, including, for example, area planning districts and nonprofit organizations established to carry out various supporting functions for the counties and districts. The retirement system trustees were given broad statutory discretion in approving the nonprofit agencies that applied to participate. They were pleased to have us apply and readily approved our participation. Once we were approved, legal services staff were eligible to purchase past years of "state service" as though they had, in fact, been state or county employees. Past years of government or military service also qualified as eligible service time. Fortunately, the programs in Kentucky, to varying degrees, had each established their own contributory retirement programs. This meant that staff members were able to "roll over" their accumulations in these accounts to purchase past years of credit. For employees who do not have sufficient funds to purchase all the years to which they were entitled, the retirement system allows the employee to finance the purchase of these years from the system at a favor-

able interest rate. Fortunately, we were also able to join the retirement system just before the door closed on the purchase of past years at a reduced rate. But even if one were purchasing the years at the full cost, there is agreement that the result is far better than one can achieve through a 401(k) or similar plan, especially when one includes the free or reduced cost health benefits which are provided to a retiree. The benefit levels on retirement, as one might expect, are dependent on the age and years of service of the retiree.

To be sure, some state retirement programs have had their financial problems, and perhaps some staff would prefer to control their own accounts. In Kentucky, however, program staffs gave a resounding "yes!" to joining the state system with its generous retirement benefits. We encourage programs in other states to explore the possibilities of joining their state systems as well.

John Rosenberg is the recently retired director of the Appalachian Research and Defense Fund of Kentucky, Inc., (APPLRED).

Gifts of Hope, Tribute to Equal Justice

NLADA was proud to be the recipient of the following Gifts of Hope over the holiday season. The tribute gifts honor the special individuals who have touched the lives of our donors and provide valuable financial support and inspiration for NLADA to continue its quest for equal justice.

Memorial Gifts of Hope

In Memory of Emery A. Brownell from Joan Brownell Bacall
In Memory of Robert K. Hickerson from Elizabeth J. Hickerson
In Memory of Henry Wolf from Jonathan M. Wolf

Honorary Gift of Hope

In Honor of Julie Clark from John O'Toole

Universal Gifts of Hope

Jonathan Asher
Marjorie M. McDiarmid
Irvin B. Nathan
John Robb
H. Richard Schumacher
Paul Wyler

Civil & Defender Community Conferences

Wrongful Convictions: A Call to Action

The Criminal Justice Institute of Harvard Law School and the Testa, Hurwitz & Thibault, LLP and The New England Innocence Project are sponsoring a conference, *Wrongful Convictions: A Call to Action*, on April 19–20 at The Criminal Justice Institute in Cambridge, Massachusetts.

Keynote speakers for this conference are Senator Patrick Leahy (D-VT) and Governor George Ryan (R-IL). The conference features 12 panel discussions: The Landscape of Wrongful Convictions; Coerced Confessions and Pressured Statements: A Case for Reform; Jail-House Snitches and Other Informants; Eyewitness Misidentification; Assistance of Counsel – Theory and Reality; Eyewitness Identification and Its Repercussions; DNA and the Future of Innocence Cases; Junk Science and Wrongful Convictions; Suppression of Exculpatory Evidence; A Wrongful Conviction in Massachusetts: What Went Wrong?; Innocence Projects and Commissions: Who Will Free the Innocent?; and Life Through Exoneration.

Registration for the conference consists of three categories: **general registration** is \$125 prior to March 29 and \$150 thereafter; **public interest** (law enforcement officers, legal services, public defenders and community organizers) is \$50 prior to March 29 and \$75 thereafter; and **student registration** is free. (Students who wish to have meals and materials may register at the public interest rate.)

For more information on the conference, contact the Criminal Justice Institute at (617) 496-8143 or via e-mail at inncon02@law.harvard.edu.

National Equal Justice Library to Hold Forum on the Pursuit of Equal Access to Justice



In conjunction with American University's Washington College of Law founders program series, the National Equal Justice Library is hosting a day-long forum *To Preserve the Past, To Serve the Present, To Improve the Future: New Challenges for Civil Legal Services and Criminal Defense* on Friday, April 12. This event will be held at American University's Washington College of Law, 4801 Massachusetts Avenue, NW, in Washington, DC.

The National Equal Justice Library, a joint project of the American Bar Association, the National Legal Aid & Defender Association and the American Association of Law Libraries, is facilitating this event to provide a forum for informative discussions and information exchanges between distinguished expert panelists and attendees on the topic of equal access to justice from comparative and historical perspectives, as well as within the context of recent world events. Topics slated for discussion include: (1) *The Right to Counsel in Civil Cases — Is America Finally Ready for this Step?* (2) *Administration of the Death Penalty in the Twenty-First Century*, and (3) *The Impact of Terrorism on the Balance Between Civil Liberties and National Security*. In addition, the National Equal Justice Library will present its Smith Book and Cahn Article Awards for outstanding publications on the subject of equal access to justice.

For more information contact, Robert Forman, archivist for the National Equal Justice Library, at (202) 274-4320 or via e-mail at rforman@wcl.american.edu.

Alliance for Justice Sponsors Worry-Free Advocacy Workshops

The Alliance for Justice is offering Worry-Free Advocacy workshops this spring in selected cities around the country. These workshops are designed to help nonprofit managers, staff and volunteers understand the legal rules governing lobbying and election-related activities by nonprofit groups.

Many organizations strive to influence public policy but worry because they're not sure what activities are allowed. This day-long Worry-Free Advocacy workshop educates attendees on the rules for nonprofit lobbying and election related activities. In addition, one-on-one technical assistance with an Alliance for Justice attorney-trainer is available the day after the workshop. While not designed to substitute for advice from your lawyer, these sessions will help attendees apply the rules they learn at the workshop to specific issues facing their organizations.

Registration for the workshop is \$20 and includes meals. Also, attendees will receive two Alliance for Justice publications, *Being a Player* and *The Rules of the Game*. The following are locations and dates for the spring workshops:

San Francisco	Portland, OR	Chicago	Atlanta	Boston
April 3, 2002	April 8, 2002	April 22, 2002	May 16, 2002	June 6, 2002

To register online for a workshop, visit the Alliance for Justice Web site at www.afj.org/worryfree. For more information on the workshops, contact Emily Griffey of the Alliance for Justice at (202) 822-6070 or via e-mail at egriffey@afj.org.

ways to directly and symbolically repair some of the harm resulting from this crime. Some suggestions involved community service that would reach youth about the issues of drinking and driving, ideas relating to treatment, community education strategies and having Chris work with the surviving victims to tell their stories in schools and other community venues.

We closed the circle by honoring the victim and her family and with a collective understanding that something good had happened during the past three hours. The following week at a formal sentencing hearing, District Court Judge Peggy Nelson, implemented several of the suggestions as part of the conditions of sentence.

Keys to Success

Below are just a few of the “ah-ha’s” mined from a debriefing process several weeks after the circle. Our desire was to better understand the key things we had learned from the sentencing circle process.

1. The Value of Planning, Educating and Clearly Defining Roles

Given the relative novelty of restorative justice in Northern New Mexico, planning and education were essential to the success of our circle. The judge, defender and prosecutor and I were all part of the circle planning process. Together, we shaped roles each would play. It was clear to us going in that this would be a different approach to sentencing and would require different ways of participating on everyone’s part. We all agreed: this process was to be nonadversarial. Having clearly defined roles gave each justice system participant a sense of purpose in the circle and would provide some insurance against slipping back into the traditional roles we know so well and that had limited utility in this process. Perhaps the most challenging tasks for all of us were to simply listen and to seek to understand – no small task in a system where listening in order to formulate a better argument, rather than listening to understand, is what is often rewarded.

2. Leveraging the Supportive Capacity of a Community

Most defenders carry palpable experiences of how harsh and punitive a community can be toward an offender. As we debriefed this circle, Public Defender Alan Maestas reported a different dynamic than what he normally encounters. He related that it was “heartwarming” to listen to community members who were genuinely concerned about his client’s future who were capable of “understanding, empathy and forgiveness.” Needless to say, this is not a typical community response to an offender who had committed a fairly high-profile, violent crime in a small community.

3. Human Benefits of the Process

Maestas observed what he referred to as the “human” benefits to the process for he and his client. He articulated that the circle gave his client a venue where he would be actually listened to and respected by people who would normally not see him as a human being. In addition, it was also the one place where Chris and his family could directly address how the crime had affected their lives. It was clear that the circle brought the whole family closer together. Furthermore, the process gave Maestas an opportunity to know and understand a client and his family in a way that is usually not feasible given caseload sizes and the overall nature of indigent defense work.

4. Legal Benefits of the Process

From a legal perspective, Maestas theorized had they gone directly to sentencing without the sentencing circle it was predictable the parents and family members of the deceased and survivors would have had no place in the justice process to vent their feelings. The only option would have been the formal sentencing hearing where they would have likely spoken from an angry place and would have likely influenced the eventual sentencing outcome. The circle gave everyone a safe place to express his or her concerns and pain without simply blaming and shaming Chris.

5. Tips for Getting Started

With the volumes of cases sitting on

top of most defenders’ desks, it’s reasonable to wonder just where to start. Maestas offers the following strategy: pick a client who you care about as a person and where you already have a decent working relationship with the prosecutor handling the case. Find someone in your community who is trained in restorative justice facilitation. You may be surprised just how many people in your community are trained in this field, which is growing daily. Consider training your attorneys, social workers and sentencing advocates in restorative justice principles and practices.

Reflections...

For most defenders and their clients, sentencing circles and other restorative practices represent “new ground.” In fact, these practices represent change for everyone involved. Restorative justice brings new opportunities and new forms of support for our clients. Finding constructive, nonshaming ways of holding clients “accountable” to their victims and communities can pay future dividends for clients who will likely remain part of the same communities, interacting with many of the same people.

Barbara Martinez, assistant district attorney, summed it up well at a recent bar association meeting where the process was discussed in a public forum, “It was one of the few opportunities I’ve had to participate in a justice process where an offender was held accountable to his victims and his community and through it all, he was able to maintain his personal dignity.” Participating in and supporting a process that builds bridges in the community on a client’s behalf may be part of redefining what “effective assistance of counsel” is becoming all about.

Thom Allena is an instructor at UNM-Taos where he teaches community and restorative justice. His consulting firm, Innovations in Justice, works with defender organizations, justice systems, communities and universities in the areas of community and restorative justice, leadership and organizational effectiveness. Allena can be contacted at (505) 758-7950 or thomalna3@aol.com.

Introducing the Newest Members of the Defender Team

Carroll Joins as Director of Research and Development & Clarke as Director of National Defender Leadership Institute

In a continuing effort to better serve members, NLADA is pleased to announce the newest staff members in the Defender legal services division. Both positions were created in response to a need to provide more technical assistance to field offices nationwide and to provide a national base for leadership development amongst public defenders.

Director of Research & Development

David Carroll joins NLADA as the director of research and development for the Defender legal services division. Carroll's duties include expanding the technical assistance, research and evaluation capacities NLADA offers to the indigent defense community.

Carroll will oversee the NLADA evaluations process, which assesses three main areas of concern: quality of representation provided to clients by both the public defender office and other providers of indigent defense services; the cost-effectiveness and efficiency of the management of the defender services; and the impact of policies and practices of other criminal justice agencies on indigent defense providers. NLADA evaluations are a valuable tool to defender agencies seeking to educate legislators, budget officers, and other government officials as to the benefits of a well-managed and adequately funded office.

Carroll is already at work in Venango County, Pennsylvania. In May 2001, the American Civil Liberties Union (ACLU) and the National Association of Criminal Defense Lawyers (NACDL) released a report claiming that the county failed to ensure the adequacy of the right to counsel under the U.S. and Pennsylvania Constitutions. Retained by the county, NLADA is conducting an independent assessment of the ACLU/NACDL claims and will make a

series of findings and recommendations to the county regarding the adequacy of the public defender staff size and performance.

Carroll came to NLADA after five and a half years of service at The Spangenberg Group (TSG), a national and international research and consulting firm specializing in criminal justice reform. As senior research associate, he directed numerous projects on behalf of TSG, including: a jail-planning study for Pierce County (Tacoma) Washington; a study of indigent defense cost recovery efforts in Jefferson and Fayette counties, Kentucky (Louisville and Lexington); a statewide assessment of West Virginia's Public Defender Services; and an evaluation of indigent defense services in the state of Nevada. Under the auspices of the American Bar Association's (ABA) Bar Information Program, Carroll authored *Comparative Analysis of Indigent Defense Expenditures & Caseloads in States with Mixed State and County Funding*. Additionally, he co-authored the special report, *Indigent Defense and Technology: A Progress Report* for the U.S. Department of Justice. Carroll also was chosen to provide on-site technical assistance to statewide indigent defense task forces in Illinois, Nevada, Alabama and Vermont under the joint auspices of the ABA and the U.S. Department of Justice's Bureau of Justice Assistance.

Director of National Defender Leadership Institute

Cait Clarke is both professionally and academically accomplished in the field. NLADA is pleased to have retained her as its director of the National Defender Leadership Institute (NDLI).

Clarke is not new to NLADA. She has worked on a consultant basis since the inception of NDLI in 2001. Prior to NLADA, Clarke worked for the Harvard

University John F. Kennedy School of Government's Program in Criminal Justice, Policy and Management in Cambridge, Massachusetts. There she managed a three-year Bureau of Justice grant to sponsor the "Executive Session on Public Defense (ESPD)," which was aimed at improving state public defense systems and published papers on leadership in the field. As a research associate and adjunct lecturer at the Kennedy School, Clarke taught a community justice course that explored current public policy and legal issues in criminal justice.

In addition, she served as special assistant to the director of the graduate program at Harvard Law School. There she supervised SJD (Doctor of Juridical Science) candidates in developing doctoral research plans. She also helped to develop the law school's doctoral program (the largest in the country), established regular colloquia and taught select reading seminars for the Harvard Law School doctoral candidates and LL.M. students.

Clarke's broad experience includes an associate professorship of law at the Loyola University School of Law in New Orleans, a clinical instructor in the Criminal Justice Clinic at Georgetown University Law Center and law clerk to the Honorable John A. Terry of the District of Columbia Court of Appeals. She has practiced and taught law abroad in various capacities over the past 10 years. Clarke has studied at Tokyo University and worked in a Japanese law firm. She has taught criminal law and constitutional law in Cuernavaca, Mexico; Moscow, Russia; and Budapest, Hungary.

Clarke received her bachelor's degree in business administration from the Villanova University School of Commerce and Finance; her juris doctorate from Catholic University's Columbus School of Law, where she

continued on page 21

Campaign for Equal Access

continued from page 14

legal aid in the state, identifying and prioritizing available media outlets, and reviewing communications materials currently used by state and local entities.

- *Interviewing community leaders, donors, board members and other "influentials" to determine perceptions of the legal aid "brand" and individual organizations that deliver the service.*
- *Convening conference calls during the course of the process with sub-groups of the larger planning committee. The purpose of these calls is to check findings and provide updates on progress.*
- *Researching other advocacy networks in the state to identify examples of successful statewide communication collaborations that may serve as "best practice" examples.*
- *Assessing the gap between the current situation and the identified advocacy and funding goals, and developing a strategy for closing this gap.*
- *Presenting a strategy overview to stakeholders at a second meeting of the planning committee and collect feedback.*
- *Writing a final strategy framework and model, which will include:*
 - *Statewide goals, messages and target audiences; and*
 - *Suggested communications techniques to achieve the goals.*

The framework will serve as a guide to state and local entities as they complete and implement the specifics of a statewide communications and resource development plan. In addition to the consulting work in pilot states, NLADA and Project staff are available to provide training and technical assistance to other states developing communications strategies.

Tool Kits and Training

The pilot state effort builds upon work started in 2001, when the Project and its consultants, Douglas Gould & Co., produced and disseminated campaign tool kits.² The tool kits, which are being used widely by legal aid programs across the country, contain the following:

- *Components of a Communications Strategy to Build Community Support*
- *Summary of the Message Research*
- *Talking Points on Legal Aid Restrictions*
- *Fact Sheet on Legal Aid*
- *Case Studies About How Local Communities Built Support*
- *Six Print Public Service Ads (PSAs)*
- *Press Releases*
- *Tips on How to Frame and Pitch Stories*
- *Tips on Placing Op-Eds*
- *Tips on Communicating with Foundation Funders*
- *Evaluation of Communications Initiatives*
- *PowerPoint Presentation for Use in Talks Before Community Groups*
- *Media Tips (How to Speak and Make Presentations)*

During the past year, Project staff, NLADA and the consultants conducted several trainings using the tool kits, including sessions at the MIE Fundraising Conference and the NLADA Annual Conference. The Project also conducted small group intensive trainings of IOLTA directors, leaders from national advocacy organizations, and executive directors of state and local civil legal aid programs. The intensive trainings focused on media skills and developing strategic marketing and communications plans.

For more information about the *Campaign for Equal Access*, please contact Bonnie Allen, campaign coordinator, at b.allen@nlada.org, (202) 452-0620 ext. 221 or Elizabeth Arledge, NLADA director of communications, at e.arledge@nlada.org, (202) 452-0620 ext. 223.

Footnotes

¹ Belden Russonello & Stewart conducted a series of 12 focus groups and a national poll in 1999 and 2000 to study the public's attitudes, assumptions and opinions about legal aid. The research findings are published in two reports dated May 2000 and November 2000.

² The Project is making one tool kit available free of charge to each organization in the country that provides direct legal services to low-income people, as well as to national and state support or funding entities. Additional kits are available for \$25.00. To order a kit, please contact Bonnie Allen at b.allen@nlada.org

Defender Team

continued from page 20

was editor in chief of the *Law Review*; and her LL.M. from Georgetown University Law Center. While at Georgetown, Clarke was awarded one of four E. Barrett Prettyman Law Fellowships in the Criminal Justice Clinic.

In 1998, Clarke received her SJD from Harvard Law School, completing her dissertation: "From Rebellious Lawyers to Community Defenders: Reconceptualizing the Right to Counsel for the Indigent in South Africa and the United States." Clarke has published numerous articles on criminal justice topics and community-oriented public defense programs. Her current research projects focus on sentencing advocacy, the criminalization of mental illness and problem-solving lawyering.

Please join us in welcoming Carroll and Clarke to NLADA. David Carroll can be reached at (202) 452-0620 ext. 502 or via e-mail at d.carroll@nlada.org. To contact Cait Clarke, call (202) 452-0620 ext. 226 or send an e-mail to c.clarke@nlada.org.

Leadership CAN Be Taught

Strengthening Leadership Skills Will Ensure That More Public Defense Systems Function Efficiently

By Cait Clarke, Director,
NLADA National Defender
Leadership Institute

In 2001, NLADA launched a leadership institute targeted to the indigent defense community. The National Defender Leadership Institute (NDLI) has three primary goals: 1) to provide public defender and assigned counsel leaders cutting-edge management and leadership training programs; 2) to build a national network of defender leaders; and 3) to support research and data collection that informs local, state and national public policy debates.

The first National Defender Leadership Institute event will take place in Santa Rosa, California, in May.

Why is Defender Leadership Training Important?

One of the most difficult leadership challenges facing public defenders and assigned counsel is transitioning from being a trial lawyer to a manager and leader of colleagues and staff. Some defenders who make this transition believe they must abandon their trial skills. Others know that their trial skills are valuable tools that, with training and adjustment, are the foundational skills needed to lead and energize their organizations. No matter what vantage point, leadership skills are necessary to ensure that government programs operate efficiently with the guidance of people who can be held accountable for providing competent services. Leadership training is also important to the development of lasting coalitions among criminal justice stakeholders who can work together more efficiently to improve services throughout the system.

Leadership Can Be Taught

The prevailing view about trial practice until the early 1970s was that a trial lawyer was born, not made—or at least made only through the crucible of learning by experience. The assumption was that the way to develop a strong trial lawyer was to put a young person

ONE OF THE MOST
DIFFICULT LEADERSHIP
CHALLENGES FACING
PUBLIC DEFENDERS
AND ASSIGNED
COUNSEL IS
TRANSITIONING FROM
BEING A TRIAL LAWYER
TO A MANAGER AND
LEADER OF COLLEAGUES
AND STAFF.

in the courtroom and see whether they could survive and flourish. Then came the development of a host of successful, high-quality special trial-practice programs, such as NLADA's Defender Advocacy Institute and the National Association of Criminal Defense Lawyers' trial advocacy workshops.

Leadership education is perhaps 30 years behind trial and appellate practice education, but it draws on many of the same fundamental concepts. Leadership, like litigation, is a set of performance skills guided, driven and disciplined by a powerful theory of the case/challenge and the particular external and internal forces facing the defender and his or her client(s). Leadership, like litigation, requires compelling and persuasive communication skills. Leadership, like litigation, entails a deep understanding of the needs and perceptions of others including judges, juries, police, legislators, defenders, the private bar and the public. Training is the most effective way to develop this understanding.

NDLI Training Programs

NDLI provides training on cutting-edge management and leadership skills. The Bureau of Justice Assistance (BJA) in the U.S. Department of Justice has already invested in developing leadership training programs for both prosecutors and defenders, including the

highly-regarded National Defender Leadership Project (NDLP) of the Vera Institute of Justice. NDLI training programs will build on the success of this and other leadership training programs by reaching a broader audience so that taxpayer investments in these past BJA programs will flourish for years to come.

Coalitions of Leaders and Increased Accountability

Leadership is all about building relationships. Coalition building among criminal justice players is important in today's increasingly complex criminal justice system. Public defenders and assigned counsel increasingly are open to working in cooperation with other criminal justice stakeholders to improve all criminal justice system operations. With the support of strong relationships, effective defender leaders know that a well-run public defense program delivers services to clients more efficiently and fairly. Defenders are aware that problem-solving for their clients and the communities they represent means working well with other key players, such as probation and parole agents, treatment program directors, specialized court administrators, prosecutors, legislators and judges.

The NDLI is supported by major national bar and technical assistance organizations ensuring that public defense program leaders and managers receive broad-based national support and the best leadership training available.

Three Trainings Scheduled for 2002-2003

NDLI will hold three interactive training programs for public defender leaders and managers in 2002-03:

Nuts and Bolts of Management and Leadership primarily emphasizes the managerial dimension of leadership, including office responsibilities and skills for working effectively with staff and other criminal justice stakeholders. Defender managers learn how to address

Defender Advocacy 2002: May 31- June 5

Designing a Winning Theory of Defense

Every aspect of a successful criminal trial depends on having a successful theory of defense. At Defender Advocacy 2002, this year's version of NLADA's Defender Advocacy Institute, attendees will learn how to develop a persuasive theory, use that theory as the focus for successful trial tactics and turn it into narrative that convinces the jury to acquit.

The Defender Advocacy Institute is the only program in the nation where participants spend the entire conference working on their own real cases. It is also the only trial skills program in the nation that focuses on the specific needs of a public defender. It emphasizes small group workshops, where participants learn by doing.

Defender Advocacy 2002 takes place May 31-June 5 in Keller Hall at the University of Dayton Law School, Dayton, Ohio. The curriculum for this six-day training includes the "life experience of voir dire" technique, which enables you to understand how the personal experiences of jurors shape their attitude towards your case. In addition, participants will learn to develop opening statements that persuasively convey their theory of defense and successfully frame the issue for the trial. Other defense instruction will focus on direct examination; cross-examination; use of demonstrative evidence, visual aids and technology; how to plan for and make objections that will keep out prejudicial evidence and advance the theory of

defense; and prepare and practice closing argument techniques that do not just sum up the evidence but also convince the jury that an acquittal is the only fair verdict.

If you are an attorney who represents indigent clients in criminal proceedings and want to take an active role in improving your advocacy skills, this is a training you won't want to miss.

For more information, contact Aimee Gabel, NLADA training and conference manager, at (202) 452-0620 ext. 214 or via e-mail at a.gabel@nlada.org. Or, visit the NLADA Web site at www.nlada.org.

Defender

continued from page 22

administrative challenges including: supervision, coaching, employment law, time management, budgeting, conflict mediation, risk management, information technology, and ethical conflicts. This training program is scheduled for May 16-19 in Santa Rosa, California.

New Leadership will focus on skills development, with an emphasis on external leadership skills. Developmental exercises will be highly interactive. Each leader will think about their own work environment and strategize approaches to build more resources and support for the public defense program. Emphasis will be placed on crafting effective messages and community networking skills. Teaching methods will also include coaching in small groups, role-play situations, peer-to-peer advice, and using the power of storytelling. This training program is scheduled for September 18-22 in Austin, Texas.

Impact Leadership provides a more individualized training for a select number of defender leaders who will bring

their current leadership challenge or a "live issue" that they would like to submit for group analysis. Each participant will leave with a professionally developed plan of action designed to impact a group of stakeholders or generate positive change in a particular area of the criminal justice system. This training program is tentatively scheduled for May 2003.

Training Benefits

NDLI will provide ongoing assistance to support and train defender managers and strengthen networks of support. NDLI teaches managers and supervising attorneys how to:

- *Manage budgets more effectively, improve productivity and evaluate nonlegal staff members.*
- *Use fair evaluations and coaching to improve professional skills and build a competent staff with a strong work ethic and low turnover.*
- *Communicate effectively with the public to assess community problems, identify interests of funding agencies and build lasting criminal justice coalitions.*

Defenders increasingly understand that effective representation of each client requires professional leadership and management in every section of the criminal justice system. Leaders know it is necessary to "professionalize" all levels of criminal justice operations and improve collaborative efforts. NDLI is the vehicle to ensure that fresh ideas in leadership and management training are dispersed regularly among public defense leaders. The work will ultimately improve efficiency and accountability inside public defense programs, and ensure that the amount of justice a person receives in America is not determined by the amount of money the person has in the bank.

For more information about NDLI, see http://www.nlada.org/Training/Train_Defender/, then click on "Leadership & Management," or contact Cait Clarke, director of NDLI, at (202) 452-0620 ext. 226 or via e-mail at c.clarke@nlada.org.

NLADA is also in the planning process for a leadership development initiative to serve the civil justice community.

New PFEJ Study Offers Recommendations for Building Effective State Justice Communities

By Alan Houseman, Director, Center for Law and Social Policy and author of *The Missing Link in State Justice Communities: The Capacity in Each State for State Level Advocacy, Coordination and Support.*”

In a world of increasing devolution of federal responsibility for social programs to the state and local levels, state-level advocacy for the rights and interests of low-income people is crucial. The Project for the Future of Equal Justice, a joint effort by the National Legal Aid & Defender Association (NLADA) and the Center for Law and Social Policy (CLASP), conducted a study of state-level advocacy, coordination and support in civil legal services in 2000-2001. The study was based in part on a detailed questionnaire that was administered by Project staff and recorded electronically and in writing.

The survey revealed that since the loss of \$25 million in LSC funding for national and state support in 1996:

- (1) *A few states have preserved and/or strengthened the capacity for state level advocacy, coordination and information dissemination, have increased training and have developed very comprehensive state support systems that carry out virtually all of the activities inquired about in the questionnaire;*
- (2) *In a number of states, there has been no state level policy advocacy, no significant training of staff, no information sharing about new developments, no litigation support and no effective coordination among providers; and*
- (3) *In a number of states, some state support activities have been undertaken by new entities or carried on by former LSC-funded entities.*

Those activities that do exist vary widely and no generalizations can be made from the information we collected. In some states an existing entity continued to exist but at lower funding. In other states, a new entity was created to replace an existing entity or to work along side an existing entity. In still other states, entirely new ways of providing state level advocacy, coordination and support have emerged.

The results appear in a new report, *The Missing Link in State Justice Communities: The Capacity in Each State for State Level Advocacy, Coordination and Support.*

According to *Missing Link*, the civil legal assistance community is moving toward developing comprehensive, integrated systems of civil legal assistance in every state, known as “state justice communities.” To be effective, these communities must include a range of critical services and a community of advocates, as well as:

- *Advocacy on statewide issues of importance to low-income persons, including statewide litigation and representation before legislative and administrative bodies,*
- *A systematic effort to ensure coordination of all legal providers and their partners in all state-level legal forums on matters of consequence to low-income persons, and*
- *A system to support that advocacy and the advocates and their partners through education, training, research and resource development.*

Seven Recommendations to Help State Planners

According to the Project for the Future of Equal Justice survey, only a few states have developed adequate systems of advocacy, coordination and support. *The Missing Link* offers seven recommendations to help state planners in their efforts to build effective state justice communities:

First, effective and comprehensive state-level advocacy must occur in all areas of poverty law and in all forums, including courts, administrative rule-making and policymaking bodies, state legislative bodies, state houses and executive offices, and other public and private entities that affect the lives of legal aid client communities. A key component of state-level legal representation is policy advocacy, which affects state policy decisions made by officials, legislators and administrators and is key to the fullest representation of the interests of low-income persons.

Second, each state must have a system to coordinate such advocacy and to provide concrete advice and assistance to the lawyers, paralegals and policy advocates undertaking such advocacy.

Third, to develop effective state-level advocacy, including policy advocacy, states must have in place technologically up-to-date monitoring and information dissemination systems. Such systems must have the capacity to monitor, analyze and disseminate information on relevant legal developments for all individual and institutional providers of civil legal services to low-income persons. This includes a state-of-the-art information dissemination network and regular meetings and communications among advocates through statewide task forces, e-mail lists, audio conferences and other methods. These information dissemination and communication systems are essential to ensure that policy advocates know what is really going on at both the state and grassroots levels and to ensure that civil legal assistance staff working at the local level are fully informed about critical policy and legal developments throughout the state.

Fourth, states must consider and, where appropriate, develop coordinated statewide education and training activities either within each state or through regional consortia.

continued on page 26

NOMINATIONS OPEN FOR NLADA KUTAK-DODDS AWARDS

DEADLINE APRIL 5

The prestigious Kutak-Dodds awards annually honor the accomplishments of civil legal aid attorneys, public defenders or public interest advocates who, through the practice of law, are contributing in a significant way to the enhancement of human dignity and quality of life of those persons unable to afford legal representation. In commemoration of NLADA's 90th anniversary, the second prize was added in 2001 to recognize the visionaries of both the civil legal aid and public defense communities in the same year.

The 2002 Kutak-Dodds prizes will honor two equal justice advocates, one from the civil legal aid community and another from the public defense community. Each prize carries a cash prize of \$10,000.

Awards Criteria

To qualify for consideration, the nominee must be an advocate employed by or affiliated with an organization serving persons who cannot afford to pay for legal representation in either civil or criminal matters. The nominee also may be an attorney working for a public interest, nonprofit organization. Nominees must have at least 10 years of experience in the public interest law community. Factors that will be considered by the selection committee include:

- Personal vision and commitment;
- Nature of the need(s) addressed by the nominee's advocacy;
- Innovation in the nominee's work;
- Successes achieved through effective advocacy; and
- Difficulty of circumstances surrounding the achievement.

The prizes honor a history of accomplishment and are not intended to fund specific future endeavors. No conditions are imposed on the recipients expenditure of the cash prize.

Nominations Process

To nominate a distinguished colleague for the 2002 Kutak-Dodds Prizes:

1. Prepare a statement of no more than five (5) double-spaced pages containing highlights of the nominee's career as well as additional reasons you feel he or she deserves the award.
2. Attach the nominee's resume and the names, addresses and telephone numbers of three persons who have agreed to verify the nominee's accomplishments.
3. Forward six copies of the nomination package to the Kutak-Dodds Selection Committee, NLADA, 1625 K Street, NW, Suite 800, Washington, DC 20006-1604.

Nominations must be received by Friday, April 5, 2002. The winners will be honored at NLADA's 12th Annual National Awards Dinner on May 30 in Washington, DC.

The Kutak-Dodds prizes, established in 1989, are jointly sponsored by the Robert J. Kutak Foundation and NLADA. They are given in memory of Robert J. Kutak and Kenneth R. Dodds, former partners in the Omaha, Nebraska Office of Kutak Rock, who were practitioners and advocates of public service, legal education and high ethical standards throughout their lives. In addition to legal services for the poor, the Kutak Foundation supports education in professional ethics, minority scholarships and a variety of other public interest projects. The Foundation is maintained entirely by Mr. Kutak's friends and associates.

For more information, contact NLADA Development Director Mizue Suito at (202) 452-0620 ext. 217 or via e-mail m.suito@nlada.org.

Justice for All

continued from page 4

and (b) collaborate more effectively on a nationwide *justice for all* movement. The meeting built on an earlier meeting held in May (and reported in the Fall 2001 *Cornerstone*), at which state and local equal justice leaders shared their visions and strategies with one another.

Groups and constituencies represented at the meeting included: state equal justice leaders, National Legal Aid & Defender Association, American Bar Association, Legal Services Corporation, National Association of IOLTA Programs, Management Information Exchange, Power of Attorney, Equal Justice Works, Center for Law and Social Policy, NLADA/CLASP Project for the Future of Equal Justice, Pro Bono Institute, National Center on

Poverty Law, Brennan Center for Justice, state courts and national legal services support centers.

Since October, participants from the organizations represented at the meeting have been partnering to focus on growing the non-LSC federal resources; to create a national leadership for justice institute; to promote more “effective futures” for clients through civil rights and racial justice advocacy; to support the use of evaluation methodologies and tools in support of expanding and improving access to justice; and to develop the public awareness “Campaign for Equal Access: Bringing Justice Home.”

Excerpts of the vision statements can be viewed on the NLADA Web site, http://www.nlada.org/Civil/Civil_EJN/jfa_statements. The initiatives developed will be posted on the Web site

and reported in the *NLADA Cornerstone*.

If your state’s or community’s equal justice leadership group would like to submit its vision or goal statement for posting on the Web site, please send it by e-mail to Martha Bergmark (m.bergmark@nlada.org) or Bonnie Allen (b.allen@nlada.org). We believe this is an important part of the exciting work of all of us during this decade. We look forward to hearing from you.

Litigation & Advocacy Directors’ Conference

June 23-25
(See page 2.)

PFEJ Study

continued from page 24

Fifth, state justice communities must make a commitment to raising new funds and reallocating existing funds for state-level advocacy, including policy advocacy. The entity carrying out the advocacy must be an aggressive fundraiser at the state, regional and local level. It is not likely that a national fund-raising effort focused on national foundations (as opposed to local, community and regional funders) and linked to civil legal assistance will result in substantial funding for state-level advocacy.

Sixth, states must consider and, where appropriate, develop other critical coordination and support functions that may include: coordination and dissemination of community legal education information; coordinated statewide research; administrative coordination and support; coordination with other advocacy groups; and, coordination with other states, with national civil legal assistance organizations and with national substantive policy institutions.

Seventh, structure does matter. The experience over the last 30 years of state support demonstrates that, on balance, independent entities with independent boards of directors not dominated by

local program project directors have been more effective at raising funds and providing these critical advocacy and support functions than coordinating entities controlled by local program project directors. Our recent survey confirmed that states with the most effective state level advocacy and with the most comprehensive system of coordination, information dissemination and support have independent state advocacy entities or non-LSC funded statewide civil legal aid programs at the center of these activities. There is not, however, one approach to successful state-level advocacy and support. A few states have developed effective state-level advocacy and support as a component of a statewide legal services program. A few other states have developed effective mixed systems involving both an independent provider of state-level advocacy funded with non-LSC funds and a separate state support funded with LSC funds.

To summarize from the report: because of devolution and other policy and legal developments, state level advocacy, including policy advocacy, is more important than ever before. In addition, critical functions of coordination, information dissemination and support must be available to all legal advocates in each state. While a few

states have developed and funded these capacities to an effective level of activity, most states have not, and a few are doing virtually nothing. This must change. State planners, the bar and key civil legal assistance leaders in each state must provide the leadership to ensure that there is effective state-level advocacy, including policy advocacy, in each state and that each state moves toward a comprehensive and efficient system of coordination, information dissemination and support to all legal advocates providing civil legal assistance to low-income persons. While there are various paths to achieving the necessary level of state advocacy, coordination, information dissemination and support, we know what works well and what does not work. It is time to act.

An electronic version of this report is available on the CLASP Web site at www.clasp.org or the NLADA Web site at www.nlada.org and a hard copy can be obtained from Nancye Lamb of CLASP at (202) 906-8047 or via e-mail at nlamb@clasp.org.

securing a better future for programs and staff securing a better future for clients **Leaders...**

securing a better future for the courts
securing a better future for the legal profession

Don't Miss the 4th Annual **ABA/NLADA Equal Justice Conference**

April 18-20, 2002 in Cleveland, Ohio

The Equal Justice Conference

*brings together all
components of the legal
community to discuss
equal justice issues
including client-based
service and
strengthening
partnerships among the
key players in the civil
justice system.*

*Through plenary
sessions, workshops,
networking opportuni-
ties and special
programming, the
conference provides a
wide range of learning
and sharing experiences
for all attendees.*

Main Conference - "The Legal Community: A Leader in Working to Secure a Better Future"

The 2002 conference will focus on securing better futures for our clients, for programs and staff (so as to better serve our clients), for the courts, for the legal profession and for society. The conference will explore the partnerships that must be created, the resources that must be tapped and the new issues facing clients. These discussions will take place in the context of a changing society — one seeking to respond effectively and appropriately to threats to our clients' personal and economic security while working to expand opportunities for all to prosper. A wide range of topics will be covered in the 80+ workshops.

Pre-Conference Sessions

The following special pre-conference sessions are available to those who register for the main conference:

- Nuts & Bolts for New Pro Bono Managers ("New" means one year or less. \$100 fee. Space is limited.)
- Law School Pro Bono Nuts & Bolts — Will address the unique aspects of operating and expanding a law school pro bono program. (No extra charge.)
- Beyond the Basics: Management Techniques for Experienced Pro Bono Managers (No extra charge.)
- Evaluation Program — For program directors, managers, funders, and anyone else interested in learning more about evaluation as a tool to achieve program excellence, not just as a response to funder requirements. (\$100. Space is limited.)
- In addition, MIE is offering its New Executive Director Training and Working with Boards of Directors & Volunteer Leadership

Affinity Groups

To insure that people working in similar settings have an opportunity to get together and share experience and develop solutions to common problems, the conference includes special time set aside on Thursday morning for "Affinity Groups" to meet. These are self-selected groups of people who work within a particular delivery sub-system, who focus their work on particular delivery mechanisms, or who focus their work on a particular substantive area.

Partners for Justice Forum

For the fourth year, a special forum will be offered (Friday, April 19; 9 am to 3 pm) for those who, as private and public sector leaders, are committed to improving access to justice.

The Partners for Justice Forum program is designed specifically to give bar association volunteer leadership, bar association executive directors, corporate counsel, funders, law school representatives, judges, government attorneys and law firm partners an opportunity to network with their colleagues from around the country and to meet stakeholders from other areas of the legal profession who share a commitment and interest in improving access for persons of limited means.

Registration Fees

- Basic **\$400**
- Law Students **\$100**
- *After 3/29 register on site - registrations will not be accepted by mail or fax.*

Discounts are available to programs registering more than three people.

Team Discount: A 20% discount is offered to each member of a "team" from the same state with at least one person in each of the following categories: legal services staff; pro bono manager; bar association president or president-elect; pro bono committee chair or legal services chair; and judge.



For more detailed information and to register on-line:

www.abanet.org/legalservices/ejc or www.nlada.org/Training



Non Profit Org
U.S. Postage
PAID
Permit No. 6203
Merrifield, VA

WWW.NLADA.ORG

1625 K STREET NW

SUITE 800

WASHINGTON, DC

20006

(202) 452-0620

PRINTED ON RECYCLED PAPER

Cornerstone • Volume 24, Number 1 • Spring 2002

Insuring Equal Justice

As a member of the NLADA community and its risk-purchasing group, you have access to the NLADA Insurance Program's wide array of professional liability products designed to meet the unique needs of the NLADA membership community. As a risk-purchasing group, the NLADA Service Corporation was created to work with an outstanding underwriter and broker to meet your needs at the highest level of quality and the most affordable premiums. Formed in 1994, the program currently serves more than 650 organizations and individuals.

The NLADA Insurance Program offers you . . .

- Economy and Quality
- Responsiveness to Members' Needs
- Investment in the Equal Justice Community
- Risk Management Training
- Courteous, Efficient Service

For more information, please contact: NLADA Insurance Program



1625 K Street NW, #800 • Washington, DC 20006
(202) 452-9870 • (800) 725-4513 • FAX (202) 452-9879
E-mail servicecorp@nlada.org www.nlada.org