

## Terrorism Casts A Long Shadow Over NLADA Community

By Don Saunders, Director,  
NLADA Civil Legal Services, and  
Scott Wallace, Director, NLADA  
Defender Legal Services

As the NLADA Board of Directors has recognized in its November 7 resolution (See page 11), the terrorist attacks of September 11 are having profound effects on our members and their client communities.

Job losses, dislocation and wage cuts have not only placed difficult burdens on support mechanisms for low-income people, but are exerting upward pressure on crime rates. (See related story, page 14)

At the same time, budget cuts throughout all governmental functions are forcing offices to do more with less. Yet, in these harsh and intolerant times, digging deep to find extra resources to defend “those people” does not appear to be high on many political priority lists.

The threats to civil liberties are everywhere. The country’s desperation to be made safe again, and to tear down every barrier to punishing evildoers, continues to spur policymakers and justice leaders to seek new ways to toughen laws and sidestep fundamental rights and procedural protections.

### The Impact on Defender Legal Services

#### Broad, Antiterror Crackdowns

Within days of the attacks, New York State had passed a sweeping new anti-terrorism package of criminal law

amendments, creating new offenses and imposing tough penalties, including the death penalty, for offenses or hoaxes related to terrorism, plus expanded surveillance authority. The next day, the governor of Alabama promised to do the same. Other states, like Illinois, Florida and Michigan are following. Death penalties have been proposed in Iowa, one of the 13 states with no death penalty. The most recent action at press time was approval of comprehensive legislation in North Carolina.

The governor of New York has proposed a second wave of terrorist legislation. It would punish use or possession of “biological, chemical or hazardous

weapons” – defined broadly enough to cover nicotine, excrement or blood. No terrorist intent is required; “reckless deployment” will suffice – e.g., recklessly driving a truck containing such a substance – and the sentence would be mandatory life imprisonment. The bill also would remove any statute of limitations on terrorist offenses, allow roving wiretaps, Internet searches, and a good-faith exception to the exclusionary rule, and eliminate the requirement for corroboration of accomplice testimony.

Some of the state ramifications are unplanned. Connecticut defenders

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*"We all know, America is, has been and will be America – forever. Only, because of its freedom, because of its peace, because of our own individuality, because of our own diversity, because of our Constitution, because of our laws, because of our policies, because of the American people – each and every one of them. We know it and must, shall, support it. If, in the face of terrorism, we chip away at what makes and has made America, if, in the face of terrorism, we tear the fabric of our great country, if, in the face of terrorism, we break down the very foundation built by our ancestors - the structure of our present nation, then we have lost the fight; we have given up. America will be akin to the countries that we still so desperately want to show and make understand what American freedom means...Americans must hold firm and believe in our Pledge of Allegiance, in which we declare, liberty and justice for all."*

— Chesterfield Smith, founding partner of Holland & Knight LLP, in his keynote address to the opening session of NLADA’s annual conference, November 7, 2001.

**NLADA’s Civil and Defender policy groups met November 6 and discussed an appropriate response to the aftermath of the September 11 terrorist attacks. At its meeting November 7, the NLADA board adopted a resolution, which appears on page 11.**

# MESSAGE TO MEMBERS:

## Resolving to "Spread the Message" in these Extraordinary Times

By Jo-Ann Wallace  
Chief Counsel, NLADA Defender  
Legal Services



Several years ago, as chairperson of the NLADA Defender Council, I had the pleasure of writing the "Message to Members" for Cornerstone as

the holiday season approached. It began:

"I have always loved traditions, including focusing on my New Year's resolutions as the year comes to a close. ... I have refined my personal version of this ritual over many decades. In the process I discovered that I increase the likelihood of ending the year with a sense of pride in my accomplishments, rather than sheepishly trying to remember what I resolved, if I share my resolutions with as many people as possible. It is the same motivational theory – avoiding potential humiliation – that encourages sharing with the world the fact that you are quitting smoking. Thus developed the idea of writing one of my resolutions in *Cornerstone* and sharing it with the entire membership of NLADA. Accordingly, I resolve in 1999 to pursue at least two new collaborations."

Having successfully continued in "collaboration mode" in 1999 and thereafter, and frankly with no memory of any resolution I made since the one I spelled out in *Cornerstone*, I am more convinced than ever that the "announce-it-to-the-world" theory of successful resolutions is a good one. And, it is that time again.

In 2002, I resolve to "spread the message."

Polls recently conducted on defender and civil legal services issues tell us that there are ways to explain our work to the

public that enables them to understand what it is we do and why it is important, and to garner their support. We would all erase the events of September 11 if we could go back and change that tragic day. But as the dust settles, opportunities to use this research to educate and persuade rise from it.

### Extraordinary Opportunities

In the zeitgeist of these extraordinary times many of the conditions that lead to effective communications, conditions that one would otherwise have to work to create, already exist. This is an emotional time. And, as we teach the defenders all the time who attend NLADA training: emotions move people; emotions motivate people. A powerful message combined with moving emotions has twice the impact. This lesson came home to me as I delivered a funeral address for a beloved member of our local public defender community who died tragically in an automobile accident. As I ended my eulogy trying to capture what our former colleague meant to us all, I stated that she was "the personification of equal justice." That although she was not an attorney, her life reflected her deeply held belief that the quality of justice people receive should not be determined by the amount of money they have. I was unprepared for the explosion of applause from the packed-to-the-rim church on this somber occasion.

As the researchers at Belden, Russonello & Stewart always remind us, people process information through a basic value system. Right now, the whole country is debating its values in a way that few events promote. The bombing of Pearl Harbor; the assassination of a president; and, for the African American community and many others, the assassination of Martin Luther King Jr., were such triggering events. September 11 was another. Not only in Washington, DC, and New York, but "from sea to shining sea," Americans are re-examining, and talking about their

values. And, they are expressing over and over the values that underlie our most powerful messages: fairness and justice.

The impassioned debates over confederate flags remind us that flags are powerful symbols – not all of them positive. As my four-year-old began to ask me questions about flags, "Why does everyone have flags up? What do the flags mean?" I knew I had an unusual opportunity to guide his understanding of what our flag represents. Adults, too, are asking questions as they try to figure out what it means to be an American and why, for the first time in a long time, most of us are so glad we are.

### Our Own Brand of Patriotism

During a discussion of September 11 at a gathering of New England defender managers, one person said that we need to define "our own brand of patriotism." I agree.

The essence of being an American is freedom from tyranny. That driving

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# Building A New Generation of Public Interest Lawyers – The Debt Burden Challenge

By Don Saunders, Director,  
NLADA Civil Legal Services

Much has been written lately about the “graying” of legal services. Being a gray-hair myself, I can look back with pride at being a part of a generation of lawyers and advocates who have devoted their entire professional careers to public interest practice. We have grown together, established friendships, built enduring networks and exchanged ideas and strategies that have made us more effective advocates for the clients we represent. We think of ourselves as a movement driven by common goals and can point to a large number of accomplishments for clients that fully validate our decisions to pursue a public interest career. The Reginald Heber Smith fellowship program represented a community-wide recognition of the importance of making it possible for law students to devote their careers to legal services work.

I joined this network as a law school graduate in 1975 making something like \$12,500 a year, a ridiculous sum even then. I also graduated with very little debt from an in-state university. The tuition for my university has increased over 800% since I graduated. Had I graduated from the same university last year with no outside financial support, I might well have been faced with a law school debt of over \$50,000. Many students graduate with significantly higher debt.

A number of trends have led to the tremendous escalation of the student debt burden over the last 20 years. Many states have ratcheted down their support for public education, resulting in current averages of in-state tuition of \$7,800/year and out-of-state at \$15,700. Private institutions now average \$21,800 in tuition. These tuitions have more than doubled since 1987. Many law schools are located in areas where housing and other costs of living have exploded over the last several decades.

*...we as a community face a great challenge in leaving behind a landscape rich with the opportunities to excel in a public interest environment like the one we enjoyed. We cannot ensure the strength and diversity of the next generation without seriously grappling with the issue of student debt.*

The availability of credit to address these spiraling costs has also been greatly expanded. The federal educational loan programs have raised per year availability from \$8,000 to \$18,500 to keep up with escalating student educational costs. The federal programs at least partially subsidize interest rates. Much student debt is from private, unsubsidized lenders. Students now receive numerous credit card solicitations – even in high school. Most college students are deluged with applications. Some students even finance their tuition on credit cards, at exorbitant interest rates.

The current total outstanding law school debt in this country is \$2.08 billion, or an average of \$20,000 per full-time student. Many law school graduates face debts between \$60,000 - \$100,000 upon leaving school. According to information developed by the National Association for Public Interest Law, students who have educational debts of \$80,000 generally face payments of more than \$900 per month for 10 years after graduation. Research indicates that most people cannot set aside more than 10 percent of their annual income for loan repayments. Using that figure, lawyers would have to make \$110,000 per year to pay off their loans in the usual 10-year period allotted for repayment. Of course, legal services and indigent defense programs hold no hope for anyone facing such a debt burden.

The upshot of spiraling costs and the necessity of student debt has been a deepening of the debt burden problem over the last decade to the point of eliminating the possibility of a public interest career for many of the best and brightest law graduates who hold the key to the health of our community. While current statistics are inadequate to define the exact need, much anecdotal evidence suggests that many law students who enter law school committed to a public interest career leave frustrated and angry at the financial realities that force them into higher paying pursuits.

This is a critically important issue as legal services and indigent defense providers struggle to increase the diversity of their workforces. Debt burdens pose a particular problem for law graduates of color. Again, statistical evidence is scarce, but, anecdotally, programs across the country have articulated a serious problem in attracting and keeping minority lawyers. Kerry O'Brien, a law graduate participating in Georgetown's Loan Repayment Assistance Program (LRAP), highlighted this point recently in testimony before ABA's Commission on Loan Repayment and Forgiveness. O'Brien is the director of advocacy for the DC Employment Justice Center, a nonprofit representing low-income people with employment problems. In a city as diverse as Washington, DC, O'Brien expressed her deep frustration in seeing most attorney recruitment pools for the Center consist of spouses (mostly women) married to a high-income partner. She attributed this problem almost entirely to student debt.

With the ongoing, deep impact of poverty on traditional communities of color in this country, and the tremendous growth in the immigrant population in the United States during the last decade (now over 30 million people, or 11 percent of the population), no issue facing our community is more important than hiring a diverse workforce capable of understanding the needs of these various communities.

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## Debt Burden Challenge

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Thus, we as a community face a great challenge in leaving behind a landscape rich with the opportunities to excel in a public interest environment like the one we enjoyed. We cannot ensure the strength and diversity of the next generation without seriously grappling with the issue of student debt.

### What Can Be Done

The good news is that the growing impact of the problem has energized a number of responses at various levels and holds the promise for some concrete steps to address it. Robert Hirshon, president of the American Bar Association (ABA), has made this a priority of his year as president. He has appointed a blue ribbon commission to look at specific steps the organized bar can take to help. The commission, co-chaired by Curtis Caton, a member of the firm of Heller Ehrman White & McAuliffe in San Francisco and the Honorable Frank Coffin, a senior judge in the First Circuit Court of Appeals from Portland, Maine, held its first meeting in October and has broken into groups exploring strategies at the federal, state and law school levels.

A number of initiatives are underway at the state and federal levels to develop programs that can make it possible for graduates with debt problems to pursue public interest careers.

NLADA has been working on several fronts, including federal legislation relating to public defenders (to match the Perkins loan forgiveness that the Department of Education has already granted to prosecutors) and a special request to the Legal Services Corporation (LSC) to allocate funding to help establish loan repayment programs in every state. NLADA's Civil Policy Group has created a subcommittee, co-chaired by Colleen Cotter from Indiana and Lisa Krooth from New Mexico, to develop a multifaceted response. The subcommittee includes representatives from the staff to the ABA's Commission, the National Association for Public Interest Law (NAPIL) and the National Association for Law Placement (NALP).

Some of the specific initiatives arising from these, and other, efforts around the country include:

**Defining the Problem** As pointed out above, advocates for developing LRAP's are often faced with a lack of specific information defining the scope of the problem. Few recent statistical studies exist providing a detailed analysis of the serious impediment that debt creates for students desiring public interest careers. Together with NAPIL and NALP, NLADA's subcommittee on student debt is developing a professional survey for students and employers for distribution early next year designed to provide as much detail as possible regarding the scope of the debt problem. Readers of *Cornerstone* are urged to take the time to submit the survey and share it with other relevant groups in your community.

**Federal Responses** A number of initiatives to include loan forgiveness or deferral in federal student loan programs, including Perkins, Stafford and others, have failed over the last decade (although the Perkins program contains a cancellation provision for advocates for high-risk children or families with such children that is available for qualifying public interest lawyers). Senator Richard Durbin (D-IL) introduced a bill on June 27, 2001 to provide Perkins loan cancellation for public defenders, although no action has taken place on the bill to date. Student loan relief has been proposed for federal public defenders, in the Federal Courts Improvement Act (HR 2522, section 210).

A number of groups are studying possible relief under the Stafford loan program, covering graduate school students, but the political challenges associated with these efforts remain quite significant. Another initiative being studied is the possibility of eliminating the taxability of payments to help with student debt, as opposed to forgiveness programs, the taxability of which has been eliminated in some cases.

One area mentioned at the first meeting of the ABA commission was the Federal Income-Contingent Repayment program. This legislation, enacted in 1993, was incidental to the federal government's creation of its direct educational lending programs to compete with the private sector. This initiative

was coupled with President Bill Clinton's election and early focus on national service to create a program intended to directly encourage public service through debt relief. The legislation is on the books but seldom used.

Professor Philip Schrag of Georgetown Law School published an excellent article on the potential of the program in the spring 2001 issue of the *Hofstra Law Review* (29 *Hofstra Law Rev.* 733-862). Schrag points out the problems with the program, regulatory in nature, and outlines some strategies to fix it. Schrag presented testimony before the ABA commission, and many groups are studying methods to implement his strategic vision of the potential for the program.

Finally, NLADA and LSC have initiated conversations regarding steps that LSC can take to nurture the development of loan repayment programs among its grantees. NLADA's budget mark for the FY 2003 LSC budget included a request for \$17 - \$22 million to address debt problems and pensions. LSC board and staff have indicated their commitment to addressing the issue in the future, tentatively including at this point a budget request of \$7 million for student debt relief in its FY 2003 request.

### State and Local Initiatives

A lot is happening at the state and local levels. Many states are working on developing or expanding loan repayment assistance programs. In some, only law school resources are focused on the problem (although 70 percent of law school resources for debt relief come from six predominately elite law schools). Other states (e.g., Arizona, Maryland, Minnesota, New Hampshire, North Carolina) have developed comprehensive approaches, utilizing law school resources, private contributions, IOLTA support and state legislative initiatives to try to package a program with sufficient depth to address the need.

The Minnesota program is recognized as one of the most comprehensive. Driven initially in the late 1980s by students wanting to work in public interest, the program today assists graduates of all three Minnesota law schools working anywhere in the country in

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# Washington Watch - Civil

## LSC Appropriations

Final Congressional approval for the Legal Services Corporation's (LSC) FY 2002 budget was given in November. The Senate passed the conference report on the Commerce, Justice, State (CJS) appropriations bill (HR 2500) on November 15 by a vote of 98-1. The House passed the report on November 14 on a 411-15 vote. The \$41.6 billion measure includes \$329.3 million for the Legal Services Corporation, an amount identical to that funded in FY 2001.

LSC has sent a revised FY 2003 budget request to the Office of

Management and Budget (OMB). Scaled down from \$396 million to \$375 million, the specific line item amounts of the budget have not been finalized. LSC adjusted the amount after receiving word from OMB that it was expecting agencies to cut their spending in FY 2003 by 5 percent.

## LSC Board Appointments

To date, the Bush administration has not sent names of nominees for the LSC Board to the Senate. The terrorist attacks of September 11 have slowed down the FBI checks of potential candidates. It is unlikely that the Senate

Health, Education, Labor and Pensions Committee will hold a hearing on the nominees this year even if the Senate receives the names before the end of this session.

## VAWA

The FY 2002 CJS bill also includes \$40 million for the Legal Assistance to Victims (LAV) grant program funded by the Violence Against Women Office of the Department of Justice. The FY 2002 amount is an increase of \$9 million over the FY 2001 appropriation.

## Debt Burden Challenge

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public interest and, importantly, also serves graduates from outside the state working in Minnesota. Foundation money, support from the Minnesota State Bar, the IOLTA program and student-led fundraising drives have created a strong base for future expansion of the program. Unfortunately, efforts in the state legislature have yet to prove successful.

State legislative approaches have gained momentum in other states in recent years. North Carolina and Maryland currently provide legislative support for LRAP programs. Texas and California recently passed authorizing legislation for LRAPs, although neither state has provided actual state appropriations to support the programs to date. Legislative efforts have also been tried or are currently underway in New York, Maine, Georgia, Florida, Illinois, Arizona and Washington. A number of these initiatives have proven unsuccessful to date, but advocates in those states and others are busy building the necessary coalitions and political support that promises more success in the future.

The other area of increased emphasis at the state and local level is the creation of employer-based programs. Georgia Legal Services has had such a

program since 1976. Others, including Atlanta Legal Aid, Greater Boston Legal Services, Eastern Michigan Legal Services in Flint, Community Legal Services in Phoenix and Bay Area Legal Aid in San Francisco, have established, or are in the process of establishing, loan repayment programs within a legal services context using program resources in combination with other resources.

A number of challenges face these programs, including the taxability of benefits, competition with needs of other staff, the interrelationship between salary levels and the need for loan-related assistance, union contracts and other issues. Yet, most of these programs have successfully addressed these problems and have seen substantial benefit in the form of more diverse recruiting pools and the ability to retain newer lawyers facing significant debt.

Much more conversation needs to take place within the legal services and public defender community regarding ways in which employers can help address debt burden along with the other key stakeholders within a state.

All states are currently engaged in extensive statewide planning that involves a variety of these stakeholders relevant to the establishment of a state loan repayment initiative. No other issue should be more important in these processes if we hope to lay the ground-

work for a successful future delivery system.

NLADA is committed to moving this dialog forward with our many partners to ensure a bright future for civil legal assistance and indigent criminal defense. Our survey is an important first step. We need to solidify the statistical data suggesting unequivocally that debt is a determining factor in students' career choices.

NLADA will also continue to focus on the issue in our various conferences, in our advocacy and to serve as a clearinghouse for information for our members about important developments and successful strategies. We are excited about the ABA initiative and will work closely with the ABA to maximize the potential of the private bar in fashioning responses.

To complete the generational analogy, those among us who began this work many years ago continue to view the world too often under the color of the realities that existed when we began our public interest careers. I am convinced that there are just as many bright, diverse and committed law students across the country that are as devoted to the pursuit of justice as we were and remain. One of the most important legacies we can leave behind is a landscape that allows these dreams to become realities.

# LSC State Planning Task Force Report Adopted with One Change

The following is excerpted from the November 20, 2001 issue of *NLADA Update*.

At its November meeting, the Legal Services Corporation's (LSC) Board of Directors adopted the report of the Task Force on State Planning and Reconfiguration with one amendment. The amendment affects the weight that LSC staff should give to plans submitted by Designated State Planning Bodies (DSPB).

The task force report documents the codification of LSC's standards and procedures of state planning. The one contested issue contained in the task force report centered around language in the preface that declared that LSC staff should not substitute its judgment for that of a state with regard to configuration proposals submitted by a DSPB without "compelling and substantial reasons" to do so. LSC Vice President for Programs Randi Youells, while supporting in general the report of the task force, argued forcefully that such a standard unduly restricted LSC from performing its statutory responsibilities for making grants and argued that a "rational basis" standard should apply.

Jonathan Ross, chair of the ABA's Standing Committee on Legal Aid and Indigent Defendants (SCLAIS) and Don Saunders, NLADA's director of civil legal services, addressed the board in favor of the higher standard. Both Ross and Saunders emphasized the importance of giving the greatest respect to decisions made at the local and state levels in developing strong and enduring state justice communities. They also recognized that other language might be found to underscore this point beyond the task force construct.

In the process of debate, Task Force Chair John Broderick, who is also a member of the LSC board, offered a compromise approach that directed the staff of LSC to adopt legitimate recommendations from a DSPB unless "good

and substantial reasons" exist for a different LSC-drawn configuration.

LSC President John Erlenborn, after strongly articulating his concerns about the "compelling and substantial" language, moved the process along substantially by stating that he could accept the compromise approach offered by Broderick.

In offering his amendment, Broderick stated:

"While Congress has given authority to the Corporation to make grants, it has not told us how we should exercise it. I believe the adoption of a "good and substantial" standard is wise and fulfills our congressional mandate. The standard articulates the value we place in the field in doing our work. A lesser standard would send the wrong message."

Doug Eakeley, chair of the LSC board, in commenting on the amendment, said:

"The board has never been called upon to articulate policies that should govern state planning and reconfiguration. It is important for the board to

adopt this report as its policy. It represents no denigration of the extraordinary efforts of our staff. Rather, it articulates our policy while valuing state planning efforts and the creation of state communities of justice."

NLADA believes that the work of the task force and the articulation by the board of its policy toward configuration decisions is an important step in the evolution of the state planning process. We would like to thank James Head, the NLADA representative to the task force, for his hard work in articulating the concerns of our members. NLADA also thanks task force co-chairs, John Broderick and Ernestine Wallington, for the openness of the process and their willingness to consider the significant input provided by Head and NLADA staff.

A full chronology of related documents, including the task force report adopted by the LSC board, can be found on the Civil Resources page of the NLADA Web site at [www.nlada.org/Civil](http://www.nlada.org/Civil).

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# Two Important IOLTA Decisions Handed Down

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Opinions in two cases related to Interest on Lawyers' Trust Accounts (IOLTA) funding of civil legal aid programs were handed down this fall. On October 15, the U.S. Court of Appeals for the Fifth Circuit reversed the January 2000 District court decision in the case of *Washington Legal Foundation vs. Texas Equal Access to Justice Foundation*. A request for an en banc hearing has been filed in that case. And, on November 14, an en banc panel of the U.S. Court of Appeals for the Ninth Circuit overturned an earlier decision by a three-judge panel of that court in affirming the constitutionality of the Washington IOLTA program under the Fifth Amendment to the U.S. Constitution.

Following are excerpts from the *NLADA Update* reports on each opinion. Both opinions and NLADA's full analysis of the Ninth Circuit opinion are available at [www.nlada.org/Civil](http://www.nlada.org/Civil).

## Fifth Circuit

On October 15, the U.S. Court of Appeals for the Fifth Circuit reversed the January 2000 District court decision in the case of *Washington Legal Foundation vs. Texas Equal Access to Justice Foundation*, finding that the Texas IOLTA program violated the Fifth Amendment of the U.S. Constitution. In a 2-1 decision, Judge Rhesa Hawkins Barksdale, joined by Judge Emilio M. Garza, found that, as administered in Texas, the IOLTA program amounted to a per se taking of client property and entitled the appellants (Washington Legal Foundation) to declaratory relief.

Circuit Judge Wiener dissented, pointing out that the majority failed to address the third prong of the Fifth Amendment test: that there must be a 1) "taking" of 2) "property," 3) without "just compensation" being paid. Wiener points out that the just compensation test is "the crux of the case" and that the client's funds in this matter were not sufficient to earn net interest if placed in a non-IOLTA pooled account.

NLADA has written an analysis

of the opinion (available at [www.nlada.org/Civil](http://www.nlada.org/Civil)) and is in contact with the Texas IOLTA program, the ABA Commission on IOLTA and the National Association of IOLTA Programs to determine the impact of the decision and the next steps planned by the appellees in the case.

The Texas Equal Justice Foundation has requested an en banc review of the decision.

## Ninth Circuit En Banc Opinion

On November 14, an en banc panel of the U.S. Court of Appeals for the Ninth Circuit overturned an earlier decision by a three-judge panel of that court in affirming the constitutionality of the Washington IOLTA program

under the Fifth Amendment to the U.S. Constitution.

Judge Kim McLane Wardlaw wrote the opinion on behalf of a 7-4 majority of the court. Judge Wardlaw's opinion reaffirmed the earlier district court decision upholding, on other grounds, the validity of the Washington IOLTA program under the Fifth Amendment. That decision was overturned by a three-judge panel in *Washington Legal Foundation v. Legal Foundation of Washington*, 236 F.3rd 1097 (Ninth Cir. 2001), holding that the IOLTA program was a per se taking of client property. The en banc panel's decision finds no Fifth Amendment violation and remands the case to the district court for consideration of the appellant's 1st Amendment claims.

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## Message to Members, *continued from page 2*

goal is, after all, what started all the commotion that resulted in the formation of this country. Much of the development of our democracy has been consumed with establishing fair processes that will prevent us from ever being subjected to such tyranny again. And if due process is what forms a protective moat around the foundation of our society, the right to counsel provides the drawbridge that lets one enter. The September 11 attacks were attacks on all of us; they were attacks on our democracy. A fair justice system lies at the core of our democracy and access to counsel is the linchpin of that system.

A former colleague of mine at the Public Defender Service for Washington, DC, said to me recently, "We have always been the true patriots; the role we play to uphold justice means that the intense patriotism that many others are feeling for the first time in their lives has always been a part of who we are." Although he was referring to his time spent as a public defender the same holds true for those who are the gateway to justice for the poor in civil matters.

## Powerful Drumbeat

At the end of "How the Grinch Stole Christmas" the Grinch hears a tiny sound that turns into an uproariously gleeful song that ultimately convinces him of the true meaning of Christmas. Like a constant drumbeat that grows with each added stroke, I believe our message about what patriotism really means can reverberate to the same levels as the voices of those tiny "Whos" in Whoville. Without a doubt, we have our work cut out for us. Proposals that capitalize on our worst fears and trample the underpinnings of democracy in the name of public safety continue to sprout up. We know better. Those of us who have dedicated our lives to protecting the due processes of law and ensuring access to justice understand that our freedoms are our security.

Spread the message.

And have a safe and Happy New Year!

# NLADA Honors Five Individuals at Annual Conference

Each year at its annual conference, NLADA has the high honor of recognizing distinguished men and women for their commitment to the equal justice community. These awards, among the most prestigious in the equal justice community, represent the great strides and advancements made by individuals in ensuring access to justice for all Americans. This year's awards dinner, in Miami, was attended by more than 300 equal justice leaders from across the country.

The five awards given this year were: the **Reginald Heber Smith Award**, given to Mary Ann Tally of the Center for Death Penalty Litigation; the **Charles Dorsey Award**, which went to Robert Spangenberg of The Spangenberg Group; the **Mary Ellen Hamilton Award**, given posthumously to NLADA board member and Client community leader Gladys Barnes of Gadsden, Alabama; the **Clara Shortridge Foltz Award**, which went to the Youth Advocacy Project in Boston, Massachusetts; and the NLADA-sponsored American Council of Chief Defenders' (ACCD) **Robert F. Kennedy Award**, given to former U.S. Attorney General Janet Reno.

## Reginald Heber Smith Award

The Reginald Heber Smith Award also known as the "Reggie" celebrates the outstanding achievements and dedicated services of an attorney for contributions made while employed by an organization providing civil legal services or indigent defense services. Tally, director of the trial assistance unit for the Center for Death Penalty Litigation, Inc., in Durham, North Carolina, is nationally recognized as a leader in the defense bar and as a keen strategist in the trial of capital cases. She has dedicated 27 years of service to the advocacy rights for the poor and disenfranchised in our society and has tirelessly advocated on behalf of capital defendants.

"Tally's demonstrated and fearless advocacy has served as a shining exam-

ple to all who are committed to providing a system of equal justice for the poor citizens of North Carolina," said Kenneth Rose, director of the Center for Death Penalty Litigation. "Her generosity of spirit and tireless devotion are unparalleled."

## Charles Dorsey Award

The Charles Dorsey Award is given to an individual who has provided extraordinary and dedicated service to the equal justice community or to an organization that promotes expanding and improving access to justice for low-income people. Spangenberg, president of The Spangenberg Group in Newton, Massachusetts, has dedicated more than 35 years to the study and improvement of the delivery of legal services to the poor in the United States and is nationally recognized as one of the foremost authorities in his field. His efforts have included creating one of the first in-court clinical law programs in the country and assisting in the design and implementation of the first federal civil legal services program.

"Bob Spangenberg is among the rarest of individuals," said Harvard Law School Professor Charles Olgetree, Jr. "He possesses unflagging dedication to improving the legal representation provided to low-income individuals. He has the vision, charisma, talent and leadership skills necessary to effect significant improvements in this nation's legal services programs for the poor, all the while earning the blessings and respect of figures in the highest positions of power, including Supreme Court justices, legislators, bar leaders and government officials."



NLADA Client leaders made sure that Mozelle Smith, who accepted the Mary Ellen Hamilton award on behalf of her late aunt Gladys Barnes, felt welcome. (l-r: Lucille Logan, Mozelle Smith, Veda McKnight and Rosita Stanley)



Reginald Heber Smith Award winner Mary Ann Tally with Ken Rose, executive director of the Center for Death Penalty Litigation

## Mary Ellen Hamilton Award

The Mary Ellen Hamilton Award pays tribute to a client who has provided extraordinary service or support to the delivery of legal services to the poor. Barnes, former volunteer executive director of the Gadsden/Etowah County Housing Council of the Community Housing Resource Board in Alabama is fondly remembered and recognized by her peers for her tireless dedication to the equal justice cause. Barnes was a member of NLADA Board of Directors and prior to that on the board of the Project Advisory Group (PAG). In her various positions, Barnes provided the



(l to r): Michael Judge, chief public defender for the Los Angeles County, Janet Reno, former U.S. Attorney General, and Rita Fry, public defender for the Law Office of the Cook County Public Defender in Chicago at the Annual Awards Dinner. Reno was awarded NLADA's 2001 Robert F. Kennedy Award.

for its quality of representation to indigent youth charged in delinquency matters and its exemplary involvement in reforming the institutions that serve the children in the Roxbury and Dorchester communities in Boston.

"The excellence of the Youth Advocacy Project's program is evident in the quality of representation it provides indigent youth aged 12 to 17 charged in delinquency matters, its exceptional involvement in the Roxbury commu-

nity and its commitment to reform the institutions that serve over-policed, underserved children in the Roxbury and Dorchester communities of Boston," said Ken Smith, executive director of YouthBuild Boston.

Since its inception in 1992, YAP has implemented a multidisciplinary approach to its juvenile justice practice with tremendous impact on the children, families and courts it serves. It has no equal in Boston and is viewed as a paradigm for defender programs nationally."

experience and leadership needed to unify the communities she represented and assure that their voices were heard

### Clara Shortridge Foltz Award

The Clara Shortridge Foltz Award, given jointly by NLADA and the American Bar Association, is given to a public defender program or defense delivery system as a commendation for its outstanding achievement in the provision of indigent defense services. The Youth Advocacy Project's (YAP) mission is to protect and advance the legal and human rights of children and to promote their healthy development through active community partnerships. YAP is recognized



(l to r): Andy Steinberg, NLADA board member and executive director of Western Massachusetts Legal Services, Inc., Joshua Dohan, executive director of the Youth Advocacy Project in Boston, and Cathy Bennett, training director for the Committee for Public Counsel Services in Boston, show their Massachusetts pride at the Annual Awards Dinner. Dohan was at the dinner to receive the Clara Shortridge Foltz Award on behalf of the Youth Advocacy Project.



Robert Spangenberg (l), founder and president of The Spangenberg Group, receives the 2001 Charles Dorsey Award from Norman Lefstein, Dean and Professor of Law at Indiana University School of Law.

### Robert F. Kennedy Award

The Robert F. Kennedy Award honors the contributions of a criminal justice system leader other than a defender, whose work acknowledges the critical role the public defense function plays in ensuring fair justice systems. The award, first given last year, is named for former U.S. Attorney General Robert F. Kennedy in honor of his support for quality public defense systems, including shepherding through to passage the nation's first indigent defense statute, the federal Criminal Justice Act. Former U.S. Attorney General Janet Reno was this year's award recipient.

"It was Reno's recognition of the importance of the defense function and the Justice Department's support of indigent defense during her tenure as attorney general that inspired the creation of this award," said Rita Fry, chair of the ACCD's Executive Committee and chief defender for Cook County, Illinois. "Her leadership has had a profound impact on public defense and on the fairness and effectiveness of this country's criminal justice systems that will be felt for decades to come."

As the nation's first female attorney general, Reno headed the

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## Terrorism

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report that indigent clients, especially juveniles, are being fined and arrested for not making court appearances because of a new policy that forbids entrance into the courthouse without proper government-issued photo identification.

At the federal level, Attorney General John Ashcroft demanded and got prompt passage of broad terrorism legislation. The hard-to-vote-against “USA PATRIOT Act” (P.L. 107-56, signed October 26) contains the vast majority of the offenses, penalties and powers that Ashcroft asked for – a grab-bag of proposals previously shot down in Congress, many applying not just to terrorism but to all criminal cases. The legislation includes: an expanded definition of “terrorism” offenses; surveillance and searches to be authorized in secret and under looser standards applicable to foreign intelligence searches; more law enforcement discretion to obtain warrants to search electronic communications, in all criminal cases; secret searches (no advance notice required to subject), in all criminal cases; CIA access to grand jury information; expansions of offenses relating to money laundering, racketeering, and telemarketing fraud; new offenses of computer hacking, interference with mass transportation, “harboring” terrorists and “domestic terrorism”; numerous increased sentences; indefinite detention of alien “terrorist” suspects; and lifetime supervision of individuals who have been released from prison following completion of a sentence for a terrorism-related offense.

The much-touted sunset provisions in the federal legislation – proposed first by NLADA – were, in the end, attached to only a few surveillance provisions, and extended from 18 months to four years.

Additional bills are progressing through Congress, covering issues such as hoaxes and bioterrorism.

The most disturbing developments at the federal level have been unilateral actions by the executive branch. As shocking as was the announced plan to eavesdrop on communications between

*“The aftermath of the September 11 terrorist attacks presents a challenge for us all. Americans are faced with having to look at how we seek to ensure, and will be ensuring the freedoms that make us love America. It is our responsibility to be accountable to make sure the Constitution is alive as we know it 30 years from now. When we look back, we should take pride in knowing that we brought the terrorists to justice and applied the freedoms of this great nation while in the pursuit of due process. As public defenders, it’s important to look at how we get to the truth in everything we do... try to think about what is so magical about the truth and seeking value in the public defender process. Defenders nationwide need to renew efforts in problem-solving and prove that we’ve made substantial progress in this area. For defenders protect our freedoms and are lawyers who sincerely care about people and are not interested in self-promotion.”*

– Janet Reno, Former U.S. Attorney General, speaking at the NLADA 79th Annual Conference Awards Dinner, November 9, 2001

detained terrorism suspects and their attorneys, the administration managed to raise the stakes even higher with its plan to completely bypass the criminal justice system, the Constitution, and the USA PATRIOT Act passed at its insistence only two weeks earlier, by proposing to try terrorism suspects before “military tribunals” within the exclusive discretion of the U.S. Secretary of Defense.

Fortunately, some Congressional representatives who had been willing to acquiesce in the USA PATRIOT Act for unity’s sake found themselves gagging on these end runs. At this writing, Senate hearings are under way, with Ashcroft himself to be called on the carpet in early December. As the drumbeat of criticism grows louder, the prospects grow stronger that Congress will significantly scale back the proposals for military tribunals and attorney-client eavesdropping.

### Budget Cuts

States that were already “hunkering down” for a recession are now feeling the crunch of the fiscal impacts of 9-11, as a fearful populace curbs a wide range of discretionary activities and governments spend billions on security measures. Defenders are bracing for across-the-board cuts that usually have a dis-

proportionate impact on their already underfunded programs. Considering that indigent defense program budgets are all personnel-driven – with the vast majority of resources spent on staff – programs often have no option but to cut positions. And of course, since public defense workloads are driven by uncontrollable external factors, they are likely, if anything, to increase due to sharply increased law enforcement activity.

Budget cuts to indigent defense have been reported all across the country. Most recently, the North Carolina governor ordered a 4-percent, across-the-board cut (assigned counsel budgets are facing a 10 percent cut). The Wisconsin state public defender succeeded in convincing the legislature to reject a similar cut, by a proactive campaign of community education and analysis for budget officials showing that the net cost to the state would actually increase if indigent defense caseloads were shifted from the public defender to private appointed counsel. (Unfortunately, the governor vetoed the bill, and prospects of an override are uncertain.)

In many states, travel and training budgets have been slashed. Special approval is now needed in many jurisdictions to travel anywhere, even within the same state. In Allegheny County,

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NLADA's Civil and Defender policy groups met November 6 and discussed an appropriate response to the aftermath of the September 11 terrorist attacks. At its meeting November 7, the NLADA board adopted the following resolution:

## NATIONAL LEGAL AID & DEFENDER ASSOCIATION Resolution

**Whereas**, the National Legal Aid & Defender Association (NLADA) is the nation's oldest and largest organization devoted exclusively to ensuring access to justice in the civil and criminal legal systems to people living in poverty; and

**Whereas**, the thousands of deaths and injuries resulting from the terrorist attacks on the 11th of September and subsequent bioterrorism are unspeakable tragedies; and

**Whereas**, with an understanding of the need to develop effective countermeasures targeting terrorist activities in this country and abroad, NLADA reaffirms the importance of its basic principles of ensuring fairness, justice and full representation within our legal system, *including the constitutional right to the effective assistance of counsel in criminal cases*; and

**Whereas**, a number of responses to the terrorism threat, particularly the passage of the USA Patriot Act and state terrorism legislation, enhance the need for representation for all persons to ensure that constitutionally protected rights and liberties are not abridged; and

**Whereas**, NLADA abhors the discriminatory treatment in the aftermath of the terrorist attacks directed at persons based upon their national origin, ethnicity or physical appearance; and

**Whereas**, NLADA further recognizes that the need for legal representation will be greatly increased by the economic downturn exacerbated by these events. Thousands of low-income workers, including immigrants and former welfare recipients who are now employed, will lose their jobs and may face the loss of housing, increased consumer problems, decreased family stability, racial discrimination and other problems. They will need essential legal assistance to obtain unemployment insurance, food stamps, welfare and access to health care, to prevent loss of housing, and to address consumer, family and other legal problems; and

**Whereas**, provisions in the USA Patriot Act, such as those allowing for indefinite detention of immigrants, secret searches, lowered standards for surveillance and wiretapping, investigations of domestic organization as "terrorist organizations," coupled with an aggressive federal enforcement effort utilizing a strategy of preventive detention, make adherence to the constitutional guarantee of competent counsel critical in ensuring that the nation does not sacrifice its freedoms in order to protect its democracy.

### **Now, therefore, be it hereby resolved, that**

- *NLADA reaffirms the basic principles for which it stands and will intensify its efforts to ensure fairness in the system of justice for all people, regardless of income, race, ethnicity or immigrant status; and*
- *NLADA will monitor the impact of the implementation of various means to attack terrorism to ensure that basic constitutional principles of representation and fairness, including safeguards against all forms of racial profiling, are therein protected; and*
- *NLADA will assist its member programs, through NLADA-sponsored training events and dissemination of relevant information, to effectively represent and assist persons adversely affected by the events of September 11 in the civil and criminal justice systems; and*
- *NLADA, its members and their partners will strive to meet the challenge of providing full representation and ensuring the development of fair policies for all people affected by the terrorist events; and*
- *NLADA will serve as a national leader and clearinghouse in facilitating the development and exchange of ideas and strategies from both the civil and criminal equal justice communities to address the host of new challenges facing clients and their communities in the aftermath of September 11.*

Adopted by the NLADA Board of Directors this 7th day of November 2001.

## Terrorism

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Pennsylvania, travel for public defender staff is prohibited unless it is court-ordered. The county public defender office, which is under a court-ordered consent decree to provide training, is having a difficult time getting approval to send people to the required training.

### Other Direct Impacts

In Connecticut, public defender offices were closed for an anthrax scare. New types of cases are coming in, including students charged in antiwar protests, with particularly high bail set. Federal defenders are representing the infamous “material witnesses” and Middle Eastern men in preventive detention, and having uncommon difficulty gaining access to clients, charges and discovery. In one California courtroom, a public defender was verbally attacked in a crowded court by a guard upset about her representing accused terrorists. (She calmly responded along the lines of her duty as an American to work together in partnership to bring justice to everyone, and the courtroom erupted in applause.) The Legal Aid Society of New York City had to physically relocate the entire office, which had been just a few blocks from ground zero. Defender managers are on the lookout for signs of stress, overwork, depression and substance abuse among staff.

### Opportunities

Though it is easy for defenders to feel under siege, there is reason for optimism. New polling conducted by the firm Belden Russonello & Stewart for NLADA and the Open Society Institute indicates exceptionally strong national support – across all ideologies and demographics – for the right to counsel, and for adequate funding and national standards. And though the poll was conducted before the terrorist attacks, focus groups and other research done since then indicate that such sentiments related to fundamental American freedoms have subsequently intensified.

As patriotism mushrooms into a proud defensiveness of our rights and freedoms, a backlash can grow against opportunistic policymakers who would

seek to aggregate government powers at the expense of individual rights.

Just as NLADA contributed to the discussion about civil liberties in the debate on the USA PATRIOT Act, it is continuing to encourage a strong role for Congress in questioning the proposals for military tribunals and attorney-client eavesdropping. The Defender section of our Web site is updated daily with information and news items related to these issues. (See [www.nlada.org/Defender](http://www.nlada.org/Defender) for a digest of Defender-relevant news items.) NLADA has also created an area of the site designed to be a one-stop clearinghouse for federal and state terrorism-related developments, and NLADA materials of interest to defenders. This information can be found at [www.nlada.org/Defender/Shared/Terrorism](http://www.nlada.org/Defender/Shared/Terrorism).

Ironically, Defenders may be confronting an unparalleled opportunity to educate the public about their rights generally, and the right to counsel and public defense issues in particular. The polling results will provide valuable guidance about effective messages. The opportunities for effective communication strategies to build support for public defense are great – and the risks of not speaking out may be equally great.

### The Impact on Civil Legal Services

The terrible events of September 11 continue to resonate with all of us. And while their impact on the Defender community may be more immediately evident, the many ramifications on the civil legal services community and the clients and communities we represent are still being identified. However, a number of serious concerns have already arisen that have equal justice leaders across the nation grappling for solutions.

First and foremost, NLADA wants to recognize the heroic response of our colleagues in New York City, particular-

ly Legal Services of New York City (LSNY) and the Legal Aid Society. Even though the main offices of the Legal Aid Society and LSNY’s MFY Legal Services branch were close to the devastation and dramatically affected in other ways as well, staff of both programs fought through the shock and disruption to develop immediate capacity to address the needs of their client communities. Other members of the New York equal justice community supplemented these efforts. Their response makes us all proud. Even so, as Legal Aid Society President and Attorney-in-Chief Danny Greenberg told the Civil Caucus at the recent NLADA annual conference, the civil staff in New York remains on the lookout for the same aftershocks of stress and depression that concern defender providers.

Lessons have been learned from the experience in lower Manhattan, Northern Virginia and the District of Columbia that are useful for other regions of the country. A number of low-wage workers were direct victims



*NLADA Vice President for Programs Martha Bergmark enjoys a light moment with Civil Caucus speaker Danny Greenberg, president and attorney-in-chief/CEO of The Legal Aid Society of New York City.*

in the World Trade Center tragedy, resulting in the provision of a broad range of services, including obtaining death certificates and resolving child custody matters. Legal services providers, together with more than 2,500 private bar volunteers, have worked to address these many needs, but they remain stretched far beyond their capacities.

An even greater need for legal services in the directly affected areas comes

from secondary or tertiary victims. Thousands of low-wage workers are out of jobs, entire systems of day care were disrupted, public assistance was not available to people in critical need. These issues quickly trickled out across America as hotel, airline and other workers were laid off in many communities as a direct response to the attacks.

America's national leadership has not responded effectively to date to the needs of these victims. While many business and industry interests, under cover of the national emergency, have received a kind ear from members of Congress for their concerns, little attention has been paid to the needs of poor people and families thrust into poverty by the disaster. Congress provided \$15 billion in aid and guarantees for the airline industry, but not a penny for the thousands of laid off workers. The current "stimulus" bills working through Congress provide over \$20 billion in retroactive tax cuts for industry and nothing in unemployment compensation for workers.

Civil providers across the country are already feeling the effects of the fallout from the attacks. They are seeing many more low-wage workers and other low-income people facing a number of related legal issues, from consumer problems, loss of housing, racial and ethnic discrimination, domestic violence, need for health care or public assistance and a host of other concerns.

### **Impact on Immigrants**

Immigrants and ethnic minorities in this country are obviously the most directly affected population. Attacks based upon someone's physical appearance or ethnicity remain all too common across the country, as do other abridgments of civil rights. Studies prior to September 11 have shown that immigrants are much more likely to be disadvantaged than natives in poverty rates, lack of health care insurance, food insecurity and linguistic isolation. These problems are likely to be exacerbated in the aftermath of the attacks. As the immigrant population has dispersed across the nation during the last decade, civil providers have developed strategies to reach out more effectively to immi-

*As national policy toward immigrants and immigration continues to harden, ensuring effective representation for immigrant communities faced with invasion of civil rights and liberties, immigration-related problems and other needs becomes more important than ever.*

grant communities, which now total over 11 percent of the total population.

As national policy toward immigrants and immigration continues to harden, ensuring effective representation for immigrant communities faced with invasion of civil rights and liberties, immigration-related problems and other needs becomes more important than ever. Many programs will be hard pressed to meet the need.

### **Other Impacts**

It is too early to predict the overall fallout from all the changes brought about by the attacks of September 11. One immediate, direct impact on low-income people has been the combination of an exacerbated decline in the economy and the major expansion of public expenditures on security and defense-related initiatives. The terrorism legislation that states are passing comes with a price tag, just as at the federal level. These costs come at a time of deepening recession and when many states already face dramatic budget shortfalls.

There is a danger that programs directed at low-income people could be significant losers as states implement deep across-the-board cuts in spending. The danger comes at a time when welfare time limits are expiring in some states and when the Temporary Assistance for Needy Families (TANF) block grant program is being reauthorized. The recession hits following a period of prosperity unmatched in our nation's history. Some areas of the country have enjoyed unheard of unemployment rates below three percent. Thousands of low-wage workers

will lose these jobs and face a need for both a sufficient government safety net and, obviously, legal services for a host of related problems.

And of course, no state is constitutionally mandated to provide funding for civil legal needs. A number of programs across the country are already facing significant efforts to deeply cut state funding for civil legal assistance.

### **Opportunities**

Civil providers are already developing strategies to address the many problems directly or indirectly flowing from September 11. New York and Virginia/DC have had to improvise a number of different approaches. Others have followed. For example, Legal Services of Greater Miami, faced with a deluge of foreclosure work from recently laid off tourism workers, has been negotiating with lenders to provide opportunities for homeowners to preserve their homes through the crisis. The National Immigration Law Center has joined with a host of immigrant rights groups to help strategize and train providers in response to the challenge facing immigrants. Much-needed coalition building and education efforts are underway with groups representing people of Middle Eastern origin.

The information and strategies being devised across the country in response to the challenges presented by the September 11 attacks and subsequent developments will be shared through NLADA conferences and trainings and through the association's external communications. We are also working with Beldon Russenello & Stewart to package a message for state-level advocates involved in campaigns around substantive programs for low-income people or state funding for legal services. Specific technical assistance and advice will be provided in support of state advocates involved in these campaigns.

Finally, NLADA will foster communication between the Civil and Defender communities regarding opportunities for fashioning joint responses, particularly given the interrelationship of advocacy directed toward immigrant communities.

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# Will 9-11 Fallout Drive Crime Rates and Defender Workloads?

By Bryce Amburgey, Law  
Operations Division, Kentucky  
Department of Public Advocacy

As the dust settled, both literally and emotionally, after the terrorist attacks of September 11, we in Kentucky began to wonder what the potential impacts might be on the workload of our statewide public defender system. With the economy in a decline, and now officially in recession, we wondered what research had been done on the effects of economic factors on crime rates. We found three treatises that were the most relevant. All three agree that the crime rates are directly related to the economy. They offer varying degrees of certainty on this point and even disagree about whether the relationship to economic factors only exists for property crimes (and not for violent crimes) or for all crimes. They are summarized here.

1) “Crime Rates and Local Labor Market Opportunities in the United States: 1979-1997,” by Eric Gould, Bruce Weinberg, and David Mustard (working paper originally presented to the National Bureau of Economic Research Summer Institute Workshop, Cambridge, MA, July 6, 1998, revised October 2000):

Both wages and unemployment are significantly related to crime, with wages having the stronger effect. Since unskilled men commit the majority of crimes, the authors make this group the focus of their analysis. Relevant points and findings:

- A decline in wages increases the relative payoff of criminal activity, thus inducing workers to substitute away from the legal sector towards the illegal sector. A lower wage also reduces the opportunity cost of serving time in prison.

- A reduction in legal opportunities increases the likelihood of all forms of criminal activity, regardless of motives.
- The propensity to commit crime moved inversely to the trends in the labor market conditions for unskilled men (i.e., more labor market opportunities means less likely to commit crime and less market opportunities means more likely to commit crime). Labor market conditions are important determinants of criminal behavior.
- Increases in the wages of noncollege men reduce the crime rate, and increases in the unemployment rate of noncollege men increase the crime rate.
- Wages have a significant effect on both property and violent crimes, while unemployment remains significant for property crimes, but not for violent crimes.
- Crime responds to local labor market conditions, but long-term trends in various crimes are mostly influenced by the declining wages of less educated men.
- The crimes with the weakest pecuniary motive, murder and rape, show the weakest relationship between crime and economic conditions.
- Declines in labor market opportunities of less-skilled men were responsible for substantial increases in property crime from 1979 to 1993, and increased market opportunities were responsible for declines in crime the following years.
- The findings were consistent for both larger national trends and individual cases.

2) “Identifying the Effect of Unemployment on Crime,” by Stephen Raphael and Rudolf Winter-Ebmer (Department of Economics, University of California, San Diego, Discussion Paper 98-19, August 1998).

The authors find that the conventional wisdom on the effects of unemployment on crime (i.e., a direct relationship – higher unemployment leads to higher crime and lower unemployment leads to lower crime) actually underestimates these effects.

- A decrease in income and potential earnings associated with involuntary unemployment increases the relative returns to illegal activity. Moreover, workers that experience chronic joblessness have less to lose from arrest and incarceration. Unemployment is an important determinant of the supply of criminal offenders and hence, the overall crime rate.
- Previous estimates of the unemployment/crime relationship that do not control for important crime fundamentals (such as alcohol consumption, drug use, gun availability, and consumption of consumer durables) may systematically understate the effect of unemployment on crime.
- Specifically, the authors focus on (1) per capita alcohol consumption, and (2) the strong relationship between military contract awards and state unemployment rates.
- When controlling for the alcohol consumption factor, the effect of unemployment on violent crime is significant and comparable in magnitude to the effects on property crime. This is in contrast to previous research that didn’t control

for this factor and that found the same effect, but only in significant amounts for property crimes.

- The authors cite Cook and Zarkin, “Crime and the Business Cycle,” (1985), which identified four categories of factors that may create linkages between the business cycle and crime: 1) variation in legitimate employment opportunities, 2) variation in criminal opportunities, 3) consumption of criminogenic commodities (alcohol, drugs, guns) and 4) temporal variation in the response of the criminal justice system.
- The relationship between crime and unemployment is considerably stronger than is suggested by previous research. Consideration of the military contracts factor also yields much larger unemployment effects for both specific property and violent crimes, even in the least restrictive specifications. The results for violent crime contradict the common finding in previous research that unemployment and violent crime are unrelated.
- Because this effect is so significant, policies aimed at improving the employment prospects of workers facing the greatest obstacles can be effective tools in combating crime.
- Since crime rates are considerably higher in areas with high concentrations of jobless workers and those workers with the worst employment prospects are the most likely to be involved with the criminal justice system, employment-based anticrime policies are attractive consistent with a wide range of policy objectives.

3) “Does the Economy Help Explain the Fall in Crime?” by Richard B. Freeman (Professor, National Bureau of Economic Research at Harvard, and at the Centre for Economic Performance, London School of Economics), *Perspective on Crime and Justice: 1999-2000*

*Lecture Series, National Institute of Justice, U.S. Department of Justice, March 2001.*

This essay states that the evidence supporting the relationship between crime and the economy is not unequivocal, and there are empirical problems that create some uncertainty. However, the preponderance of studies, particularly the most recent econometric work, supports the claim that the 1990s’ booming economy helped reduce the crime rate.

- The population of offenders consists disproportionately of people who have low legitimate job market opportunities. Whatever the source of data on crime – prisoners, arrestees, self-reports of criminal activity – the less skilled invariably are disproportionately represented.
- Although the overrepresentation of people with low earnings in crime could reflect psychological or decisionmaking problems among this population, studies show that people who commit crime are more likely to be unemployed (or idle when they are of school age) than others with comparable skills and that the same person is more likely to commit a crime when jobless than when employed.
- Three recent studies find a substantial relationship between unemployment and crime, with a 1-percent change in unemployment associated with an approximate 2-percent change in crime rates.
- Prison inmate surveys found that offenders have a much higher unemployment rate than nonoffenders with, for example, similar skills and low education.
- Many economists identify “incentives” as the major factor influencing whether an individual commits a crime. Whether the “labor market” or “sanctions” is viewed as the determinative factor is irrelevant. Both are viewed through the same

decision calculus. Incapacitation aside, sanctions work by affecting incentives, just as legitimate and illegitimate earnings opportunities do. It may be that the stronger results that appear to come from sanctions merely reflect that fact that we have better ways of measuring sanctions than in measuring the economic rewards of crime for each individual.

- Overall, the author identifies four factors that affect crime: 1) social mores and the way citizens view illegal behavior, 2) demand for drugs and other illegal activities, 3) criminal justice policies, and 4) the job market.

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## Terrorism

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### Crisis as Opportunity

Like ripples in a pond, the impacts of September’s devastation continue to spread outward. For our client communities, the impacts appear likely to grow more severe over time.

The good news is that our stock-in-trade – fairness, justice, compassion and equal opportunity – is a commodity more fiercely valued today than ever by Americans across the political spectrum. The pride that propels us each morning to the work we love is the same engine that drives other Americans to wave flags in celebration of our freedoms and constitutional values. The populace is perhaps in a more receptive mood than ever to institutions which safeguard fundamental protections like equal access to justice, presenting us with a powerful opportunity to reach out to our communities and policymakers to affirm this unity of purpose, and to solidify support for the future.

# Spotlight on Salima Siler Marriott

**A State Legislator Talks About her Commitment to Equal Justice and the Value of Building Relationships with Elected Officials**

By Erin O'Leary  
NLADA Writer/Editor

*Maryland Delegate Salima Siler Marriott was the keynote speaker for "Community and Problem-solving Defense: New Visions for the Future, Better Futures for Our Clients," the Defender track at NLADA's Annual Conference. This article is based on that speech and an interview conducted with Delegate Marriott afterwards.*

A few decades ago, at a public high school in Baltimore, a student requested to be placed in the college preparatory course of study, but was denied. A counselor told the student that because she lived in public housing she should be prepared not for college but for employment upon graduating from high school. Instead of taking "no" for an answer, however, the student, now a member of the Maryland House of Delegates, advocated for herself and won acceptance into the program.

This was not the first time someone had prejudged Salima Siler Marriott because of her circumstances. Like many before and after her, the circumstances that created hurdles for Marriott were not of her own making. It was not the young girl's choice to be born into poverty, into a family with rampant addiction problems; nor was it her choice to be judged by educators and school officials throughout her elementary and secondary school years because of her African-American heritage and her family's economic status. As a young person she did not choose to be treated as if she were a criminal every time she visited one of her loved ones in prison. But these circumstances, and the treatment she received because of them left a lasting impact, and inspired her to make many conscious choices about the direction of her life.



*The Honorable Salima Siler Marriott, Maryland state delegate, addresses the Defender Caucus at the NLADA annual conference.*

Today Dr. Salima Siler Marriott is a Maryland state delegate, an educator and an active member of the National Black Caucus of State Legislators. She has dedicated her life to improving the quality of life for African-Americans through progressive advocacy in the Maryland legislature. During the 11 years she has spent in office, Marriott has received national attention for her pragmatic and progressive review of issues relevant to Maryland's African-American community, particularly equal justice issues.

To the equal justice community, Marriott represents an essential link between practitioners and policy makers; she is an advocate with a mandate from the largely low-income African-American constituents that she represents to fix what is wrong with America's system of justice. In her address at the NLADA annual conference, Marriott presented the perspective of an advocate/politician who understands that her own political identity evolved during the turmoil of the 1960s, a result of the challenges presented by being African-American and memories of living in poverty and see-

ing the impact that the justice system had on her family.

She has been a community activist for more than 35 years, since her oldest child entered the public school system of NYC in 1964. It was then that Marriott decided to move to New York City, her husband's birthplace, because she felt that it would afford greater educational opportunities to her oldest daughter. However, she found that the public school fell short of her standards. Marriott began to work to improve the quality of education for her daughter and other working class children in Long Island City, a neighboring suburb of New York City.

Marriott told NLADA that she made a transition from "community activism advocating for change, to institutional activism, making change" in 1990, when she was elected to the Maryland House of Delegates. She also became involved in the Maryland Legislative Black Caucus.

"The pull toward justice under the law was personal as I grew up visiting prisons, which had resulted from the pervasiveness of addiction in my family. I was fully aware that during those vis-

its I was treated as if I had been found guilty of violating a law," Marriott said in her speech. "I never envisioned being in a position to change the system."

She explained that her interest in justice under the law was deepened as a result of a 1996 *San Jose Mercury News* report that exposed a possible connection between the CIA and [the sale of] crack cocaine, as well as the execution of the first African-American since the reinstatement of the death penalty.

Marriott has become a champion for equal justice. In 1999 she led a "Law and Justice" workshop at the Maryland Legislative Black Caucus (MLBC) Weekend, and packaged the issues with a focus on "injustice," highlighting racial profiling, and Maryland's racially disproportionate death row. As a result of the workshop, Marriott said,

the caucus' agenda included the following priorities: death row moratorium; parole and the extending the jurisdiction of Maryland's parole commission; the Judicial Sentencing Restoration Act, which focuses on non-violent drug infractions; expanding the jurisdiction of juvenile court; and juvenile law and the confinement of children in adult correctional facilities.

These issues remain high priorities for Marriott and for the Maryland Legislative Black Caucus. She said that as a result of the MLBC's leadership, Maryland today has issued resolutions on all of the caucus' legislative priorities, with the exception of a moratorium on the death penalty. On that topic, Marriott said, "MLBC is currently developing a clergy-based strategy to encourage Governor Parris Glendening to declare by executive order a moratori-

um on implementing death sentences until the 2003 legislative session has an opportunity to review the recommendations of the Study on Racial Disparity in Maryland's Death Sentencing."

Indigent defense professionals also have a role to play in influencing legislative agendas, said Marriott, who is a strong believer that in order to have their issues heard, defender leaders must interact with elected officials, particularly African-American elected officials. "I believe the defender community must interface with their state black caucus, she said. "I am willing to facilitate that interface if it is needed. These issues have the most devastating impact on the black community and most black elected officials will accept the challenge if it is articulated by the defender community."



NLADA thanks the AARP Foundation, our indispensable partner in the pursuit of equal justice, for its sponsorship of "Going Public With Effective Communication Strategies: A Media and Communications Training Track" at the 2001 annual conference.



Denny Myers (left), executive producer of AARP Television/Radio Production Studios in Washington, DC, moderated a lively media panel during the Communications Track at the annual conference. Panelists (above) were (l-r): Robert Steinback of the "Miami Herald"; Helen Ferré, host of the weekly public television news show "Issues" and editor of "Diario Las Americas"; and Emily Cardenas, veteran television news producer.

# NLADA Given a Warm Miami Welcome

The 2001 NLADA Annual Conference Host Committee, composed of eight local equal justice advocates, extended a warm Miami welcome to the conference attendees at the Host Committee receptions on Thursday, November 8. Defenders were greeted by the Host Committee Co-Chair Bennett Brummer and enjoyed the informal networking opportunity, sumptuous food and a beautiful view at the poolside café. Civil participants were welcome by the Host Committee Co-Chair Marcia Cypen and a Host Committee member Lynn Washington in the Douglas Ballroom, and, in addition to enjoying the good company and food, joined honoring the past presidents of Legal Services of Greater Miami, Inc.. The well-attended, lively receptions sent the participants ready to Salsa the night away at NLADA's 90th birthday celebration.

NLADA would like to thank the 2001 Host Committee for its extraordinary leadership in helping make the 2001 Annual Conference an outstanding success, as well as the following sponsors whose generosity made the Host Committee receptions possible:

Holland & Knight LLP

Adorno & Zeder, P.A.  
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Duane, Morris & Heckscher, LLP  
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Defense Lawyers Miami-Dade County  
Chapter

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## 2001 NLADA Annual Conference Host Committee

*Back Row (l to r): Lynn Washington, Holland & Knight LLP, Jane Curran, The Florida Bar Association, and William Aaron, Dade County Bar Association.*

*Front Row (l to r): Marcia Cypen, Legal Services of Greater Miami, Inc., Bennett Brummer, public defender, The Eleventh Judicial Circuit of Florida, and Lida Rodriguez-Taseff, Duane, Morris & Heckscher LLP*

## 2001 NLADA Annual Conference Host Committee

Hon. Bennett H. Brummer, Co-Chair  
Public Defender for the Eleventh  
Judicial Circuit of Florida

Marcia K. Cypen, Co-Chair  
Executive Director, Legal Services of  
Greater Miami, Inc.

William Aaron  
President, Dade County Bar Association

Jane E. Curran  
Executive Director, The Florida Bar  
Foundation

Marc Anthony Douthit  
President, Black Lawyers Association of  
Dade County

Richard Kuper  
Board Member, Cuban American Bar  
Association

Lida Rodriguez-Taseff  
Partner, Duane, Morris & Heckscher  
LLP

Lynn C. Washington  
Partner, Holland & Knight LLP

# New, On-line “National Training Calendar” Makes it Easy to Find and Publicize Equal Justice Events

By Casey Duncan, NLADA Senior Web Developer

NLADA has long promoted training as a vehicle for excellence in the delivery of legal services. Now it is easier than ever to find and share information on trainings and conferences across the country. At [www.nlada.org](http://www.nlada.org) you will find an entire section of the site devoted exclusively to publicizing trainings and conferences for the indigent defense and civil legal aid communities.

Our goal is to make the training calendar a national resource for the community by providing an “electronic bulletin board” of sorts. Anyone can post information about training events and conferences that might legitimately be of professional interest to members of the equal justice community. There is no charge to post a training or conference to the calendar.

## Finding the National Training Calendar

To access training/conference information on the NLADA Web site, go to [www.nlada.org](http://www.nlada.org) and click on the “Training & Conferences” link at the top of any page. This will take you to the main “Trainings and Conferences” page and from there you can link to the National Training Calendar either from the link in the text or from the listing on the left side of the page.

## Searching the National Training Calendar

When you arrive at the National Training Calendar page, you will see a chart listing all events in chronological order. The chart includes the title of the training/conference, the sponsoring organization, training/conference dates, location and contact information. To find out more about a particular training/conference, simply click on its title.

To narrow your search, click on “Training Search” at the top of the page. From here you can easily sort the list by category (Civil, Defender or general interest), state, date or some combination of those three. For example, you could search for all events in Ohio scheduled in April 2002, or for the whole 2002 year.

## Posting to the National Training Calendar

It is also simple to add your own training event or conference to the National Training Calendar where it will be available to anyone visiting the NLADA Web site. To do so, click on the “Post a Training Event” link at the top of the “National Training Calendar” page.

There is no charge to post an event, but you do need to be a registered user of the Web site. (There is no charge for this either, and it only takes a minute.) Limiting posting privileges to registered users of the site allows us to associate the event with a particular person. If you are not logged on as a registered user when you click on the “Post a Training” button you will be directed to the correct page for registering. Simply click on the “Create a Registered User Account” link that appears and fill out the form to create your user ID and password. Once you are a registered user, you can post trainings/conferences and contribute other content to the Web site, such as documents, job postings and News from the Field.

## Special Features

As part of your event listing, you can include a Web site link and/or relevant document(s) that users can download directly from your listing. If the event you are posting already has a Web site of its own, you can enter the Web address (URL) and a link will appear when another visitor views the event posting.

If no other Web site exists for the event, you can use the posting on NLADA’s site as a Web presence. You can also attach documents to your posting, such as brochures, programs, registration forms and even training materials.

As NLADA’s new Web site continues to evolve, we will enhance the Trainings and Conferences section of the site, even offering training programs delivered right over the Web.

We hope that you find the National Training Calendar helpful. Please keep in mind that it will only be a useful tool if it is kept up to date. Please post your events on the calendar and encourage others to do so as well. The more it’s used, the more useful it will be.

As always, we welcome your feedback about the NLADA Web site. Please contact Casey Duncan, NLADA’s senior Web developer, at [c.duncan@nlada.org](mailto:c.duncan@nlada.org) if you have any questions, comments or suggestions.

## Cornerstone

Volume 23, Number 4  
Winter 2001/2002

### Staff:

*Elizabeth Arledge, Director of Communications*  
*Stacy Mayuga, Deputy Director of Communications*  
*Erin O’Leary, Writer/Editor*

NLADA *Cornerstone* is a quarterly publication of the National Legal Aid & Defender Association. Comments, suggestions and inquiries are welcome and should be directed to [communications@nlada.org](mailto:communications@nlada.org).

# Fourth NLADA/ABA Equal Justice Conference will be April 18 - 20

NLADA and the American Bar Association invite you to attend the Fourth Equal Justice Conference, April 18–20, 2002 at the Renaissance Cleveland Hotel in Cleveland, Ohio.

Client-based services and strengthening partnerships are key components of the 2002 Equal Justice Conference. Through plenary sessions, workshops and networking opportunities, the conference provides a wide range of learning and sharing experiences for all attendees. The overall theme of the 2002 Equal Justice Conference revolves around the role all members of the legal community must play as leaders to work toward securing a better future for our clients, for programs and staff, for the courts, for the legal profession and for society.

The conference will explore and discuss crucial partnerships, resources and new issues facing clients. These discussions will take place in the context of a changing society—dealing effectively and appropriately with threats to our clients' personal and economic security while working to expand the opportunities for all Americans to prosper.

A wide range of topics will be covered in the 80-plus workshops offered at the Equal Justice Conference, such as substantive law, trends in client communities, partnerships, holistic delivery, management, training and support, diversity, staff development, state planning, information management and technology, ethics, hotlines, pro se, intake, outreach, pro bono, judiciary, private attorney resource, fundraising and resource development.

For the fourth year, the Partners For Justice Forum will be offered, a special feature for legal services and pro bono program supporters, advocates, partners and friends. The forum will be held on Friday morning, April 19, and will provide a unique opportunity for leaders to share ideas and strategies about what each segment of the profession can do to expand their own access to justice initiatives using the full resources of the private bar.

## 2002 Equal Justice Conference Details

Registration brochures will be available in January by mail and on the NLADA and ABA Web sites.

Conference Registration Fees:

### Early

(Received by February 15) \$350

### Basic

(Received February 16 – March 15) \$375

### Late

(Received March 16 – March 29) \$400

### Law Students

\$100

\* After March 29, participants must register on site.

## Discounts

Registration fee discounts are available to teams and to programs registering more than three people. Registrations for either discount category must be submitted together when registering by mail or fax. Although we encourage other groups of participants to register together, only the groups defined will qualify to receive discounts. These discounts are as follows:

Teams will be comprised of one legal services staff person; one pro bono manager; one bar association president, president-elect, pro bono committee chair or legal services chair; and one judge. Each person in a team must be from the same state. Each team member's registration fee will be discounted 20 percent.

If any ONE program is sending more than three people, the registration fee for each person after the first three will be discounted 20 percent.

## Hotel

Conference room rates of \$145 plus 14.5 percent tax for single or double occupancy are available at the Renaissance Cleveland Hotel and the Cleveland Marriott Downtown at Key Center. Hotel reservations must be made through PASSKEY by going either to the Equal Justice Conference Information on [www.nlada.org](http://www.nlada.org) or [www.abaprobono.org](http://www.abaprobono.org).

# Arias and Padilla Among California's "100 Most Powerful Attorneys"

NLADA is proud to announce that two of its board members, Bay Area Legal Aid Executive Director Ramon Arias and California Rural Legal Assistance Executive Director Jose Padilla were recently named to a list of California's 100 most powerful lawyers in 2001.

According to an article in the October 29, 2001 issue of *California Law Business*, Arias and Padilla were in the top 100 of more than 550 lawyers who received votes from other California lawyers in the survey process. "We don't claim that this is a scientific survey," the article says. "In fact, we know it's not. But we did our best with an inherently subjective process and a topic – power – that has as many definitions as there are lawyers. And in the end we produced a definitive guide to power in the legal profession in 2001."

The article goes on to say, "As a group, the 100 are more conservative, establishment-oriented and political than those featured in the three years since we started the list, in 1998." Interestingly, it continues, "The exceptions are the public interest lawyers, present in larger numbers. It may be that difficult times have heightened awareness of these guardians, of justice for hundreds of thousands of clients who cannot afford lawyers and have brought attention to the awesome power inherent in that task."

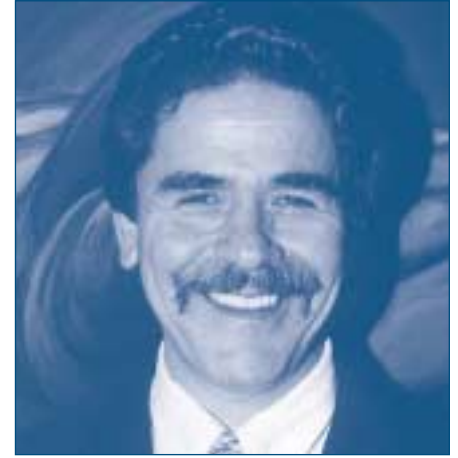
In addition to Arias and Padilla, other public interest lawyers who made the 2001 list include: Stewart Chih-Ming Kwoh, executive director of Los Angeles' Asian-Pacific American Legal Center; David A. Lash, executive director of Bet Tzedek Legal Services in Los Angeles; Jack W. Londen, Partner at San Francisco's Morrison & Foerster and "one of (California's) best-known advocates for legal services to the poor, serving as chair of Californian's for Legal Aid"; Eva J. Paterson, executive



**Ramon Arias**

*California Law Business* says: "He's always advocated very ardently on behalf of the most underrepresented communities."

director of the Lawyers' Committee for Civil Rights of San Francisco; Carl R. Poirot, executive director of San Diego Volunteer Lawyer Program; and Thomas J. Nolan, managing partner of the Washington, DC-based Howrey Simon Arnold & White's three southern California offices. Nolan earned the



**Jose Padilla**

*California Law Business* says: "You don't find dedicated people like Jose Padilla anymore. He's a true leader to farm workers and rural poor."

state bar's 2001 President's Pro Bono award for work at the Inner City Law Center.

This year's list includes 37 lawyers who made the list for the first time, 20 women, four Hispanic-Americans, five African-Americans and three Asian-Americans.

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## NLADA Honors, *continued from page 9*

world's largest law office (125,000 employees) for nearly eight years. Known throughout government for her integrity, independence and innovative leadership, she used the authority of her office to seek to fundamentally transform the nation's criminal justice processes, from assembly-line processing of criminal charges to community-oriented, problem-solving approaches to policing, prosecution, courts, corrections and defense. She has fostered unprecedented dialogue among all the components of the justice system about their shared responsibility to work with community institutions, to intervene constructively in the cycles of substance abuse, mental illness, poverty and crime, to prevent recidivism and stop the revolving door. And she has embraced the cause of indigent defense improvement both because the justice system as a whole can succeed "only if we provide every defendant with competent counsel," as she has said, and because "a good lawyer is the best defense against a wrongful conviction."

For more information about NLADA's annual awards visit [www.nlada.org/About](http://www.nlada.org/About).

# Save the Dates for the 2002 NLADA Annual Conference

November 13–16 in Milwaukee, “A Genuine American City”

Plan now to be in Wisconsin next November for the 2002 NLADA Annual Conference. Milwaukee, which literally means “gathering place by the waters,” has all the makings of an ideal location. Don’t let “Laverne and Shirley” reruns fool you – Milwaukee is the nation’s 17th largest city, home to a vibrant multicultural community, a happening night life, several diverse museums, entertainment centers, sports venues, friendly residents, Midwestern charm and, of course, the Miller Brewing Company.

The conference will be held at the Hilton Milwaukee City Center, a spectacular art deco-era hotel located in the heart of downtown Milwaukee’s cultural and business districts. Long known as the city’s finest hotel, Hilton has just completed a multi-million dollar restoration of the property that highlights the hotel’s elegance and art deco style. Built in the 1920s, the hotel was a gathering spot for many speakeasies during prohibition. In 1933, when prohibition ended, the Lorraine Room featured the city’s longest bar, the 82-foot Serpentine Bar, and served beers brewed locally—Miller, Pabst, Gettelmen and Schlitz. Find out more about the hotel at [www.hiltonmilwaukee.com](http://www.hiltonmilwaukee.com).

## Milwaukee is for the Whole Family

The conference hotel features Paradise Landing, “America’s first urban indoor water park.” Actually located in the Hilton Milwaukee City Center, Paradise Landing features 20,000 square feet of fun, including seven water slides, a 32-person hydrotherapy spa, water basketball and a lily pad walk.

The city’s downtown has many interesting museums and cultural activities that highlight Milwaukee’s diverse history and population. In Milwaukee, visitors will find America’s Black Holocaust Museum, the only museum

in the United States dedicated to educating the general public about the injustices suffered by people of African heritage. Milwaukee’s public museum features an excellent collection of Native American and African artifacts as well as environmental exhibits of life in Africa, Asia and America. Milwaukee’s Potawatomi Bingo Casino Entertainment Center offers guests a theater for live performances, a four-star restaurant, and an engaging heritage center.

For more information on Milwaukee and all that it has to offer, visit [www.officialmilwaukee.com](http://www.officialmilwaukee.com)

## Workshop Proposals and Award Nominees—We’ll be Asking for these Soon

Be on the lookout for the request for workshop proposals, which will be mailed and also posted on the NLADA Web site in early spring. Also, the following awards will be given at the 2002 Annual Conference: The Reginald Heber Smith Award; the Dennison Ray Award; the Arthur von Briesen Award; and the Emory Brownell Media Award. Information on these and all other awards bestowed by NLADA can be found at [www.nlada.org](http://www.nlada.org).

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## The new [www.nlada.org](http://www.nlada.org)

*It's for you!*



# NLADA to Expand National Leadership Institute

In early 2002, NLADA will convene a planning process to expand the existing National Defender Leadership Institute (NDLI) to include a civil component. During the past year, NLADA convened leaders from a broad range of organizations involved with indigent defense to launch a national institute to strengthen leadership among indigent defense advocates. The NDLI has hired staff to develop curriculum and training events that will provide skills training and mentoring opportunities for defenders in the areas of impact leadership, new leadership and nuts and bolts of leadership.

The civil leadership component will build on the work of the NDLI, as well as drawing upon the data gathered during the NLADA/LSC national conversations on diversity and leadership that took place during the past year. It will advance the work of NLADA's Diversity, Leadership and Development Committee, a committee of the NLADA Civil Policy Group, as well as the discussions that took place at the October 1-2 Justice for All meeting in Washington hosted by the NLADA/CLASP Project for the Future of Equal Justice. During that meeting, leaders from a broad range of national, state and local equal justice organizations named effective leadership as a key component of a national movement to provide meaningful access to justice for all people in need of legal assistance and advocacy.

NLADA will seek input from its national partners, including LSC, the ABA, MIE, the National Center on Poverty Law, NAPIL and the IOLTA community to help establish guidelines for the civil leadership institute to ensure that it benefits the full equal justice community. This community includes state and local legal aid providers, pro bono programs, IOLTA funders, state advocacy organizations, entities that represent special client populations and national and state support centers.

Drawing upon the successful and

*Leaders from a broad range of national, state and local Equal Justice organizations named effective leadership as a key component of a national movement to provide meaningful access to justice for all people in need of legal assistance and advocacy.*

highly inclusive process that was used to design the NDLI, NLADA will convene a broad-based and diverse advisory committee to steer the design process, and to develop curriculum and training events aimed at cultivating strong leadership skills to equip equal justice advocates of all ages, genders, races, ethnicities and abilities to become highly effective advocates for their clients. The advisory committee will include representatives from national equal justice organizations, as well as from a broad range of state and local

organizations that support or provide legal assistance and advocacy to low-income people. The committee also will tap the resources of universities and other nonprofit entities that have developed effective leadership initiatives.

NLADA plans to use the Equal Justice Conference in Cleveland, in April 2002 as a forum for conducting an initial leadership development training session and soliciting input from equal justice leaders about the goals of leadership training, and its relationship to effective advocacy and better outcomes for clients. NLADA and the ABA have retained Ellen Hemley to design and facilitate a half-day session during the Equal Justice Conference entitled: "Understanding Leadership: The Role of Advocacy in the Struggle for Social and Economic Justice."

For more information, contact Bonnie Allen, NLADA's director of outreach and community support, at (202) 452-0620 ext. 221 or via e-mail at [b.allen@nlada.org](mailto:b.allen@nlada.org).



*(l-r): Michael Skibbie (former New Hampshire public defender) regales Chris Keating (New Hampshire public defender executive director) and Gerry Smyth (chief public defender for the Connecticut Division of Public Defender Services) at the annual conference host committee reception for Defenders.*

# Member Benefit Spotlight:

## Build Your Skills as Part of a Special Interest Section

One of the benefits of NLADA membership is the opportunity to grow professionally by joining a special interest section. NLADA member sections are comprised of persons with common interests seeking to:

- improve the quality of services rendered to clients in a specialized legal area;
- improve specialized skills of the group;
- enhance communications and information sharing; and
- strengthen advocacy and client communities.

Dues for most sections range from \$5 to \$15 per year. All individual members of NLADA are eligible to join sections, and program members may designate one person to represent it on each section.

If a member is interested in an area that does not currently have a section, he or she can create a new one. A new Latino Section is currently being organized (see page 25). For more information on joining a section or creating a new section, contact NLADA's Member Services department at (202) 452-0620 ext. 234 or send an e-mail to [membership@nlada.org](mailto:membership@nlada.org).

Following is information on each of the sections currently available.

### CIVIL SECTIONS

#### *Advocacy and Support*

The Advocacy and Support Section brings together advocates working in national support and advocacy centers, state support centers, state-level access to justice programs and state-level advocacy organizations. The section provides a national forum for members to develop collective strategies for strengthening advocacy, communications, funding and training.

#### *Farmworker's Law*

The Farmworkers Law Section supports the efforts of migrant farmworker advocates and legal services programs

serving seasonal farmworkers. It seeks to increase awareness of legal problems and the rights of migrant and seasonal farmworkers and to advance the cause of justice for migrant and seasonal farmworkers. Working closely with the Farmworker Project Group, the section provides technical assistance to migrant farmworker advocates and legal services programs, meets at the NLADA Annual Conference and sponsors a biennial training conference for migrant advocates across the country.

#### *Native American*

The Native American Section focuses on the unique cultural problems affecting the delivery of legal services to Native American Indians. The section, working closely with the National Association of Indian Legal Services (NAILS), develops systems to provide effective civil and criminal representation to Native Americans living on and off reservations. In addition, the section provides technical assistance to offices that deliver legal services to Native Americans and helps plan an annual Native American training at NLADA's Substantive Law Conference.

#### *Rural Advocacy*

The Rural Advocacy Section supports the efforts of civil legal services programs in addressing the legal needs of rural clients. The section maintains an e-mail list connecting rural advocates, provides training and technical assistance for rural advocates, promotes pro bono in rural areas and develops models for effective rural delivery.

### DEFENDER SECTIONS

#### *American Council of Chief Defenders*

The American Council of Chief Defenders (ACCD) was created to support indigent defense leaders, and thereby their systems and programs, through training, information and technical assistance and to maximize the

defense perspective and impact on criminal justice policy. Membership is open to chief and deputy chief defenders of indigent defense systems and programs in all United States jurisdictions including federal districts, the states, the District of Columbia, Puerto Rico and all territories. A section e-mail list, newsletter, committees and periodic meetings facilitate member communication and the sharing of information.

#### *Appellate*

The Appellate Section provides a forum for attorneys who handle criminal appeals to keep up-to-date on legal developments and obtain case-related assistance. Each year the section sponsors Appellate Defender Training (ADT), a nationally acclaimed skills-based training conference in which participants work on their active cases in small groups. A section e-mail list facilitates the exchange of information and ideas among a large national network of appellate practitioners. Section members work with the Amicus Committee and NLADA staff to review cases for potential intervention and write or recruit authors for briefs.

#### *Death Penalty Litigation*

The Death Penalty Litigation Section provides a forum for mitigation specialists, defense investigators and defense attorneys who handle capital cases to keep up-to-date on legal developments and obtain case-related assistance. Each year the section sponsors *Life in the Balance*, a nationally renowned capital defense-training program that gathers the leading practitioners and experts from across the country. Section members regularly teach at *Life in the Balance* and other training programs for the death penalty defense community. A section e-mail list facilitates the exchange of information and ideas among practitioners from across the country.

## Social Services

The Social Services Section provides a forum for social services and mitigation specialists and professionals who work in related areas to keep up-to-date on legal developments and obtain case-related assistance from a large national network of social services professionals. Section members regularly teach at NLADA's national conferences. A section e-mail list facilitates the exchange of information and ideas.

## Trainers

The Trainers' Section goals include providing a forum for defender trainers and professionals with related responsibilities to keep up-to-date on legal developments, teaching tools and techniques, obtain other training-related assistance and facilitating life long learning among defender practitioners. Biannually, the section sponsors Train the Trainers, a skills-based training conference in which participants develop expertise while working on their particular training issues in small groups. A section e-mail list facilitates the exchange of information and ideas among a large national network of training professionals.

## CLIENT SECTION

At its March 2001 meeting, the NLADA Board of Directors created the NLADA Client Section. The purpose of this new section is to promote the mission of NLADA by providing a forum for clients of legal aid and indigent defense programs to voice their interests and concerns as NLADA members, as customers of legal assistance and as advocates for themselves. Membership is open to all NLADA members, with a special focus on NLADA client members. The section includes a communications committee, a training committee and a membership committee.

# Formation of Latino Advocates Section Underway

This announcement serves as official notice to NLADA members that application has been made for the formation of a Latino Advocates section. The following is the purpose of the proposed section. Any members who want to express support should do so in writing by contacting Julie Clark, NLADA board secretary, at 1625 K Street, NW, Suite 800, Washington, DC 20006-1604, or via e-mail at [j.clark@nlada.org](mailto:j.clark@nlada.org).

The Latino Advocates & Directors Association proposes to form a Latino Advocates Section of NLADA for the following purposes:

- (1) *To serve the national legal services community on both the civil and defender sides and the established network of programs by providing leadership and knowledge regarding the provision of quality legal services, particularly as these services and priority-setting impact the growing Latino poverty communities of this country.*
- (2) *Provide a forum within NLADA for the ongoing development of a critical perspective regarding national legal and regulatory issues that impact Latinos in poverty, especially those factors affecting these communities disproportionately.*
- (3) *To bring understanding to Latinos and other communities regarding the intersection of race, ethnicity and poverty.*
- (4) *To provide a perspective and training regarding substantive poverty law issues of critical importance to Latino poor (e.g. immigration, education and labor).*
- (5) *To support the participation of Latino clients and advocates in existing legal services structures—nationally, regionally and locally.*
- (6) *To address issues of racism and other social conditions as these impact Latino staff and clients within legal services and society in general.*
- (7) *To address issues of recruitment, hiring, retention and promotion of Latino staff within the legal services community as well as to provide support to Latino staff through networking, peer mentoring, training and other appropriate mechanisms.*

# ABA SEEKS Nominations for Two Equal Justice Awards

## ABA Section of Business Law National Public Service Award

Each year, thousands of Americans benefit from free legal services provided by individual lawyers, law firms and corporate legal departments. For many, these pro bono services come at a time of crisis, when the assistance of a lawyer is vital, but not affordable.

The American Bar Association Section of Business Law is now accepting nominations for its National Public Service Award, which recognizes significant pro bono services rendered to the poor in a business context, and the achievements resulting from the public service work for the clients and the client groups represented. Nominees may not include individuals who provide legal services to the poor for a fee or organizations that predominantly serve the poor. *The deadline for submission is February 2, 2002.*

This award is an outgrowth of the section program "A Business Commitment," designed to match business lawyers and their areas of expertise with those unable to afford a lawyer. Separate awards will be given in both individual and firm/corporate legal department categories.

Nominations will be reviewed by the Pro Bono Committee, and the winner and nominator will be notified by March 1, 2002. The award will be presented at the Annual Section Luncheon held in Boston on April 5, 2002.

For more information or to submit a nomination, contact Joanne Travis, ABA Section of Business Law, at (312) 988-5588 or via e-mail at [travisj@staff.abanet.org](mailto:travisj@staff.abanet.org).

## Harrison Tweed Award

The American Bar Association's Standing Committee on Legal Aid and Indigent Defendants (SCLAID) invites nominations from equal justice leaders nationwide for the 2002 Harrison

Tweed Award. A full description of the award, nominating procedures and past recipients can be found at <http://www.abalegalservices.org/sclaidaward-nom.html>.

Created in 1956, the Harrison Tweed Award is named for an outstanding leader in the development of free legal services to the poor. It recognizes the extraordinary achievements of state and local bar associations that develop or significantly expand projects/programs to increase access to civil legal services to poor persons or criminal defense services to indigents.

The award will recognize work done


during the one-year period between April 1, 2001 and March 31, 2002. Projects prior to that date will be considered if substantial services have been provided during that time period. Presentation of the award will take place in August at the 2002 ABA Annual Meeting in Washington, DC.

*Nomination forms must be postmarked by April 1, 2002.* For more information about the Harrison Tweed Award, contact Janice Jones of the American Bar Association at (312) 988-5767 or via e-mail at [janicejones@staff.abanet.org](mailto:janicejones@staff.abanet.org).



*Civil legal advocates from Oregon and public defenders from Connecticut joined voices to entertain and amuse conference attendees at the NLADA 90th Birthday Bash on November 8.*

# 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** – The NLADA Insurance Program offers superlative coverage at competitive prices. An established domestic insurer, the CNA Group of Insurance Companies, provides coverage.
- **Responsiveness to Members' Needs** – The Program's board of directors is made up of NLADA members – people who know what you need because they share your concerns. No other insurance provider exists exclusively to meet the needs of the equal justice community.
- **Investment in the Equal Justice Community** – The NLADA Insurance Program is a not-for-profit entity. Instead of profits going into the pockets of others, we seek to return a portion of the proceeds to you and also to invest another portion in NLADA, saving you money on trainings, conferences, technical assistance and other membership services.
- **Risk Management Training** – Coming in 2002, the Insurance Program will partner with NLADA to provide you with risk management training specifically created to help managers decrease liability claims and exposure.
- **Courteous, Efficient Service** – We understand that programs are underfunded and staff members are often overextended. The NLADA Insurance Program staff is available to answer your inquiries quickly and efficiently. And, we are confident you will find the service you receive on any claims you submit to be of the highest quality.

For more information, please contact:

NLADA Insurance Program  
1625 K Street NW, #800 • Washington, DC 20006  
202.452.9870 • 800.725.4513 • 202.452.9879 FAX  
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## NLADA Training Calendar

### **Life in the Balance**

March 9–12, 2002  
Kansas City, Missouri

### **Equal Justice Conference (Co-sponsored with the ABA)**

April 18–20, 2002  
Cleveland, Ohio

### **Defender Advocacy Institute**

May 31–June 5, 2002  
Dayton, Ohio

### **National Defender Leadership Institute, Nuts & Bolts of Defender Leadership and Management**

May 2002  
California (exact location TBA)

### **Litigation and Advocacy Directors Conference**

June 23–25, 2002  
Snowbird, Utah

### **Substantive Law Conference**

July 2002  
(location TBA)

### **NLADA 2002 Annual Conference**

November 13–16, 2002  
Milwaukee, Wisconsin

### **NLADA 2003 Annual Conference**

November 12–15, 2003  
Seattle, Washington

For more information on these and other training opportunities in the equal justice community, visit [www.nlada.org](http://www.nlada.org).