

Strengthening Alliances Between Public Defenders and the Private Bar

The Practical Value of Collaboration

By Catherine V. Beane
Director, National Defender
Leadership Institute

“Coalitions have provided key building blocks for American social and political progress throughout the nation’s history. And it’s no wonder: Coalitions can bring to bear the strengths of different organizations and points of view in an effort to solve many different types of problems. Furthermore, once a message or program begins to reach fruition, a viable coalition can play an invaluable role in disseminating its message and strengthening its activities.”

(OHA Coalition Best Practices
Workshop White Paper, August 2001)

The value of collaborative relationships, strategic alliances, and coalition-building is well-recognized in organizational development and leadership literature. The power of these strategies is not confined to business or political arenas, for they can be equally effective tools for defender leadership in the criminal justice arena. As my predecessor, Cait Clarke, has noted in her writing, building “consensus for positive reforms within the whole system” is a new “dimension in which managers of public defense services can lead their organizations and their field.” In practice, many defender leaders accomplish such “bold leadership” in criminal justice policymaking through collaborative alliances and relationships with both likely and unlikely allies.

One might assume that in the criminal justice context, public defenders, assigned counsel and private attorneys would be “likely allies” as these groups represent clients with similar issues and concerns, and could speak with a powerful voice if united behind an issue. However, collaborations between these groups have not always been smooth or efficient, and the seeds of mistrust often prevent these seemingly logical allies from working together effectively to address significant criminal justice issues that affect all of their clients.

Recognizing this dilemma, NLADA’s National Defender Leadership Institute and the National Association of Criminal Defense Lawyers (NACDL) teamed up on October 14, 2004, to present *Eyewitness Identification Law Reform: Strengthening Alliances Between Public Defenders and the Private Bar*, a joint leadership training focused on “what works” in building collaborations and strengthening alliances between private attorneys, public defenders and assigned counsel for criminal justice reform. In this highly interactive training, leaders from the public defender community and the private bar utilized eyewitness identification law reform as a case study for acquiring a set of practical skills to implement a law reform strategy in their jurisdictions – tools that are useful in eyewitness identification law reform efforts or for any other law reform efforts that private counsel and public defense lawyers want to address.

The substantive issue of eyewitness identification proved to be a compelling

case study. The facts regarding eyewitness identification procedures were startling:

- In reviewing 153 post-conviction DNA exonerations, the Innocence Project found that the vast majority of them were wrongful convictions involving mistaken eyewitness identifications.
- These findings are consistent with the research of Professor Gary Wells, a

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Message to Members

New Day on the Horizon

*By Clint Lyons
NLADA President & CEO*

Many of you know, I will be stepping down as president and CEO of NLADA in June. Since my initial correspondence with members, which stated I would be leaving at the end of March, the board has requested I stay on until the end of June in order to accommodate a thorough executive search for my successor and a seamless passing of the leadership baton. With that request, I am confident that the person selected to lead this organization will be in a much better position to assume the role when the time comes.

As NLADA president and CEO, I want to take this opportunity to reflect on the history and evolution of NLADA into the strong and robust organization it is today. I am proud of this institution. I am proud of its mission and the purpose it serves to the American public. I am proud of the

staff that has been with me through thick and thin, the staff that has come and gone, and the staff that supports the mission and goals of NLADA today. I am proud of the members we serve — the frontline attorneys and social justice advocates that ensure the right of access to justice isn't just an ideal, but a reality in the daily lives of clients and the client community. But, more than anything I take pride in the due diligence of all the people out there that toil every day for the betterment of our society by advocating justice for all.

Serving NLADA has been both an honor and a privilege. I have lived a professional life filled with purpose and inspiration. I, too, was once a frontline attorney representing clients. In that capacity, I learned what it was our clients endured in the pursuit of justice no matter how small or large the case. Everyone is on a level playing field when they face barriers, denied access, or oppressed because of race, gender, sexual orientation or age. They seek fairness and justice.

I chose to dedicate my life's work to ensuring access to justice and championing the rights of the disadvantaged. As a young idealistic law student, my participation in the civil rights movement led and inspired by Martin Luther King, Jr., left an impression that would sustain me my entire professional career.

What follows is an abbreviated timeline of the evolution of NLADA since its inception and during the 23 years I have led the organization. It is important, I believe, to save for those that currently advocate for justice and for those to come, the history of NLADA. As this great organization takes another step in its evolution, I want to make a connection to its past to preserve the vision into the future.

Although come June I will not be the president of NLADA, I will continue to work in the cause of *justice for all*.

Thank you for this privilege of service. It's been my pleasure!

The History of NLADA

In the beginning ... Inception: 1911 through the 1950's

National Alliance of Legal Aid Societies (NALAS) formed.

National Association of Legal Aid Organization (NALAO) formed to succeed NALAS.

The National Legal Aid Association (NLAA) succeeds NALAO.

NLAA establishes a Defender Section.

NLAA changes its name to National Legal Aid & Defender Association (NLADA).

Justice: 1960s & 1970s

Criminal Justice Act of 1964 provides for legal representation for indigents at all stages of a criminal proceeding.

NLADA begins sponsoring insurance in 1966

Congress creates the Legal Services Corporation to fund local civil legal aid offices nationwide after many years of combined efforts of NLADA and the ABA

Gideon v. Wainwright guarantees the right to counsel in state courts to all persons accused of felonies.

NLADA launches the National Defender Project with a \$2.6 million Ford Foundation grant.

NLADA supports creation of National Clients Council to bridge the gap between legal aid providers and the clients they serve.

Justice: 1980s & 1990s

NLADA Forms Insurance Committee of the Board.

First Annual Dinner in 1991.

The Project for the Future of Equal Justice is launched by NLADA and the Center for Law and Social Policy (CLASP).

NLADA takes over the insurance program, creating the NLADA Service Corporation.

President Ronald Reagan vows to eliminate the LSC. Congress enacts a series of restrictions on LSC funded programs. Programs sustain severe cuts in LSC funding.

Interest on Lawyers Trust Accounts (IOLTA) pioneered in Florida.

Clinton Lyons appointed NLADA executive director (1983). First budget \$800,000- Lyons along with the board, develops plan to avoid bankruptcy.

NLADA leads effort to save LSC from elimination through development of innovative delivery models to increase unrestricted forums for representation.

The Project Advisory Group (PAG) merges with NLADA to create Joint Working Group Report.

A Chief Defender Roundtable is convened by NLADA, leading to the creation of the American Council of Chief Defenders (ACCD).

Justice: 2000 and Beyond

National Public Awareness Campaign launched to raise visibility of NLADA and its issues: Campaign for Equal Access: Bringing Justice Home.

The NLADA National Defender Leadership Institute is launched.

NLADA partners with the ABA to pursue strategies to ease the debt burden on law school graduates entering into positions in public interest law.

Amicus Curia Brief- *Brown v. Washington Legal Foundation* submitted by NLADA. US Court upheld constitutionality of the IOLTA program.

NLADA convenes broad-based advisory council, which issues "Leaders for Justice," a report detailing the steps for creating a National Civil Justice Leadership Initiative.

NLADA launches the Defending Immigrants Partnership and provides training to over 1,000 federal and state defenders in immigration-related consequences flowing from criminal prosecution.

NLADA successfully advocates for an additional \$9.5 million in funding for LSC grantees.

NLADA conducts evaluations based on standards of the nation's public defender programs. Reports on counties in Nevada and Louisiana receive national press coverage and bring about sustainable improvement to indigent defense systems across the US.

In commemoration of 40th anniversary of *Gideon v. Wainwright*, two national public awareness campaigns to support indigent defense reform launched: *No Exceptions: A Campaign to Guarantee a Fair Justice System for All* and *Initiative on the Right to Counsel*.

NLADA launched the Defending Immigrants Partnership, a joint initiative to develop the first nationally based training and resource center focused on the often life-altering connections between immigration status and even the most minor criminal convictions.

Washington Watch - Civil

109th Congress Convened; New Appropriations Chairs Selected

Members of Congress, old and new, assembled in their respective chambers on January 4, 2005 to formally convene the first session of the 109th Congress. The Senate spent the short week on confirmation hearings for the Secretaries of Agriculture, Commerce, Education, and Justice. Attention in the House was largely focused on the selection of a full appropriations committee chairman.

Competition was fierce to replace outgoing appropriations chairman C.W. Bill Young (R-FL), who was forced to step aside because of GOP-imposed term limits. Ralph Regula (R-OH), Jerry Lewis (R-CA) and Harold Rogers (R-KY) waged a one-year campaign to convince the Republican Steering Committee of their viability. On January 5, in a secret ballot, the Steering Committee selected Lewis, bypassing the more senior Regula and the junior candidate, Rogers. Lewis appears to have won the support of House Speaker Dennis Hastert (R-IL) and Majority Leader Tom DeLay (R-TX), virtually guaranteeing his victory and assuring his fealty to their leadership. On the same day, *CQ Today* reported on Lewis's selection under the headline "Appropriations Chairman Won't Have a Free Hand."

In that article, Lewis describes his approach to reforming the committee's fiscal discipline and schedule. "I intend to lead a committee that is dedicated to fiscal restraint and committed to being an integral part of our Republican leadership's effort to reign in spending and balance the federal budget. I have committed to getting all of our annual appropriations bills completed on time so we can avoid the kinds of spending excesses and lack of control that occur when we rely on an omnibus package."

The Senate also saw a change in its full appropriations committee leadership. Senior member, Thad Cochran (R-MS), replaced another victim of term limits, long-time Chair Ted Stevens (R-AK). The Senate subcommittees have not been designated. It is expected that Senator Judd

Gregg will remain chairman of the Commerce, Justice, and State subcommittee. With the retirement of ranking member Fritz Hollings, that position is up for grabs.

Senator Gregg has relinquished his chairmanship of the Health, Education, Labor and Pensions (HELP) Committee, which has oversight jurisdiction of the Legal Services Corporation, to Michael Enzi (R-WY). The composition of that committee has changed significantly with the addition of Richard Burr (R-NC), Johnny Isakson (R-GA) and Orrin Hatch (R-UT) replacing Lindsay Graham (R-SC), Christopher Bond (R-MO) and John Warner (R-VA). Independent James Jeffords has taken the place of former Senator John Edwards D-NC).

Senator Gregg has become Chairman of the Senate Budget Committee, where he promises to exercise some of the same restraint and discipline as new House Appropriations Chair Lewis. In referring to President Bush's FY 2006 budget, to be sent to the Hill on February 7, Gregg is quoted in the January 12 edition of *The Washington Post* as saying "If the president sends up an aggressive budget, I'll be certainly receptive to it, and I think Congress will be too... Clearly, there is not going to be a lot of growth."

For programs other than defense and homeland security, the Bush budget is likely to recommend level funding, if not a cut. As an average these same programs saw a minor eight-tenths of one percent growth in FY 2005.

NLADA will monitor the budget process closely. In addition to the FY 2006 appropriation for the Legal Services Corporation, the Association will also pay close attention to the reauthorization of the Violence Against Women Act and the Higher Education Act. If the latter is reauthorized, it could become a vehicle for student loan forgiveness legislation.

FY 2005 Funding

On December 8, the President signed HR 4818, an omnibus appropriations

measure containing FY 2005 funding for myriad agencies included in nine separate spending bills. The bill includes the appropriation for the Legal Services Corporation (LSC). The post-rescission overall amount of \$330,803,705 is divided in the following manner:

\$312,375,183	... basic field
\$1,808,517	... census adjustment
\$1,255,010	... client self-help and technology
\$12,826,362	... management and administration
\$2,538,633	... office of inspector general

In comparison, LSC's FY 2004 funding of \$335,283,000 was allocated as follows:

\$314,130,000	... basic field
\$2,474,000	... census adjustment
\$2,946,000	... client self-help and technology
\$13,160,000	... management and administration
\$2,573,000	... office of inspector general

The reduction in FY 2005 funding comes as a result of two across-the-board rescissions, one of 0.8 percent to the majority of programs within the omnibus bill and one of 0.54 percent internal to the Commerce-Justice-State appropriations bill. Sadly, the rescissions brought the final amount closer to the Administration's FY 2005 request of \$329 million than the Corporation's, which was \$352.4 million.

At its meeting in November 2004, the Corporation finalized its FY 2006 budget request of \$363,109,000. The Administration's request was sent to Congress on February 7.

Washington Watch - Defender

Student Loan Debt Relief

On March 1, the American Council of Chief Defenders (ACCD) will assemble in Washington, DC, to approach the 109th Congress for passage of legislation that would provide for relief from law student loan indebtedness for public defenders. Similar legislation has been before Congress for the past several years and there is renewed hope for success this session.

Senator Arlen Specter (R-PA) chairs the Senate Judiciary Committee that will likely consider the program that would benefit defenders and prosecutors alike. Specter, a former district attorney in Philadelphia, at a previous ACCD meeting stressed the role of competent defense counsel and the difficulties faced by both defender and prosecutor offices in recruiting and retaining talented young attorneys that face the career choice of public service coupled with enormous monthly student loan repayments or more lucrative employment in the private sector.

Senator Richard Durbin (D-IL) seems likely to reintroduce the 'Prosecutors and Defenders Incentive Act' from last session that provides in salient portion:

(b) DEFINITIONS- In this section:

(1) PROSECUTOR- The term 'prosecutor' means a full-time employee of a State or local agency who—

- (A) is continually licensed to practice law; and
- (B) prosecutes criminal cases at the state or local level.

(2) PUBLIC DEFENDER- The term 'public defender' means an attorney who—

- (A) is continually licensed to practice law; and
- (B) is—
 - (i) a full-time employee of a State or local agency, or a nonprofit organization operating under a contract with a State or unit of local government, that provides legal representation to indigent persons in criminal cases; or
 - (ii) employed as a full-time federal defender attorney in a defender organization established pursuant to subsection (g) of section 3006A of title 18, United States Code, that provides legal representation to indigent persons in criminal cases.

(3) STUDENT LOAN- The term 'student loan' means—

- (A) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);
- (B) a loan made under part E or D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.); and
- (C) a loan made under section 428C of the Higher Education

Act of 1965 (20 U.S.C. 1078-3) to the extent that such loan was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 428 or 428H of such Act.

(d) TERMS OF AGREEMENT-

(1) IN GENERAL- To be eligible to receive repayment benefits under subsection (c), a borrower shall enter into a written agreement that specifies that—
(A) the borrower will remain employed as a prosecutor or public defender for a required period of service of not less than 3 years, unless involuntarily separated from that employment;

(3) LIMITATIONS-

(A) STUDENT LOAN PAYMENT AMOUNT- Student loan repayments made by the Attorney General under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed upon by the borrower and the Attorney General in an agreement under paragraph (1), except that the amount paid by the Attorney General under this section shall not exceed—

- (i) \$10,000 for any borrower in any calendar year; or
- (ii) an aggregate total of \$60,000 in the case of any borrower.

An alternative solution to this problem may be in granting Federal Income Tax credit to qualified defenders and prosecutors.

This ACCD meeting will include training on educating legislators at the federal level, collaboration with the Congressional Black Caucus, a reception on Capitol Hill, and a business meeting designed to keep the ACCD's ambitious agenda on track. For the politically attuned chief defender (and there shouldn't be any other sort) this gathering offers professional and educational opportunities, and a chance to be part of this vitally important effort on behalf of our colleagues throughout the country. Have Courage.

Interview With Dr. Linda Deans

*Conducted by Maureen James, Associate Attorney, NLADA
Defender Legal Services*

At the 2004 Annual Conference, NLADA explored education realities such as juvenile incarceration and funding and achievement disparities that exist 50 years after the landmark decisions *Brown* and *Mendez* opened the nation's public schools to previously excluded groups and new immigrants. Clearly, these cases did not immediately eliminate the institutionalized, systemic racism that pervaded all aspects of American life, but school desegregation marked a major shift in the national conscience worth revisiting today. The conference brought together educators, academics and practitioners to discuss the current status of public education, and Dr. Deans, a lifetime educator, contributed thought-provoking commentary on where public schools are today and where they might be headed. Some of her thoughts are captured below, including her ideas for what public defenders, legal aid attorneys and community members can do to advance and safeguard equality in education.

Dr. Deans, thank you so much for joining us at the recent NLADA Annual Conference, Breaking Barriers to Equality & Justice: Commemorating the Spirit of Brown, and agreeing to participate in this interview.

You are welcome. The conference was professionally exhilarating. Being part of a large group focused on education, even though most of them were not educators, was a wonderful change and allowed for positive thought-provoking conversation and debate. One of the thoughts that has remained with me is the possibility of a successful law suit against a school district for presenting a pattern of failing and/or a climate that facilitates failure within a specified group of students merits further study.

At the Annual Conference, we explored aspects of juvenile justice and your perspective, as a school administrator and academic, was invaluable. Can you briefly explain your history with juvenile education?

I have been an educator all my life. Serving as the school-court liaison for Hampton City Schools required that I attend juvenile court daily, as well as circuit and district courts when juveniles were charged as adults. Further, I also served as an administrator for both traditional and alternative education. In both settings, many students were court-involved, which required adjustments in his or her education/schedule in order to satisfy attendance and/or restrictions related to the juvenile court system. My role related to court-involved students was one of support. Every student walking into my office had some need/issue that required my advocacy or opposition. I chose to advocate for students, even when that advocacy was against the climate of the organization.

During the sessions you participated in, your comments ignited responses from your fellow panelists and audience. For the benefit of those who attended

the conference as well as those unable to attend, I would like to further discuss some of the juvenile justice issues raised at the conference, the first being "tracking." Can you explain what educational tracking is?

Educational tracking can involve academic, behavioral or social concerns. Of course an academic track references the ability of a child to learn the information presented, such as special education, traditional or gifted educational programs.

Behavioral tracking is more subjective. Educational professionals "mark" children as behaviorally problematic when they misbehave and those children may not be selected for academic/educational opportunities and advantages.

Social tracking happens when students are put in a caste system based on their family's socio-economic status, i.e. poor versus middle class versus rich. The more subjective tracking is, the more dangerous tracking can be. It is this subjective tracking that adversely impacts students in today's schools.

Many of the students who become "clients" of the "schoolhouse to jailhouse track" can often be identified as being in the more subjective tracking.

You served as the principal of an "alternative school." What do you believe to be the purpose of alternative schools?

My alternative school was created to get all the "bad" kids out of the traditional high schools and into one place. My alternative school was used to track students out of high school that had not passed the state benchmark testing. The "written rule" was that if I could get this group of 9th graders to pass the Literacy Passport Test (LPT in VA), they could return to their home high schools. However, many principals did not want to accept them back into their buildings even after they had passed the benchmark testing because many of these students were also behaviorally/socially tracked. These students had already been "kicked to the curb" by the public schools. To refute this "emotional kick", I engaged both the community and the military to work with the children during duty hours.

Schools know exactly where [in what subjects] a child is failing, but instead of addressing the problem, they keep teaching the same way. I didn't do that. If the children couldn't do fractions, we did fractions until the students learned them, with the teacher, military personnel, and everyone who would offer their time. Educators really need to become more creative in teaching individual kids as opposed to teaching to the masses.

In three semesters, I returned 125 of my 130 students to their home high schools. Another group at the alternative school required more time to

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Tulia: Tip of the Drug War Iceberg

Travesty Highlights & Reform Recommendations

By Nkechi Taiifa, Senior Policy Analyst
The Open Society Policy Center

A 1999 drug sting in Tulia, Texas, ensnared nearly half of the adult African American population of the town on drug charges later found to be bogus. The arrests and subsequent convictions resulted in whole families being decimated and dozens of children left parentless. The Open Society Policy Center has just released *Tulia: Tip of the Drug War Iceberg*, a booklet outlining the events in Tulia and providing policy recommendations to ensure such a travesty of justice does not reoccur.

Tom Coleman, the undercover officer who orchestrated the sting operation, was hired by a narcotics task force, one of nearly 1,000 federally funded partnerships nationwide where local police departments, sheriffs' offices and district attorneys combine their efforts to uncover drug crimes. Coleman alleged that, over an 18 month period, 46 Tulia residents sold him cocaine, nearly all of which was worth less than \$200. The first person to be tried, a 57 year old hog farmer, received a 90 year sentence after being convicted of one count of selling cocaine to Coleman. Others who went to trial received sentences ranging from 20 to 341 years. After witnessing such extraordinary sentences meted out by nearly all white juries, many of the defendants began pleading guilty in exchange for "lighter" sentences ranging from probation to 18 years, despite the fact that no drugs, weapons or large sums of cash were found. The arrests and convictions generated so much attention that Coleman was honored as "Lawman of the Year" by the Texas Attorney General in 1999.

The government's case began to fall apart after evidence revealed inconsistencies in Coleman's testimony and gross misidentifications of suspects. Moreover, the convictions were based solely on the officer's uncorroborated testimony; there was no audio or video surveillance, no photographs and no wiretaps. It was revealed that Coleman's modus operandi was to record purported drug buys on his leg.

Retired State District Judge Ron Chapman presided over an evidentiary hearing into these and other allegations of misconduct. At the conclusion of the hearing during which Coleman was cross-examined for over six hours, the judge characterized his testimony as "absolutely riddled with perjury," and stated that he was "the most devious, nonresponsive law enforcement witness this court has witnessed in 25 years on the bench in Texas." Further proclaiming that Coleman was "simply not a credible witness under oath," the judge recommended that all the defendants that had been convicted based on Coleman's testimony receive a new trial. Within hours the state's special prosecutor said the cases would be dismissed, adding that the entire debacle had been "a travesty of justice," conceding that the government made a mistake in relying on the uncorroborated testimony. Shortly after the evidentiary hearing Tom Coleman was indicted on charges of perjury; his trial began January 10, 2005. The original prosecutor, District Attorney Terry McEachern, was sanctioned by the Texas State Bar for failing to turn over legally required evidence to the defense about the character of the government's chief witness.

In August 2003, Texas Governor Rick Perry pardoned those convicted as part of the drug sweep, after both houses of the Texas Legislature passed a bill allowing the remaining imprisoned defendants to be released on bail. Five years after the incident, a civil suit ended with the announcement that

the City of Amarillo, which was a significant player in the regional drug task force which hired Coleman, would pay a \$5 million settlement to the former defendants. This phase of the *Tulia* case was the culmination of a remarkable multi-year campaign led by a wide coalition of civil rights organizations, local and national lawyers, journalists and activists who mobilized to expose and challenge the injustice of the wrongful arrests and prosecutions. Although this travesty of justice has abated, *Tulia* is not just a tale of "one cop gone bad." Instead, it underscores systemic abuses which are part and parcel of the manner in which the war on drugs is being fought in this country. In essence, the abuses that occurred in *Tulia* are a mirror image of systemic problems facing the nation's criminal justice system as a whole – police who specifically target people of color for law enforcement scrutiny; prosecutors who plow ahead to secure convictions despite dubious evidence; under-funded defense counsel who fail to adequately represent indigent clients; juries who robotically believe police testimony over that of the accused; judges who are constrained by law to levy harsh sentences which often do not fit the crime – in sum, a "war on drugs" is being fought where the casualty is justice.

The tragedy that occurred in Tulia has once again placed a national spotlight on law enforcement abuses and, with proper examination, could become a catalyst with which to focus attention on broader issues associated with criminal justice reform and the war on drugs. Now that the Tulia defendants have been released, pardons have been issued and a civil settlement reached, the time is ripe for legislative and administrative changes in national policy to prevent such miscarriages of justice in the future.

Congress must step up to the plate and embrace a panoply of legislative proposals that will bring systemic reform. Legislative initiatives to end racial profiling, ensure trust and integrity in law enforcement, and require corroboration in undercover drug cases would bring much needed accountability to law enforcement policies and practices. Passing bills to equalize the penalties between crack and powder cocaine and repeal mandatory minimum sentences would bring justice to sentencing and restore judicial discretion to assure that sentences fit the crime. Specific recommendations for reform outlined in *Tulia: Tip of the Drug War Iceberg*, include:

- Enact "The Tulia Rule" – that federal funding can only be used for anti-drug activity if a state adopts legislation preventing any drug conviction based solely on the word of an individual with no corroborating evidence;
- Restrict regional narcotics task forces to the same four-year funding limit that applies to other Byrne-funded projects (current law sets a four-year funding limit for all projects, except regional drug and gang task forces, which can be funded indefinitely);
- Require that law enforcement agencies receiving federal funding enforce a ban on racial profiling and document traffic stops, arrests and searches based on race, ethnicity and gender. Such data collection could serve as early warning indicators for problem officers;
- Prohibit federal funding from being used to facilitate asset forfeiture unless the defendant is convicted of a crime;
- Allow Byrne grant money to be used for indigent defense (funding for prosecutorial programs is currently permissible);
- Condition federal funding on the establishment of statewide indigent

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Why Every Legal Aid Program Should Have an Endowment Fund

Over the last 30 years, legal services has become an institution and a respected player in the legal community. We are no longer outsiders. Defendants used to be our enemies. Now with the realization that there are multiple ways to affect the system, we find there aren't as many 'bad guys'."

- Neal Dudovitz,
Neighborhood Legal
Services of Los Angeles
County

"We absorbed the cutbacks through staff attrition but were forced to make some significant policy decisions that affect us to this day."

- Estela Casas,
Greater Bakersfield Legal
Assistance

"We have been and continue to be a voice in the justice system for the most vulnerable. For many, without us there would be no justice."

- Harrison McIver III,
Memphis Area Legal
Services

By Dennis Dorgan

These quotations from veteran legal aid directors are all taken from an article in the Fall 2004 issue of LSC's *Equal Justice* magazine, an issue that looked back over the last 30 years of legal services in America. While each of these quotations reflects on our history, they also contain the seeds of important ideas for the future, a future that will look as different from today as today does from 1974.

Over the last several years, we've seen LSC funds cut back and low interest rates decimating IOLTA funding. In the wake of budgetary crises, state and local government support has been reduced, and corporate and foundation funding is directed toward time-limited projects. These facts of fiscal life have forced many programs into making debilitating cuts in staff and services. Given that this situation is not likely to change soon, securing some kind of stable, perpetual base of support for the future ought to be a primary financial goal of any program.

The surest way to secure this stable source of funding is through the creation of a permanent endowment. But given the severe shortage of funds just to maintain current levels of service, does it make sense to direct a significant portion of scarce personnel and financial resources into an asset base where only the interest is available? The answer is a resounding and unequivocal yes. Here are some reasons why:

Reason #1: You can't get there from here without an endowment

The fundraising goal for any legal aid program is to become a "Blue Chip" investment, like a university, museum or other community institution that attracts large, multi-million dollar contributions. And those kinds of gifts go to either capital or endowment funds, rarely to ongoing operations. Of course, a program can't become a Blue Chip right away. That kind of status is built up over a period of years. But the longer a program waits to develop and implement its endowment fund strategy, the longer it will take to get there.

Reason #2: The grants game is not dependable

One of the great lessons the legal aid community has learned over the past 30 years is that external funding sources are not dependable. The grants game is tough and unpredictable. In the past few months, I've talked with three program directors

that were shocked by rejections they had received from previously dependable foundation funders. Their programs were thrown into an immediate state of crisis. An endowment can provide discretionary funds that can help weather such crises. Just as importantly, it can fill the gaps in overall lean years and, when it grows, can become a major source of continuing support.

Reason #3: In financial matters, permanence and predictability are good

Throughout our history, legal aid program managers have had to spend an inordinate amount of time worrying about money; always wondering about how to persuade a congressperson, a legislator, a foundation executive or an attorney that they should support legal aid. An endowment won't change this, nor should it. But even a small endowment might remove some of the desperation and sense of crisis that drives so much of today's fundraising. A permanent fund, providing a steady and predictable stream of income can offer any program a greater sense of control over its financial health. Equally important, this income stream will grow. As even novice fundraisers know, money attracts money. Three contributions to an endowment almost guarantee a fourth. And as contributions, cy pres and other dollars flow into a fund, the interest it generates will exceed the amount taken out for program expenditures (or at least it will if it's managed right).

Reason #4: The process will do you good

Thinking about and organizing an endowment campaign requires that a board and staff consider the future. An endowment isn't just about contributions in the next three to five years. It's about the long-range future of the organization and being a force in the community far beyond the lifetimes of the people now running the program. In short, it is recognizing that legal aid programs have "*become ... institutions and ...respected players in the legal community...no longer outsiders.*" For the most part, programs have become the kind of organizations to which donors will make significant and long-term commitments. Creating an endowment can be a "*significant policy decision that affects us*" far into the future. And, most impor-

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NLADA Annual Conference Board Leadership Track

by Robert Echols

This year's NLADA Annual Conference included a new feature — a “mini-track” of four workshops designed for board members of legal aid programs dealing with a range of issues and challenges facing non-profit boards in general and legal aid boards in particular. The group of sessions was designed and presented with the assistance of board members, including both attorneys and clients, from a dozen programs from around the country, as well as national experts on non-profit issues.

The principal lesson that emerged from the dynamic interactive sessions, all of which were filled to capacity and in some cases overflowing, is that program board members strongly feel the need for training on these issues at both the local and the national levels. A number of executive directors who attended the sessions also commented that sessions responded to an important need previously articulated by executive directors and board members.

A session on “Supporting and Governing: the Core Responsibilities of Board Members” covered the basic roles and responsibilities of program boards of directors, including the requirements of state laws governing non-profits, the LSC

Act, and other relevant laws and regulations, with a special focus on the tension between boards' “governance” functions (in which their role is essentially one of protecting the public interest) and “support” functions, where their efforts are aimed at furthering the mission of the program. Panelists and board members in the audience discussed how they viewed their roles and the particular functions they performed for their programs.

The particular challenges of a board's financial oversight responsibilities, including new developments resulting primarily from the fall-out from recent corporate scandals in the for-profit corporate sector, were explored in depth by Patricia A. Drolet, a Washington CPA and non-profit specialist. Drolet emphasized the importance of fully understanding the board's accountability for the program's financial integrity and identified the bottom-line principles of “full disclosure” and “common sense” as the keys to successful compliance with state and federal requirements.

At a “nuts-and-bolts” session on “Best Practices for Effective Boards,” experienced board members and a client member/attorney member/executive director team engaged in a wide-ranging discussion with audience members about topics

including recruiting, training, engaging and retaining effective board members; maximizing the effectiveness of the board; engaging board members in fundraising; and drawing the line between governance and management. Again, a broad consensus emerged from the participants about the importance of training, education, and mentoring for board members, attorneys and non-attorneys alike.

The day ended with a session on “Board Members as Equal Justice Leaders,” emphasizing the challenge and opportunity of “governance as leadership.” Topics discussed included the importance of openness to best practices and new ideas; the board's vital roles in defining and advancing the organization's mission, framing problems and shaping strategies, plans and decisions; the leadership implications of program and board diversity; and the role of the board in projecting the organization into the larger justice community.

NLADA will build upon the successes and lessons learned from this year's experience to develop a similar track at the 2005 Annual Conference.

ENDOWMENT PROGRAM

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tantly, a fund can help to insure that we *“continue to be a voice in the justice system for the most vulnerable. For many, without us there [will] be no justice.”*

Community foundations are generally a good resource for any program thinking about creating an endowment. Several programs around the country have established their endowments under the auspices of their local community foundation. Publications like the Chronicle of Philanthropy (<http://philanthropy.com>) and the Foundation News (<http://www.foundationnews.org>), published by the Council on Foundations, regularly carry information about endow-

ments. But the best resources in the legal aid community are, in this matter as in all others, those programs that have already taken the first steps in creating their funds. The statewide fund in Minnesota (contact Mid-Minnesota Legal Assistance for information), Atlanta Legal Aid Society, Legal Aid Society of Greater Cincinnati, and Bay Area Legal Services (Tampa, FL) are some of the programs that have endowment funds and have served as excellent resources for other programs.

Georgia Public Defender Standards Council Debuts New Lawyer Training Program

By Cynthia Works, NLADA, Director of Education & Training

You won't be able to keep bad things from happening to all of your clients but as long as you can go home every night, look yourself in the mirror, and honestly say that you have done everything within your power to provide justice to each and every one of your clients, you have been successful as a public defender.

Jonathan Rapping, Training Director, Georgia Public Defender Standards Council

Jekyll Island, an enchanting, historic location off the coast of Georgia, is a popular vacation spot in the summertime, though there's not much happening during the winter. So who would spend a week there in the middle of January? Who would travel in caravans to a spot that is normally isolated this time of year while the temperatures hover in the thirties? If your answer is approximately two hundred public defenders, forty investigators, and thirty faculty members from four states and the District of Columbia, you would be right. After being on the job for all of two weeks, newly hired public defenders from all over Georgia descended on the tiny island for five full days of very intensive training.

The training is an integral part of the Georgia Public Defender Standards Council's (GPDS) mission to ensure that indigent people charged with crimes in Georgia receive first-rate representation.



The Georgia Indigent Defense Act of 2003 established a statewide public defender system in Georgia that began operations January 1, 2005. The Act also created the Georgia Public Defender Standards Council (GPDS), an independent agency within the judicial branch of Georgia's state government. The Council is responsible for ensuring that the public defenders throughout the state of Georgia are properly trained, supported, and supervised. The Standards Council is committed to creating and maintaining the best public defender system in the United States.

Additionally, the Council serves as the administrative support for the 49 circuit defender offices throughout the state. The Council assists the circuit defenders by providing training and professional development for the attorneys and other staff involved in defending indigent citizens; by representing the interests of defense attorneys throughout the state; and, by providing administrative assistance to the circuit defenders as needed.

The New Attorney Training program opened with newly hired

GPDS Training Director Jonathan Rapping quoting Barbara Babcock, the first director of the Public Defender Service for the District of Columbia (PDS), by saying: "being a public defender requires a peculiar mindset, heart set, soul set." From that point on, faculty member after faculty member began to explain to the people in the room exactly what that means. There were discussions about the importance of the public defender in ensuring justice for poor people charged with crimes and dialogue about the importance of treating the client with dignity and respect. These themes were promoted throughout sessions dealing with the theory of the case, investigation, discovery, motions practice, and pre-trial proceedings. These sessions made up the first training of a core curriculum that would be taught to all new public defenders in Georgia throughout the first year of operation.

Panel discussions were provided by an impressive group of faculty members, including some of the most committed public defenders one could assemble. These large group sessions were coupled with breakout sessions in which small groups of lawyers worked through practical problems led by two faculty members per group. Lawyers spent eight hours a day in training sessions packed with soul searching, discussions of theory, and practical tips. Although everyone was tired by dinner time, young lawyers could be found by the dozens meeting each other, talking to faculty, and generally taking advantage of the community of which they now were a part in the hours after dinner. Numbers were exchanged with promises to continue these discussions long after the group left Jekyll Island.

One of the circuit defenders, a former district attorney, said that he had been to many trainings put on by the prosecutors of the state. They generally lasted three days with a half-day of training each day. Lawyers brought their families and considered it an opportunity to take a vacation. He explained that if the prosecutors were put through training as intensive as this one they would revolt. Smiling, he remarked how special it was to watch lawyers happily participate in this type of training because of motivation to do good work.

The impact of this training was not limited to the classroom. In the dining hall one could hear lawyers buzzing about the commitment of the faculty. In the hallways participants discussed with excitement the energy in the air. However, it was also obvious that for many of the attorneys at the training, they were just coming to realize the magnitude of the responsibility they were taking on. Could they possibly live up to the standards the faculty was setting when they carried caseloads in the hundreds? Were there enough hours in the day to investigate cases, litigate discovery issues, research motions they contemplated filing, and meet with their client to keep each apprised of what was happening in their cases? Many were carrying caseloads well in excess of the standards set by the ABA. This is merely one example of many remnants of a broken system that the Georgia Indigent Defense Act of 2003 was designed to repair.

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You Don't Do Media? Then Media Will Do You!

By Elizabeth Arledge, Director of Development and Communications at the Legal Aid Justice Center in Charlottesville, VA; and Joe Surkiewicz, Director of Communications at the Legal Aid Bureau in Baltimore, MD

For a couple of years we've been co-leading a series of workshops at NLADA conferences (along with media professional Patricia Bath of the Legal Aid Society of New York City) called, "So you don't do media ... Why you must and how you can!"

But we may change the title following a pithy comment from a lawyer attending our session at the NLADA Annual Conference this past December.

In a free-ranging conversation about media in a packed room of attendees, a public defender from Cook County, Ill. summed up why public interest lawyers need to work with newspaper reporters, TV investigative reporters and other media.

"If you don't do media, media will do you!" the public defender warned the group, which was equally divided between people from public defender offices and civil programs.

That guy hit the nail on the head.

While his comment referred to always helping investigative reporters working on stories — even if your office isn't involved in the case under scrutiny — the advice holds true across the board.

That's because an ongoing strategy to work with reporters and editors can pay off in many ways.

Here's the short list. A pro-active media strategy can help pass key legislation, influence public perceptions of a specific case or program, increase fundraising, educate key audiences (such as the private bar), change public misconceptions of an issue, give voice to unheard people (say, the homeless and immigrants) and build staff morale as your organization is more likely to be seen as a key player.

While working with the media takes time, requires a strategy and doesn't always yield an immediate payoff, it's well

worth the effort. Need an example?

At the Legal Aid Bureau of Maryland (Legal Aid), building and maintaining a relationship with a beat reporter at *The Baltimore Sun* resulted in a string of favorable articles. The subject: Legal Aid's lawsuit on behalf of the displaced tenants of a large, low-income apartment complex slated for redevelopment.

The articles were not only accurate, but featured quotes from Legal Aid's lawyers high in the stories — a reflection of the reporter's trust and appreciation of the help he received while covering the complex federal case. The outcome? A recent ruling may pave the way for the tenants' eventual return.

Getting good media requires a strategy. Here's a primer.

Target your audience. Unless you've got a budget like Proctor & Gamble's, a good media strategy requires that you narrow your focus and audience. Targets include lawmakers and policymakers, funders, opinion leaders, business leaders, voters, reporters, potential jurors and future clients.

Identify your news. Is it really newsworthy? Remember, newsrooms are flooded daily with press releases — and most get tossed. When writing a release, stick to the facts, don't inflate the truth and avoid clichés.

Frame your story. Ask yourself, "What's the main issue?" If a baby is bitten by rats in a housing project, what's the story about? Is it neglectful welfare mothers, slumlords who don't fix rodent problems or the local government's failure to enforce housing codes?

One last tip: Don't waste reporters' time with stuff that's not really newsworthy (and take "no" for an answer graciously).

Once you've considered these primers you can start to develop the message — your tool to framing the story. The message is the information or impression with which your target audience walks away.

Messages should be short and succinct. Think "sound bite." (Here's a good one from Jesse Jackson: "A jobless recovery is like a swimming pool without water.")

Before an interview with a reporter, write down two or three key points. Rehearse them with a friend or colleague — and then stick with them throughout the interview.

When talking to reporters, work in your message as often as possible.

Repetition is the key to making your messages resonate (and will increase the likelihood they'll make the final cut). So stay on message.

Other ways to get your message out include press releases (keep them short), pitching good stories to the right reporters (pay attention to bylines), press conferences and media visits, op ed pieces and letters to the editor, talk radio and TV public interest shows, and editorial board meetings.

Build relationships with reporters and editors. Get to know beat reporters the same way you would a potential donor. Respect reporters' professionalism — and remember that your expertise and position in the community is important to them.

Last but not least, creating relationships will pay off even more when news breaks about your organization. Many of the reporters who call will know, trust and respect you.

And, echoing the warning of that Cook Co. public defender, you won't be a position where the media is "doing" you.

In a free-ranging conversation about media in a packed room of attendees, a public defender from Cook County, Ill., summed up why public interest lawyers need to work with newspaper reporters, TV investigative reporters and other media.

Parent Participation in Schools...

It's more than Baking Cookies!!

By Linda Deans

Parents create an “aura” of presence for their children as they attend school. Even though parents are not physically present in the school on a daily basis, it is important for their “influence” to be forever present. The role parents play in influencing their child’s academic placement and classroom performance cannot be understated. This “influence” can be either positive or negative; the preferred direction is definitively “positive.” Student placement and tracking play a major role in a child’s future educational, job, and economic opportunities.

First, let’s look at initial student placement. When a child enters school, s/he becomes a student in the academic environment. Different schools use different strategies to place students in their respective classes. Testing and assessment of a student’s knowledge, skills and abilities affect the placement of students from preschool through high school. Preschool readiness tests determine if the student will be placed in pre-kindergarten, level one or pre-kindergarten, level two. It is contingent upon the knowledge, skills and abilities that the student brings to the public school arena. Who is the one most significant person to determine and impact the knowledge, skills and abilities that the child or student has when s/he is assessed by the readiness tests? It is the parent! Parents must recognize that their influence is significant to the placement level of their children. Schools signal that students grouped in pre-kindergarten, level two are less “ready” to enter preschool than a student placed in pre-kindergarten, level one. Parents have to ask what happens to the child when the child progresses from preschool to kindergarten and beyond? Is the student then placed in kindergarten, level two instead of kindergarten, level one; then, first grade, level two instead of first grade, level one? Parents need to know how to “influence” the change in placement for their children?

If, however, there is no specified and intense intervention as a result of the testing, the student will continue along the same mediocre or low-achieving track as s/he was initially placed in pre-school. Thus, issues of student placement and tracking pose similar concerns when the child moves to the middle school grades. Parents need to understand the importance of their children’s mastery moving toward abstract concepts, such as algebra in the middle school grades. What determines if the student begins algebra in 6th grade, instead of the 7th or 8th grades? Again, if the student has had no individual tutoring, intervention or enhancement related to his/her knowledge, skills and abilities since elementary school and that same student has not had the personal experiences that would enhance his/her abstract thinking, then the student may be placed in Math 6 or Math 7 or Math 8 instead of beginning the abstract math “track” which will include algebra.

I am not implying that other factors have no influence on a student’s academic tracking. But, I am declaring that parents can more directly influence academic tracking in a positive direction. Parents must understand the negative influence caused by removing children from the instructional process for reasons that are counterproductive, such as: vacations, visiting distant relatives or allowing children to remain at home to wait for the repairman. While some absences from school may be necessary, the parent needs to take the responsibility to request in a timely manner the academic assignments during those absences and ensure that the student has the opportunity to make-up missed assignments upon their return to school. Parents should make verbal requests for the assignments and make transportation arrange-

ments for students to either report to school early and remain after school hours for make-up assignments and learning. However, no make-up assignments have the same value as the direct instruction provided on a regular basis by a competent classroom teacher.

The student’s cumulative academic progress must be monitored in order to improve results for each battery of testing. Teachers are monitoring the academic progress of a group of 25-30 students in each class. It is not likely that a teacher can adequately monitor each individual student’s progress; therefore, it is the parent who can best monitor that progress. Parents need to know that tutorial sessions are available for their children. Parents are going to have to be involved enough with the public school to actually know the location and availability of these sessions. Even though student handbooks and teachers’ course outlines are published, they are often disseminated to students. It is important to acknowledge that parents may never receive them. Parents need to know the existence of these materials; or, seek resources on their own. They also need to be assertive and sometimes politely aggressive to get into public schools in order to identify and use resources available to their children. This allows parents to support their children’s academic progress, especially through the use of appropriate interventions, after testing identifies areas of weaknesses for students.

A fundamental issue for parents to understand is the impact “tracking” has on their children’s ultimate destination: vocational school, college, or jailhouse? If students are allowed to function throughout their educational experiences in classes that do not provide the stimulation and motivation equal to their ability levels, the students eventually lose the desire to learn in a structured academic setting. Once that “desire” is lost, behavior patterns often develop that will cause them to be removed from that setting for disciplinary reasons. Even when minor infractions occur, it can be the beginning of the deterioration of the students’ desire to remain in structured educational settings. Students may not be mature enough to verbalize these words: “I am acting-out because I don’t want to be here.” But, it is the ultimate responsibility of parents to recognize changes in those behaviors that will exclude students from the traditional learning environment. It is “education” that can make or break a child’s future; therefore, it is imperative that the parent participates in the decision to create and implement strategies that will maintain the student’s learning. The parent must partner with the educational institution to make such determinations relative to the least restrictive environment for the child to learn to the maximum capacity possible. If the parent fails to partner with the public schools, then the “sin of omission” could contribute to the child sailing down the road on the “schoolhouse to jailhouse track” at an alarming rate of speed. Society observes this journey more and more as preteens continue to enter the world of the juvenile court system.

Meaningful parental involvement in the educational development of children can not only guide a student away from the schoolhouse to jailhouse track, but also gives a student access to a “*track of academic excellence and opportunity!*”

Linda Deans, PhD recently retired from the Hampton City Public Schools in Hampton Virginia. She advises clients on organizational development and educational policy issues.

Building State Justice Communities: Where Do We Go From Here?

By Don Saunders

For the last 10 years, the civil legal aid community and its supporters have been heavily engaged in both the process and substance of developing a new national vision of how legal assistance for poor people will be delivered in this country. As always within the equal justice community, this endeavor has spun off a number of catch phrases and acronyms: CISS (Comprehensive, Integrated Statewide Systems), State Planning, "stakeholders", State Justice Communities, SPAN (State Planning Assistance Network), DSPB (Designated State Planning Body), Access to Justice Commissions and, of course, "reconfiguration".

Although this movement took place against the backdrop of a more nuanced and complex national political fight than that of the 80's, the vision of a state-based system was forged in the fires of a similar attempt by the American Farm Bureau Federation, conservative interest groups and congressional opponents to end any semblance of federal support for access to justice for the nation's poor. Ironically, it was later honed in the controversy of what some in the community saw as an intrusive mandate from the federal level (LSC) to fit various local realities into a one-size-fits-all mold that sometimes seemed inconsistent with the vision of a state taking primary responsibility for its own delivery system.

Today, we find ourselves in myriad places in terms of progress toward a unified vision of an effective state justice community in every state. In some states, the question could be asked whether there is any shared organizational blueprint of a state-based system or of the critical components necessarily entailed in the development of one. Progress toward the vision must, by necessity, be gauged with enough flexibility to encompass a constellation of states with very different realities of resources, support, geography and, frankly, buy-in from the key stakeholders within the state.

The questions underlying the "state planning" debate are not trivial ones for any equal justice advocate. Indeed, they are fundamental to any future efforts to develop a coherent, adequately resourced, civil justice system. Although many in the community blanch at the "vision" thing, we cannot pursue our strategies with appropriate vigor if we cannot define who we are and what we are about.

This article will review the steps since 1995 that have led to the current and different realities regarding the establishment of state justice communities across the country and consider a number of questions that must continue to be addressed if the vision of a state-based system of justice is to become a reality. Can we learn from the lessons of the last decade in adapting what has worked about the process and revising or rejecting what has not?

How We Got to Where We Are Today

State-based planning and cooperation by no means began in 1995. Nor did reconfigurations, mergers or the existence of statewide programs. However, the impact of the events of 1995 and the 104th Congress have greatly shaped the landscape of civil

legal aid today. Many observers incorrectly date the current discussion to 1998 when LSC outlined a state planning process in LSC Program Letter 98-06 under the leadership of then-President John McKay.

Indeed, it began with the election in 1994 of what became known as the "Gingrich Congress" and the Contract with America, which called for the elimination of the Legal Services Corporation because its grantees represented clients seeking divorces. Advocates for federal funding at NLADA, GLASP and the ABA, as well as senior officials at LSC, began the current push for "state planning" in the face of the very real potential that Congress might refuse to continue to fund legal services for the poor or, alternatively, block grant all federal legal assistance money to the states.

Supporters of legal aid saw a system in many states based upon the 80's mantra of "local control", with the provider programs in many states very isolated from other potential stakeholders within the civil justice system and almost totally dependent upon the largess of Congress. In many states, the elimination of federal support would have resulted in an essential dismantling of the staff-based system, the fundamental underpinning of the delivery structure.

The mid 90's also brought significant change in the federal-state relationship around many of the major poverty programs that had formed the basis of much of the strategic advocacy of legal aid programs for decades. Many of the federal rights that had pointed advocates' attention to Washington policies in the past shifted to the state level through the devolution process. Again, supporters saw the need for a shift toward more of a state-based system, as much of poverty advocacy was refocused on state legislatures, state agencies and state, rather than federal, judicial systems.

In an effort initially aimed at preparing grantees for a potential future without LSC funding, or funding through block grants to the states, LSC President Alex Forger issued the first "state planning" letter, Program Letter 95-1 in July of 1995. Forger's letter contained the outline of the issues that would continue to drive the process for the next decade: 1) consolidation of programs to ensure entities of adequate size in anticipation of dramatic cut-backs; 2) much greater integration of pro bono attorneys; 3) increased efficiency of intake and access; 4) the operation of LSC-funded programs as a "statewide legal services system" and coordination of intake, brief service and other legal representation; 5) enhanced utilization of technology; 6) development of non-LSC resources; and 7) transformation to a new system with minimum disruption in client service.

Due to a huge advocacy effort, and the growth of a strong bipartisan majority in Congress, LSC survived the rockiest times of the 104th Congress, but paid a dear price in doing so. Funding was slashed by almost 1/3, and a series of onerous restrictions were placed upon grantees that made it essentially impossible to base an adequate delivery system simply on LSC-funded programs unable to provide certain essential client services. On their own, many states dramatically altered their delivery systems practically overnight, both spinning off non-LSC entities and merging existing

LSC providers without mandate from Washington. These states included Connecticut, Delaware, Massachusetts, New Hampshire, Pennsylvania, Vermont, and Washington.

Even though the federal component of legal aid funding, however altered, was maintained, many equal justice advocates began to recognize that the discussions engendered by the attacks of the 104th Congress, and the changes states had already begun to undertake in response, needed to proceed. The old paradigm of over-dependence on Washington was seen as a concept ill-suited for the political trends of the day.

SPAN, the State Planning Assistance Network, a partnership between the ABA and NLADA, was created in 1996 to actively support at the national level the collaboration between the provider community and the organized bar. Its efforts enhanced the development and networking capacities of state planning bodies and Access to Justice Commissions across the country. In many states, this process has proceeded continually and led to significant progress toward a shared vision of a state system that is both real and owned by most of the significant stakeholders.

With the support of the Open Society Institute, the NLADA/Center for Law and Social Policy (CLASP) Project for the Future of Equal Justice (PFEJ) published a Discussion Draft on "Comprehensive, Integrated Statewide System{s} For The Provision Of Civil Legal Assistance To Low Income Persons To Secure Equal Justice For All" on July 2, 1998. This paper picked up on the growing recognition of the value of a state-based approach to civil justice and provided a framework of what capacities a comprehensive, integrated system should contain. Many of its tenets remain equally important today.

The paper begins from a premise that each state should create a state-based comprehensive system that involves all relevant stakeholders and collaborators, that considers the needs of the state as a whole, rather than a local delivery area, and that efficiently and effectively provides a full range of assistance, from brief service and advice to extended representation. The paper contemplates that each system must engage in a planning process broader than the one mandated by LSC, in that the vision contemplated in the Discussion Draft must contain the capacity to represent clients ineligible for LSC representation due to their particular status, and also must provide critical restricted representation, such as legislative advocacy, class actions and, at the time, welfare reform advocacy.

John McKay, who had been an active player in the Washington state planning process beginning in 1995, came into the presidency of LSC clearly focused on making "state planning" the centerpiece of his administration. Program Letter 98-06, issued on July 6, 1998, closely tracked the relevant (restricted) capacities contained in the PFEJ's Discussion Draft in calling for a detailed state planning process for all LSC grantees. It mandated that a number of state planning considerations be addressed in response to seven questions related to the development of a comprehensive, integrated system in each state as a critical component part of its competition for grants process.

LSC mandated a state planning process with a wide array of stakeholders directed to develop a plan with a timetable to address intake and advice, technology, self-help, coordination of legal work, private attorney involvement, resource development and system configuration.

Thus, in mid 1998, LSC, NLADA and CLASP, and much of the provider community were engaged in thoughtful conversations around a developing vision of a state-based civil justice system that greatly reduced the isolation of LSC-funded programs, enhanced the political support in states for increasing resources, improved the use of technology in the delivery of legal services, increased the involvement of pro bono attorneys and facilitated greater cooperation in some states among programs regarding their legal advocacy initiatives. This discussion was supplemented by NLADA, the ABA and the PFEJ's admonition that the vision be broad enough to include the creation of unrestricted capacities beyond those that LSC could appropriately support.

However, progress toward a shared vision of a civil delivery system began to diverge dramatically in many states beginning with the 1998 LSC state planning initiative. LSC began in late 1998, particularly in reconfiguring the Bay Area of California even though the state plan did not seek such a change, to stress the reconfiguration of its service areas as a central component of its planning process. During the next four years, the landscape of LSC program configuration underwent enormous change. From 1995 until 1998, the number of LSC basic field and Native American programs shrunk from 288 to 261, with 27 programs being merged. The next four years saw a greatly accelerated pace of service area consolidations and program mergers - going from 261 to the current total of 143 programs serving the states and territories of the United States.

Whatever one thinks of the reconfiguration process -- and little evaluative information exists to date on the results of the move to significantly larger providers in many states -- it is undeniable that such large scale organizational change has siphoned much of the energy and support in many states from the other component parts of the vision of a state-based delivery system. It has proven very hard, particularly for leaders of staff provider programs, to think about much else other than the myriad challenges attendant to achieving a business consolidation and running much larger programs.

The current administration at LSC, under the leadership of Helaine Barnett, has focused on quality in the provision of legal services as its priority agenda item. Barnett has stressed that the focus on configuration is no longer an LSC priority, but that it still supports the other goals and shares the vision of a state-based system that underscored the decade-long planning process. In some states, it remains to be seen whether, absent a strong push from LSC with the concomitant threat of reconfiguration, the vision has enough buy-in or support to organize the development and implementation of a state-based, comprehensive civil justice system.

Most programs have now moved significantly down the road toward effectuating mergers and many states have had experience

with what works and what does not in implementing a state-based system. It is the view of the author that we as an equal justice community must consider anew the vision we have articulated for the past decade to test its true validity and feasibility in a time of such tight resources in many states. The national institutions supporting the equal justice community must take steps to ensure that, absent an almost irresistible push from LSC, the vision is kept both vibrant and moving forward.

Where Do We Go From Here?

In a healthy state-based justice system, state and local stakeholders should assume responsibility for developing a civil justice system that best meets local realities and needs. However, significant overarching values and concerns remain that lend themselves to a national discussion designed to strengthen these systems through collaborations and support across state lines and from our national institutions.

A number of these concerns have an impact on the success a given state can have in moving toward its vision of a justice system. These include:

1. How do we change the paradigm of "state planning"?

In a relatively large number of states, a broad array of stakeholders have bought into the overall goals of the planning process and have made significant progress in implementing those goals. Yet, primarily due to the focus given to mergers and service area reconfigurations over the last six years, the entire concept of "statewide planning" has taken on a highly negative, almost antithetical, connotation in many states. Many equal justice advocates simply think forced mergers when they hear the term.

The purpose of this article is not to argue whether this reorganization of LSC-funded providers was a good or bad idea. It is to stress that the other goals of statewide planning and collaboration remain both viable and crucial if states are going to make progress toward a vision of justice for all with the many challenges they currently face.

The merger process is essentially over.

Despite the posttraumatic stress disorder affecting some within the equal justice community around the state planning issue, it is now time for a return to a discussion of how we can maximize the effectiveness of state justice communities nationwide.

2. What role should LSC play in the planning process?

As the primary funder of civil legal assistance in this country, LSC plays a crucial role in shaping a system of justice best designed to maximize the effective use of extraordinarily scarce resources. And few would doubt that it has used its power of the purse in an extremely aggressive manner since 1998 in pursuing the vision of a state-based justice system.

Yet, the Corporation cannot be the sole keeper of the light with regard to shaping the justice systems in the various states. We as a broader community of equal justice advocates must assume that responsibility.

LSC funding will always be subject to the vagaries of the national political process, and it is highly unlikely that in the near term this Congress is likely to fund the kind of justice system for poor people that they need and are entitled to. It is imperative that state justice communities boldly consider going beyond the strictures of LSC funding throughout their planning processes. LSC can have no part in moving those discussions, given its strong responsibility to adhere to and enforce the will of Congress with regard to federal funding.

LSC maintains its strong support for the vision of a state-based system, as evidenced in recent remarks by Helaine Barnett, and they should continue to stress the importance to its grantees of being key players in the development of strong, viable state justice communities and in collaborating with a broad array of supporters and stakeholders.

But LSC should rethink its role and relationship with these developing state-based systems. LSC, regardless of the influence inherent in its funding, cannot mandate that a state share these principles or assume real responsibility for developing a quality state justice community.

In some states, LSC's zeal in insisting that certain outcomes be obtained has been counterproductive to the development of real ownership and responsibility at the state level. Appropriate stakeholders must develop state justice communities with a good faith commitment and buy-in to a set of shared principles. LSC must allow them the freedom necessary to promote the development of a real culture of state-based responsibility for justice. LSC cannot be the sole harbinger of these principles if a state is to succeed.

Of course LSC should use its resources to help define the key elements of a quality justice system and help its grantees be active and effective players in moving toward that vision. But LSC also must recognize that a core principle of the state-based vision is a break from an over-dependence on the federal funding component in favor of ownership of the justice system by state stakeholders.

3. What is the role of standards, quality and evaluation in promoting the effectiveness of state justice communities?

Providing states with broad leeway in shaping their civil justice systems around their own particular needs does not obviate the need for a national discussion on the overarching principles and values important to state justice communities. We must work together to ensure that these core values are pursued and evaluated in every state. If we as a community are honest with ourselves, we will recognize that we have not always held ourselves accountable to the highest standards of quality and performance.

A very healthy focus on quality in the delivery of legal services is underway on a number of different levels. The ABA is updating its Standards for Providers of Civil Legal Services to the Poor. Helaine Barnett has made quality the centerpiece of her agenda at LSC. Many programs are looking at peer review and program-owned evaluation as critical components of their operations. IOLTA funders are taking a hard look at quality as well in many states.

Most of these initiatives, by their very nature, are focused on the program level. We should be thinking about the role of standards, quality and evaluation in improving the effectiveness and viability of state justice communities as well. LSC has spent a great deal of time and expense in developing, along with some of the best thinkers in the community, its State Justice Communities Planning Initiative Evaluation Instrument. The Instrument was extensively piloted and has been used to evaluate progress toward planning goals in several states to date.

LSC and the target states have experienced some problems with the evaluation process and it is unclear at this point how many formal evaluations LSC intends to do in the future. Many observers have found it overwhelmingly detailed and difficult to administer as an evaluation instrument. However, the Instrument is clearly useful in that it does provide planners at the state level with a wide range of indicators to consider in prioritizing and implementing their state plans.

Regardless of how LSC chooses to proceed on its evaluation process, the broader community of equal justice advocates needs to take ownership of and responsibility for the quality and evaluation component of state justice communities. Again, the LSC vision must inherently be more limited in its goals than any healthy state system should aspire to. It is also clear that one of the consistent positive results in the states where LSC conducted evaluations has been a recharging of the energy and focus of the process and a renewed commitment and buy-in from the stakeholders involved. IOLTA providers, Access to Justice Commissions or other statewide stakeholders should consider means to assure that quality and evaluation are built into their processes on a regular basis.

As the ABA reviews the Standards for Providers of Civil Legal Services to the Poor, it needs to consider how this new vision affects those Standards. When the latest iteration of the Standards was adopted in 1986, they primarily focused on a much different legal services provider community, before many of the most onerous restrictions were placed on LSC funds. The context of this new vision of state-based delivery systems, including restricted and unrestricted providers, new ways of conceptualizing our advocacy on behalf of clients and their communities and the need for at least minimally adequate resources and capacities for a given state should at least be considered as a backdrop as the ABA moves forward in its process.

4. How can we grow the pie?

The prime motivation for the original move toward a state-based justice system was the highly volatile nature of, and potential loss of, federal funding for legal services. Clients were not going to go away if LSC was eliminated and states remained the most stable and viable focus for organizing the civil justice system. The judiciary is a state-based institution and legislatures and administrative agencies are responsible for funding a plethora of programs important to the client population, as well as passing the laws and regulations that so affect their lives.

As we know all too well, even though the demise of LSC funding was avoided, funding for legal aid in this country is woefully inadequate, even desperate, in many states. With the federal budget outlook for discretionary domestic spending looking bleak for the foreseeable future, it is unlikely that the reduction and eventual stagnation in federal funding that has had such a detrimental impact since 1995 is likely to change in the near term. In fact, cuts in the LSC budget are a distinct possibility as Congress pursues an agenda of fiscal austerity against a backdrop of a growing number of national concerns and events worldwide that compete for attention and money.

It goes without saying that resource development must be a principal priority of any state justice initiative. Parts of the community have seen significant growth in the non-LSC share of revenues since 1995. According to information from the ABA Project to Expand Resources for Legal Services (PERLS), resources for legal aid in this country have more than doubled since the early 90's. A good deal of this growth has resulted from state legislative campaigns and the ability of programs to collaborate to raise non-LSC federal funds and other sources of revenue to support the delivery system.

Obviously, the ability of state justice communities to increase revenues is widely divergent based upon a variety of factors, particularly the disparities of wealth that exist among the states and the receptivity of state political systems to the needs of the poor and the justice system. Yet our experience at the national level, and that of many state justice communities around the nation, suggests that the only way to crack the nut of increasing resources for civil legal aid is to involve the broadest, bi-partisan coalitions possible to influence political support for public funding and open the largest avenues possible to private and corporate resources. Every state, particularly those depending on LSC for huge percentages of their resources, can only succeed with the state-based approach.

Perhaps the hardest paradigm shift for provider programs to make in accepting the vision of a state system, at least in multiple program states, was the idea that every program and stakeholder has a responsibility to all poor persons within a given state, not just those the program directly serves. The purported goal of relative equity in service across a state is generally seen as a pipe dream in many states. One legal aid program alone, for example, is responsible for serving 243 counties. The only way to begin to really develop the capacity to serve an entire state reasonably well is to significantly increase the resources available to the system.

We face a critical juncture with regard to resources within the civil justice system and, if for no other reason, we need to stress the importance of statewide planning and collaborative efforts to improve the funding outlook. With reconfiguration behind us, many states can shift their full attention to this endeavor.

5. Resources for what?

An even tougher resource challenge facing state justice communities is the development of resources dedicated to representing LSC-restricted client groups or providing legislative advocacy or

class representation where necessary. This complicated and challenging task must rest with the state planning body in every state responsible for the delivery system. As more and more state legislatures begin to provide enhanced public support for civil justice, we operate in an even more complex environment.

The political issues underlying the federal restrictions are not limited to the Washington scene. Many of these issues are controversial among state legislatures and other funders. We need to guard against allowing public funding for "politically popular" legal aid to obviate the commitment to bringing controversial cases, even against the state, if justice demands that we do so. We all understand what a delicate and difficult balance this can be, even in more progressive political environments.

But we as a community of advocates cannot shirk the responsibility to ensure that every state provides redress for undocumented aliens with legal needs or gives poor people a voice before legislative and administrative bodies having increasingly more power over decisions affecting the basic human and legal needs of our client communities. These are fundamental components of any system of equal justice. These discussions must be owned at the state justice community level.

Stakeholders within state justice communities must continue to hone messages designed to educate the public, courts, legislators and other funders about the importance of such advocacy to ensuring equal justice. In most states, the voice of business leaders, judges, private attorneys and other recognized power brokers would be much more effective than that of advocates in making the case for resources for restricted advocacy. Again, this is the business of state justice communities.

One final note in this regard. Many state justice communities may very well be missing the opportunity to more fully engage the resources of the private bar in doing restricted advocacy or systemic representation. State-level planning should include a discussion of how better to utilize the private bar to bring class actions, appear before legislative bodies or represent politically unpopular clients.

6. How do we build stakeholder buy-in and participation?

State-level partnerships to oversee the development of justice communities have assumed a variety of forms across the country. According to the most recent report of the Access to Justice Support Project (the successor to the jointly sponsored ABA/NLADA SPAN project), more than twenty states either have, or are in the process of establishing, Access to Justice Commissions, formal state-level bodies consisting of bar leaders, the judiciary, providers, legislators, business and labor leaders, client representatives, law schools, community agencies and faith-based organizations, among others.

More than a dozen additional states have an active committee of the state bar or bar association charged broadly with Access to Justice functions. In a number of other states, the function is led by a state funding entity or bar foundation. Other states have developed statewide steering committees or informal structures, particularly around specific issues, like fundraising, pro bono or technology.

This developing state infrastructure is the most visible result of a decade's planning efforts, and provides a foundation upon which the next stage of discussions must take place. Some of these bodies found their *raison d'être* in responding to the LSC planning process, and have yet to develop the sense of independence and ownership necessary to take the vision to the next level. Others have led to a truly remarkable change in the culture of a broad array of powerful stakeholders who never felt particularly responsible before for the quality of a state's civil justice system.

A decade ago, most of us would have thought it no more than a pipe dream that a state's Chief Justice, bar president, law school dean, and other key bench and bar leaders would sit around a table several times a year with the executive directors of the state's legal aid programs to plan and implement joint initiatives to expand the state's civil legal aid delivery system. Yet today that is a reality in a rapidly growing number of states (sometimes with a slightly different cast of characters -- for example, an Associate Supreme Court Justice designated by the court, rather than the chief).

The Access to Justice Support Project remains focused on enhancing the support among bar leaders, the judiciary and others for the concept of real participation and buy-in to these state-level initiatives. At the last Conference of Chief Judges, for example, a Project-supported resolution was adopted by the Conference in support of its participation in and support of Access to Justice initiatives.

The Project has also regularly convened Access to Justice leaders at the annual NLADA/ABA Equal Justice Conference, in which the key leaders discuss common issues and challenges they face, such as adequate state-level staff support, how to increase resources in a tight fiscal climate and how to expand support among their colleagues in the judiciary and the bar. Last year's event drew participants from 37 states.

Experience continues to show, however, that the role and commitment of the professionals from provider programs is critical if these fledgling institutions are going to grow and release the powerful potential inherent in the vision. Where these groups have flourished, the programs have come to the table as equal partners, willing to cede some of their traditional independence over civil justice issues to their partner stakeholders. Such trust is crucial, particularly if the Access to Justice groups in many states are going to move beyond the LSC-mandated process and fully embrace the vision of a state-based, and owned, system.

The civil justice community finds itself at a potential turning point, as many of these newer entities struggle to figure out their role and identify their goals. In many states, reaching these goals requires new leadership (from legal aid leaders, the bar and the judiciary) and very likely support and staffing at the state level. Finding such leadership and resources to support this effort is particularly hard in states still struggling to fully and successfully effectuate mergers and to deal with the constant drumbeat of local demand for services. Resources have seldom been tighter. Yet, to be serious about progressing toward a shared state vision,

advocates must ensure that adequate resources and energy are committed to the pursuit. That will only happen with strong leadership from the key players in a state.

7. How can national institutions better support the enhancement of a state-based system of justice?

One of the great values we have enjoyed as a civil justice community since the 60's is a sense of being part of a national mission, a movement toward justice. No matter how isolated we were, or how aggressively we were attacked, advocates always knew that their colleagues in other states were available to assist or to suggest ways in which we could do our work better. We also have strived to hold each other accountable as peers for the quality of our services and for the values and standards we espoused. This shared vision and sense of mission was greatly facilitated by the common focus for so many years on a federal funding source.

With a shift toward a more state-based approach, it is incumbent upon the national institutions to adapt to ensure that they are providing appropriate services designed toward supporting these state justice communities in their efforts to become more effective. In doing so, the national organizations must also protect and facilitate the continuation of the important sense of national community that has grown over the years. They must make sure that the national messages of values and standards get to all levels of the system, from Access to Justice stakeholders to staff attorneys and paralegals in field programs.

In addition to continuing to support and enhance the state-based vision, LSC must provide technical assistance and whatever scarce resources it has available to help its programs succeed in the larger state justice picture. It must convey a clear message about the importance of collaboration with other groups, while clearly delineating among activities that grantees cannot participate in due to congressional limitations. LSC grantees should not feel compelled to go into a shell with regard to conversations aimed at improving the provision of civil justice within their state. In the past, some programs have perceived mixed messages from different branches of LSC with regard to collaborative efforts with other stakeholders. LSC must be clear, and speak with a single voice, on this critical issue.

The ABA/NLADA partnership must remain intact as a place where field programs and bar leaders can meet to enhance the vision of a state-based delivery system blessed with maximum buy-in and support from both sides. The Access to Justice Support Project remains an important commitment to this issue by the ABA and it needs to continue as these partnerships mature. The ABA's Standing Committees on Legal Aid and Indigent Defendants and Pro Bono and Public Service must continue to ensure that the bar is a full partner in effectuating the development of effective state justice communities.

The National Association of IOLTA Programs (NAIP) and the ABA Commission on IOLTA have been instrumental in facilitating discussions among IOLTA directors aimed at moving forward the

vision of a state-based justice system. NAIP and the Commission play an important role in pushing both collaboration and information sharing across state lines by critical funders of the justice system. The IOLTA community has more experience than anyone within the system of supporting essentially state-based initiatives from a national perspective. IOLTA funders are lead players in many of the states with effective justice communities. They also provide much of the support for restricted activities. NAIP members are also critical players in the evaluation of quality within a system and progress toward a particular state's articulated goals.

The Management Information Exchange (MIE) provides an invaluable forum, both through its trainings and its Journal, for disparate views to be considered regarding where the civil justice systems should be headed in various states and what steps can be taken at the management level to improve their functioning. MIE should ensure that it maintains a focus on these developing systems among the many issues it addresses and that it continues to serve as a clearinghouse on innovation and creative thinking going on at the state level.

The plethora of support entities, including the Sargent Shriver National Center on Poverty Law, Pro BonoNet, the many substantive support and training centers and other actors at the national level must continue to work with and support the substantive development of advocates within these state justice communities, as well as the formulation of new advocacy strategies designed to meet today's challenges.

We also need to spend a good deal of time on rethinking how we respond nationally to the changing substantive issues affecting today's clients. Many of the national support centers, upon losing their LSC funding, have found it necessary to drift away from the legal aid community, per se, as funding imperatives made it impossible to continue the level of support and training a whole generation of advocates enjoyed until the 1995 changes. Without a view from beyond the state on other advocacy approaches to client needs, no state justice community can maximize its effectiveness or bring along a new generation of advocates possessing the skills they need to make a real difference for the clients and the communities they serve.

Finally, NLADA, CLASP and the joint Project on the Future of Equal Justice must ensure that the national discussions on the quality and effectiveness of state justice communities continue and mature as states make progress toward their individual goals. Those efforts must include working with the ABA, LSC, the National Organization of Legal Services Workers and others to fully educate the Congress about the tremendous need that exists for increased federal support for equal justice in this country. The assumption of greater responsibility at the state level cannot relieve the federal government of its duty in this regard.

NLADA and CLASP must also continue to work with our partners at the Brennan Center on Justice in educating Congress regarding the harmful effect to the system engendered by the long list of restrictions, particularly as applied to non-LSC revenues.

As stated earlier, the PFEJ Discussion Draft continues to provide significant detail to the capacities that should be considered

in developing an effective state justice community. NLADA, CLASP and the PFEJ must assume a lead role in facilitating discussions around the vision stated therein and help provide the tools and technical assistance needed to make progress at the state level. I suggest you read the Discussion Draft again (or for the first time). A link to the draft can be found on the NLADA Web site at www.nlada.org/civil. You might be surprised at how current, timely and provocative it remains today.

NLADA and the ABA need to ensure that broad communication vehicles exist among state leaders to share information and ideas on enhancing system effectiveness. The various national conferences and training events are a particularly important forum to discuss relevant issues and developments.

These are just a few of the many challenges facing the legal aid community if we are to move toward a vision of a state-based system of justice. There are obviously many more. The last decade has been a long, hard struggle, particularly for provider programs, and adding a whole new agenda and vision of a delivery system on top of every other challenge took a great deal of time, energy and passion. It also resulted in a huge amount of very difficult change in many states.

The lexicon of "state planning" as a result has taken a back seat to issues such as working out mergers, fighting political battles or

responding to new issues de jour as they have arisen.

But if we are serious about our vision of justice in this country, and where we as a community are going with this vision, it is incumbent upon us to take ownership over the vision and make a real effort to build the best state-based justice systems we can. The issue is too important to leave on a back burner in any state.

Peter Block defines vision as: "Our deepest expression of what we want. It is the preferred future, a desirable state, an ideal state, an expression of optimism. . . It is a dream created in our waking hours of how we would like our lives to be."

The dream of the civil justice community for over forty years has been, and remains, the realization of justice for our clients. Many obstacles have been placed in the path toward reaching that objective. Today, one critical way to pursue the dream is to ensure that our systems of justice are fair, broadly supported, adequately and equitably resourced and increasingly immune from political vagaries. This pursuit provides an important "expression of optimism" in our continuing struggle for justice.

Don Saunders is the director of the Civil Legal Services division of the National Legal Aid & Defender Association



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2004 NLADA Annual Conference Awards Honor the Crème de la Crème of Equal Justice

Verrilli, Shelvy, Sledd & Schell Recognized for Excellence in the Pursuit of Justice

Each year the National Legal Aid & Defender Association (NLADA) honors the dedication of a select few for their efforts in the pursuit of justice for all. The 2004 celebration took place on December 3, in Washington, DC, as part of the Annual Conference.

As in years past, the event was marked with inspiration, hope and renewed vigor to ensure that American justice is upheld and accessible by all of America's people. NLADA is proud of this spectacular event, as it provides an opportunity for the equal justice community to recognize its unsung heroes that often endeavor without the national recognition so well deserved.

This year's recipients carried on the tradition of embodying the highest character traits for which NLADA's award winners are known. The four awards given this year were the **Arthur von Briesen Award** to *Donald B. Verrilli, Jr.*, partner at Jenner & Block; the **Denison Ray Award** to *Sister Marjorie Shelvy*, staff attorney for the Legal Aid Foundation of Los Angeles; the **Pierce-Hickerson Award** to *John Sledd*, senior attorney in the Native American Unit of the Northwest Justice Project; and the **Reginald Heber Smith Award** to *Gregory Schell*, managing attorney for the Migrant Farmworker Justice Project, of Florida Legal Services, Inc.

Arthur von Briesen Award Winner

The Arthur von Briesen Award honors a private attorney who has made substantial volunteer contributions in support of the delivery of civil legal aid or indigent defense representation. The award celebrates the achievements of the first president of NLADA.

The 2004 honoree is **Donald B. Verrilli, Jr.**, partner at Jenner & Block. Verrilli is nationally recognized for his pro bono work on behalf of death row inmates. For 21 years, Verrilli has committed himself to providing representation to those in the greatest need for free legal assistance. He credits his commitment to his experience as a clerk for US Supreme Court Justice William J. Brennan, Jr. In handling last minute stay requests, Verrilli is quoted as saying "There is so much unfairness that I felt compelled to spend some of my career on [changing] that."

In a letter of nomination, Robin Maher, director, of the American Bar Association's Death Penalty Representation Project, said, "I believe there is no greater demand on a lawyer than to represent someone facing a death sentence. Donald Verrilli has repeatedly met this challenge with courage, determination and profound humility."

To Verrilli's credit, he served as lead counsel on the U.S. Supreme Court case *Wiggins v. Smith*, 539 U.S. 510 (2003), in which the court ruled in favor of Wiggins stating that during the sentencing phase of his capital murder trial his Sixth Amendment right to effective assistance of counsel was violated. The Court ruled that attorneys in capital cases must diligently investigate the background of their clients in order to find possible mitigating evidence that could sway a jury's or a judge's sentencing decisions.

In addition to the *Wiggins* case, Verrilli has successfully represented two other death row inmates. After an eight-year battle, he secured a reversal of both the conviction and death sentence of Georgia death row inmate John Michael Davis in 1994. He also convinced the Mississippi Supreme Court to vacate the death sentence of mentally retarded inmate Gregory Montecarlo Jones in 1990. Verrilli has also served as co-counsel supporting lawyers in



Don Verrilli, Jr.

his firm representing several other death row inmates, and has authored several amicus briefs in the U.S. Supreme Court on behalf of advocacy organizations in capital punishment cases. He has participated in many other pro bono matters, averaging more than 200 hours per year on pro bono matter during his 16 years with Jenner & Block.

Denison Ray Award Winner

The 2004 recipient of the Denison Ray Award is **Sister Marjorie Shelvy**, staff attorney for the Legal Aid Foundation of Los Angeles.

Honoring an individual who has provided exceptional service to the legal aid community as a staff member, client board member or volunteer of a provider program, the "Denny" is named for a career legal aid activist. Denison Ray served as executive director of legal services programs in Missouri, Maine, North Carolina and New York and was a long-time leader of the national Project Advisory Group.

For the last 12 years, Sister Shelvy has served as a staff attorney in the Legal Aid Foundation of Los Angeles' (LAFLA) Government Benefits Unit. She has dedicated her entire professional career to advocating for society's less fortunate, and those most likely to go unheard and unseen by the justice system. Sister Shelvy has been a member of the Catholic Religious Community, Daughters of Charity of St. Vincent de Paul since 1961, making it a total of 43 years of selfless dedication to the service of others. Sister Shelvy attended law school with the sole purpose of aiding others. She used that education to work for LAFLA, serving indigent clients and their families.

Over the years, Sister Shelvy has developed a nationally recognized expertise in the area of foster care benefits. She was integral in changing the legal landscape for children who reside with related foster parents, such as a grandchild going to live with a grandparent, or a niece/nephew living

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Sister Marjorie Shelvy (center) Harrison McIver, III (left) Bruce Iwasaki (right)

with an aunt or uncle. Serving as lead counsel in the case of *Rosales v. Thompson*, 321 F.3d 835 (9th Cir. 2003), Sister Shelvy won benefits for the neediest children in the state of California. Under the presiding judge's ruling, "California and its 58 counties are required to pay the state's eligible relative caregivers retroactive benefits dating back to December 23, 1997" (the original date that the state submitted a plan rejected by the U.S. Department of Health and Human Services). The decision in the *Rosales* case has been described as "the most significant Title IV-E event since the passage of the Child Welfare Act of 1980."

In a nomination letter submitted by five of Sister Shelvy's colleagues from the Children's Law Center of Los Angeles, the group applauded her contributions by saying, "She is not simply bright, accomplished and a tremendous resource to our legal community, but she gives life to those qualities through her compassion for those in need and her unrelenting drive to make the world a better place. Moreover, Marjorie is incredibly effective at what she does. It can truly be said of Marjorie that she has made a difference in the lives of many of the most vulnerable children and families in Los Angeles who might otherwise have no hope for relief."

Pierce-Hickerson Award

Honoring outstanding contributions to the advancement or preservation of Native American rights, the Pierce-Hickerson Award was created in 2002 by advocates in civil legal assistance programs to pay homage to the legacies of Julian Pierce and Robert Hickerson for their outstanding advocacy in pursuit of justice for Native Americans. Pierce was a Lumbee Indian who served as executive director of Lumbee River Legal Service in Pembroke, North Carolina, from 1978 to 1988. Hickerson served as director of Alaska Legal Services Corporation for 20 years, and prior to that was director of the Oklahoma Legal Services Center.

The 2004 recipient is **John Sledd**, senior attorney in the Native American Unit of the Northwest Justice Project. To his credit, Sledd helped lead a successful effort to require testing of Indian law on the state bar exam. His latest major effort is to facilitate development of a coordinated, statewide legal attack on the disproportionately high drop out rates and low academic achievement of Indian students in Washington public schools.

After graduating in 1982, Sledd was hired as an attorney at DNA-People's Legal Services on the Navajo Indian Reservation. His caseload ranged from "bad truck" and disability cases with a variety of Indian land claims and simple probate and trespass matters to a mass tort claim against the uranium industry. He was co-counsel on a class action suit, which

many years later established the title of 14,000 Navajo people to billions of dollars in coal and other minerals beneath their land.

A year out of law school, Sledd became managing attorney of Indian Legal Services. After four years, he was litigation director and general counsel overseeing 20 attorneys in eight offices, and serving on the advisory board of the national Indian Legal Services Support Center. Despite his relative youth, Sledd quickly became a source of strength and wise counsel to the staff at DNA.

In 1989, Sledd accepted a job with Evergreen Legal Services in the state of Washington. As an Evergreen Reservation attorney, he took up another classic role of an Indian legal services advocate and became the sole lawyer for the Suquamish Tribe, handling everything from tribal court criminal prosecutions to complex federal cases. He helped negotiate a \$20 million



The Sledd Family

dollar settlement for pollution of tribal fishing grounds; represented the Suquamish Tribe in a state Supreme Court case upholding tribal power to arrest non-Indians; obtained a million dollar judgment against the Bureau of Indian Affairs for mishandling tribal funds; helped procure a rule requiring state courts to enforce tribal court judgments; and, co-authored an agreement under which tribes with treaty fishing rights took over the regulatory system that protects consumers from seafood-borne diseases. He was also elected during this time to serve as chair of the State Bar's Indian Law Section, a member of the Central Committee of his county political party and a commissioner of his local Port District. He was also appointed by his county commissioners to serve on the County Citizens' Council.

In 1999, Sledd returned to his favorite work — representing low-income tribal members — as director of the Native American Project at Columbia Legal Services in Seattle. As part of a task force organized by California Indian Legal Services, Sledd played a significant role in 2004 legislation that rewrote the Indian Land Consolidation Act and greatly enhanced the ability of Indian people to pass land to their descendants.

Reginald Heber Smith Award Winner

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. **Gregory Schell**, managing attorney of Florida Legal Services, Inc.'s, Migrant Farmworker Justice Project, is the 2004 recipient.

Revered by all in the migrant farmworker community, Schell has dedicated his entire 25-year career to advocating against the injustices inflicted on his clients. After graduating from Harvard Law School in 1979, Schell



Greg Scbell

chose to dedicate his life's work to fixing the wrongs of the rich on low-income, migrant farmworkers.

In a supporting nomination letter from James Knoepp of the Virginia Justice Center for Farm and Immigrant Workers, he states that "Greg is truly an exceptional attorney who has devoted his 25+ year career to serving migrant farmworkers, one of the most vulnerable and exploited populations of clients served by the legal aid community. . . . In my opinion, . . . Greg has done more to advance the cause of farmworkers through the use of the law than any other person in the farmworker advocate community during the last 25 years."

Schell is a hero to the migrant farmworkers, and rightly so. He has secured several landmark decisions from the Eleventh Circuit Court of Appeals that have advanced the cause of justice for farmworkers. These decisions made it easier to hold growers liable as joint employers of the workers brought to labor in their fields by labor contractors and expanded coverage of the Agricultural Worker Protection Act to the thousands of workers who harvest and bale pine straw in the Southeast. The decision also found employers responsible for reimbursing expenses incurred by guestworkers in traveling to distant jobsites, to the extent that the expenses reduced the worker's wages below minimum wage.

Some of the cases in which Schell provided counsel include *Antenor v. D & S Farms*, 88 F.3d 925 (11th Cir. 1996), which reversed the lower court's ruling that the growers were not joint employers of the farmworkers who picked beans for the defendants. Schell brought the case on behalf of more than 600 farmworkers as individual plaintiffs for a class of 10,000 bean pickers. The lawsuit alleged violations of minimum wage, failure to pay social security and unemployment taxes to the government and failure to maintain payroll records. After the successful appeal, the plaintiffs received one of the largest back wage payments ever made to farmworkers within the United States. In addition, millions of dollars of the farmworkers' earnings were reported to the government, qualifying and/or increasing the workers' eligibility for Social Security, SSI, food stamps and Medicaid benefits.

In a nomination letter, Staff Attorney Rachel Micah-Jones of Florida Rural Legal Services, Inc. credits him with the success of numerous migrant farmworker cases and says, "Greg's commitment to migrant farmworkers is strong and long-standing despite being vilified by growers and threatened by farm labor contractors with fists and at least one gun. . . . The *Antenor* case is not

only a testament to Greg's legal brilliance, but also to his tenacity and willingness to go above and beyond expectations. As the only lawyer representing the workers, Greg could have brought the class action on behalf of the few initial plaintiffs. But Greg signed up all 612 individual plaintiffs in order to increase the workers' individual recovery. . . ." Schell's work in this case illustrates his selfless devotion and commitment to the cause. In fact to prevail in *Antenor*, Schell spent every Sunday, every Thanksgiving, Christmas and New Year's for years traveling to Homestead, Florida, to meet with each of the 612 individual plaintiffs. He literally accommodated their work schedules to make the case an unequivocal success.

In addition to his court victories, Schell has also been successful in administrative channels. While working for the Legal Aid Bureau in the 1980s, Schell filed complaints citing serious violations of health and safety codes in Virginia's migrant labor camps. These complaints led the Virginia Department of Labor to investigate approximately 100 migrant labor camps on the Eastern Shore, imposing \$67,875 in civil penalties on growers.

However, these lawyers were beginning to realize that they are the architects who are tasked with fixing the Georgia public defense system. That will not happen overnight. There are obstacles facing these lawyers that will surely prevent them from living up to the standards set by the faculty in every case. However, they were told that if they can go home each night, look themselves in the mirror, and honestly say that they did everything they could to provide the kind of justice to each of their clients that they would demand for their loved ones, they are successful a public defenders. They were told that if each and every one of them held themselves to that standard, the quality of representation would begin to change for poor citizens of Georgia. There was an implicit deal struck that week: that the Council would provide these lawyers with the necessary training and support to do their job well, if they agree to maintain the proper mindset, heart set, and soul set.

It is not surprising that Mr. Rapping quoted the first director of PDS. PDS is nationally known for its intensive training program for new lawyers. It is widely admired for the standards it sets for its attorneys. It is also where Mr. Rapping learned to be a public

defender. In fact, he was the training director of PDS when Michael Mears and Gary Parker, the director and deputy director of the Council respectively, and two of the forces behind the push for a statewide public defender system in Georgia, convinced him to join their mission in Georgia. The opportunity to join Parker and Mears in their efforts to create a model statewide public defender system in Georgia was enticing. The chance to take the training model that had proven so successful at PDS and adapt it to the much larger, statewide system in Georgia was one that he could not refuse. Based on what took place on Jekyll Island for five days in January, it seems as though their chances of success look promising.

For more information on GPDSC, visit their website at www.gpdsc.com.

NLADA congratulates and commends GPDSC on this important mission.

NLADA Seeks Nominations for the 2005 Kutak-Dodds Prizes

NLADA is now seeking nominations for the 2005 Kutak-Dodds Prizes. These prestigious awards will honor two legal advocates for equal justice — one from the civil legal aid community and another from the public defense community — who through the practice of law, are contributing in a significant way to the enhancement of human dignity and quality of life for those persons unable to afford legal representation. Each prize carries a cash award of \$10,000.

The nominations deadline is Friday, April 8. For nomination criteria, please visit www.nlada.org/About/About_Awards_Kutak.

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

For additional information, contact Sara Fusco at (202) 452-0620, ext. 232 or s.fusco@nlada.org.

STRENGTHENING ALLIANCES

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professor of Psychology at the University of Iowa who has studied the twin problems of relative judgment and false confidence for many years. Professor Wells notes that “mistaken eyewitness identification of the wrong person by victims and witnesses of crime is the single most common error leading to the arrest and conviction of innocent people” and “accounts for more wrongful convictions than all other causes combined.”

- Moreover, social science has found that specific reforms of the manner in which photo arrays and lineups are conducted substantially reduces error, allowing law enforcement personnel to maximize the number of accurate identifications while minimizing the rate of inaccurate choices, consistent with the *U.S. Guide for Law Enforcement on Eyewitness Evidence* (U.S. National Institute of Justice, 1999).
- The “best practices” reforms advocated by Professor Wells and others are largely costless, while the benefits of implementation include decreasing the likelihood of misidentification of innocent suspects; keeping the focus of investigations on guilty persons; assisting prosecutors, judges and jurors in evaluating identification testimony; and decreasing the need for expert testimony, which usually focuses on the inadequacies of procedures used in lineups.

As attendees absorbed the substantive material, they were also introduced to strategies for building effective alliances with likely and unlikely allies. A key message delivered by panelists and speakers was that the criminal defense bar has not been the visible leader in successful efforts to reform eyewitness identification procedures. Indeed, where reforms have been adopted or implemented (North Carolina, New Jersey, Wisconsin, Santa Clara, California), it was either through the action of law enforcement, prosecutors, or an innocence commission. The lesson learned from these experiences is that eyewitness identification law reform efforts are likely to be more successful if prosecutors, judges, and/or law enforcement are leading the way, with defenders playing a supporting role, if any at all. In other words, on this issue, defenders “must be willing to sit in the back seat and let others drive the bus.” Another message conveyed throughout the day was that the issue of eyewitness identification is one around which public defenders, assigned counsel and private attorneys should be able to rally without the kinds of sensitivities and conflicts that have prevented such collaboration in other contexts. With these relationships strengthened and empowered, defender leaders will be better able to meet the needs and expectations of their clients.

The training objectives of this unique program were met only because of the participation of the faculty members who joined us in Atlanta: Barry Scheck, president of NACDL and co-director of the Innocence Project; Professor Gary Wells of the University of Iowa; Gerry Smythe, Fern Laethem, Lisa Schreibersdorf, and Mike Coleman, all members of the American Council of Chief Defenders (ACCD); NLADA’s national partners, Kirsten Levingston of the Brennan Center for Justice, Vince Warren of the American Civil Liberties Union, Steve Saloom of the Innocence Project; Scott Ehlers of NACDL; Keith Findley of the Wisconsin Innocence Project; and New York attorney David Feige. The combined presence of such diverse members of the defender community ensured that the faculty itself modeled the kind of collaboration that is necessary for effective criminal justice reform.

The NDLI/NACDL leadership training is but one part of a joint NACDL/NLADA litigation and legislative strategy aimed at reforming eyewitness identification procedures across the country. NLADA and NACDL are collaborating to establish Web pages where members can access resource materials

to support eyewitness identification reform efforts. NLADA and NACDL also followed up on the October program by presenting “Eyewitness Identification: Strategies for Change” at the NLADA Annual Conference. In addition, NACDL’s State Legislative Affairs Director, Scott Ehlers, and NLADA’s Director of the Defender Service Division, Ross Shepard, are working to establish a multi-state collaboration, including a listserv devoted to the issue. Finally, the ACCD has “endorse[d] the legislative initiative on eyewitness identification procedural reform.”

NDLI welcomes the opportunity to support defender leaders as they address substantive issues of concern to their clients, such as eyewitness identification, and as they build bridges between the various parts of the defender community. With strengthened alliances between public defenders, assigned counsel, and private attorneys, the practical value of collaboration will be the realization of bolder leadership in criminal justice policymaking.

CONTINUED FROM PAGE 7

defense systems, or require that a percentage of the federal grant go toward indigent defense programs;

- Require serious background checks for officers hired with Byrne funds; and,
- Minimize the incentives for drug task forces to make unjustified arrests (currently federal money is distributed based on arrest statistics) by shifting the judgment of success to a diminution of drug activity in the jurisdiction being monitored.

To obtain a copy of *Tulia, Tip of the Drug War Iceberg*, published by the Open Society Policy Center, visit the official Web site at www.OpenSocietyPolicyCenter.org.

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Deborah Dubois

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Marketing

Managing Editor

Stacy Mayuga

Deputy Director of Communications

Civil Editor

Kate Lang

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Defender Editor

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Training & Conferences Editor

Cynthia Works

Director of Training & Education

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Elizabeth Arledge

Catherine Beane

Julie Clark

Linda Deans

Dennis Dorgan

Robert Echols

Maureen James

Clint Lyons

Jane Ribadeneyra

Don Saunders

Ross Shepard

Joe Surkiewicz

Nkechi Taifa

Cynthia Works

Design

DeLong Lithographics

Photographs

Lisa Helfert

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Interpreting Justice Partnership with Language Line Services Helps NLADA Members Serve Limited English Proficiency Clients

By Jane Ribadeneyra

Legal aid offices throughout the country must serve the needs of a diverse community. Part of that diversity includes linguistic differences among clients. As legal aid programs seek the best way to meet their obligation of providing legal assistance to limited English proficiency (LEP) clients, NLADA wants to remind its members of one solution many programs have already implemented – the Interpreting Justice Partnership with Language Line Services.

Begun in 1999, the Interpreting Justice Partnership is a joint initiative between NLADA and Language Line Services to support, strengthen and expand the capacity of NLADA member organizations to provide access to justice for its multi-lingual client communities.

Language Line Services offers over-the-phone interpretation from English into more than 150 languages. The service is available 24 hours a day, seven days a week, from any phone in the world. On average, it takes just 25 seconds or less to be connected with a professional, confidential interpreter. With the *Interpreting Justice Partnership*, you will be able to provide immediate and direct services to your LEP clients.

Bob Cohen of the Legal Aid Society of Orange County in California, who was instrumental in the development of the Interpreting Justice Partnership, considers Language Line Services an important component of his organization's daily oper-

ations. "Language Line Services has become an essential part of our service structure. It's amazing! We're able to conference in interpreters within a minute. We've used it to provide services in Vietnamese, Korean, Romanian, Russian, Amharic, Urdu, Mandarin, Cantonese and many other languages. Language Line Services literally opens up our services to the world."

Language Line Services has developed special reduced pricing for its services for NLADA members:

- Enrollment Fee: Waived (normally \$200)
- Monthly Minimum: \$0 (standard minimum is \$50.00)
- Aggregated monthly volume discounts (all participating members receive a prorated share of the volume discount)

Usage is billed in one-minute increments, based on the language requested and the time of day. There is no charge for toll-free access to Language Line Services.

For more information on how this partnership can assist your organization, please contact Saul Schulman at (800) 752-6096 Opt. 9, ext 87510; or by e-mail at sschulman@language-line.com. For information on other member-benefit programs, contact NLADA's member services department at (202) 452-0620, ext. 215 or ext. 234.

Insuring Equal Justice



The NLADA Insurance Program is the only professional liability insurance provider with a wide array of products tailored to meet the special needs of civil legal aid and indigent defense attorneys and offices.

The NLADA Insurance Program

works 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 800 organizations and individuals.

NLADA Insurance Program is administered by NLADA Service Corporation, a wholly-owned subsidiary of NLADA.

- *Compendium of “best practices” for helping to assess risk and avoid losses*
- *Case studies to promote networking and dialogue*
- *Information about loss experience and risk factors through printed and Web-based materials*
- *Discussion of important issues affecting our member insured*



NLADA Announces Partnership with Lawmatch

NLADA and Lawmatch, a Web-based recruitment and human resources management system, have partnered to offer NLADA members a 50% discount on online recruiting and HR management services.

Lawmatch is the oldest commercial legal recruiting service on the Internet (founded in 1996), and counts among its customers, dozens of top law schools and hundreds of public defender organizations, as well as nearly 80% of the major law firms in the US. Lawmatch's recruiting-related software service enables members to:

- Publish job openings at any/all US law school job boards simultaneously (one click)
- Automate intake, acknowledgment, filing and retrieval of all incoming e-resumes
- Easily add dynamic and effective recruiting functionality to their existing Web sites
- Save hundreds to thousands of recruiting-related clerical hours every year

There is no hardware to buy or software to load. The Lawmatch log-in and password gives you access to the following services:

- 1 Recruitment Advertising** - One click publishes your open position(s) at any/all US law school job boards simultaneously. Target current students, recent grads, and/or experienced attorneys (law school alumni) for full-time, part-time and/or internship opportunities.
- 2 ResumeReader** - Adds a customized online employment application form to your existing Web site. Saves hundreds of hours in staff time and thousands of dollars in Web site development costs by automating the intake, acknowledgment, filing and retrieval of all incoming e-resumes.
- 3 Resume Bank** - Search/monitor the Lawmatch National Resume Bank, which incorporates the active resume files (students and alumni) of 20+ key national and regional law schools.

To kick off Lawmatch's new NLADA discount program, Lawmatch is offering every NLADA member a free two-week job posting.

This free trial will allow you to enter a job listing for any current hiring need (full-time, part-time, summer, intern/extern) at Lawmatch.com, and from there distribute it electronically to any/all U.S. Law School job boards in one click!

To take advantage of this offer, please e-mail nlada@lawmatch.com no later than **April 15, 2005**. Lawmatch will respond with an electronic coupon that you can use to redeem your free listing.

You may also visit <http://lawmatch.com/NLADAFreeTrial> for additional information.

Only one coupon per member organization will be accepted.

Former Illinois Governor George Ryan to Keynote NLADA Life in the Balance Conference

Participants and partners focused on a common goal will converge at NLADA's *Life in the Balance*, the nation's largest capital defense seminar, March 18 – 22, 2005 in New Orleans, LA. The Federal Death Penalty Resource Counsel, Project & Capital Resource Counsel; the National Association of Sentencing Advocates; and the American Bar Association Death Penalty Representation Project have partnered with NLADA to meet the unique needs of our capital defense team members as well as our general capital defense community.



Presentations will be presented on cutting edge forensic science, mental retardation, mental illness dovetailed with skills training for investigators, mitigation specialists and defense lawyers.

On Sunday, March 20 at 8:00 a.m., Former Illinois Governor George H. Ryan will present the conference keynote address, focusing on his personal journey opposing the death penalty, evolving into a staunch advocate against its imposition. During a single term as governor of Illinois, he established himself around the world as a leading advocate for the reform of his state's troubled capital punishment system and as a political pioneer who was never afraid to break down partisan and ideological barriers to enhance the lives of the people who elected him to serve.

Between 1999 and 2003, Governor Ryan successfully led a forward-looking, efficient and effective administration that stressed advancements in education, a higher standard of living for the state's residents and improvements to Illinois' human and physical infrastructure. In 2003, after an exhaustive study documenting serious flaws in the Illinois capital punishment system, Governor Ryan commuted to life in prison the sentences of all 156 inmates awaiting execution in the state's prisons. This act of courage, justice and fairness was a first for any governor of any state in the union and underscored Governor Ryan's fear that the flawed administration of Illinois' capital punishment laws might some day lead to the execution of an innocent man or woman.

Troubled by the number of people on death row, Governor Ryan in year 2000 became the first state chief executive to place a moratorium on any further executions while an intensive study of the capital punishment system was undertaken. That study produced more than 80 suggested reforms designed to prevent the ultimate miscarriage of justice-earned Governor Ryan both controversy and praise from around the United States and from around the world, as well as a nomination for the 2003 Nobel Peace Prize.

Life in the Balance — Bringing the Best in Capital Defense Training to You!

For more information visit: www.nlada.org/training.

Beane, Williams and Johnson Join NLADA

The National Legal Aid & Defender Association (NLADA) is pleased to announce the selection of Catherine Beane as the new director of the National Defender Leadership Institute (NDLI). In this capacity, Beane is responsible for overseeing all trainings and projects of NDLI, working closely with the NLADA president and CEO, board of directors and policy groups to ensure that the association's mission is carried out.

Beane previously served as indigent defense counsel for the National Association of Criminal Defense Lawyers, where she directed the association's indigent defense reform efforts, with a particular emphasis on litigation, coalition-building and communications/media strategies. In addition, she is the former associate director for the Program on Law and Government at American University Washington College of Law, where she taught as a member of the adjunct faculty. Beane began her legal career in 1994 as a trial lawyer representing indigent defendants in local and federal courts in Washington, DC, and Northern Virginia.

"NLADA is delighted to have Catherine as its new director of NDLI," said Clint Lyons, NLADA president and CEO. "Her credentials, experience and expertise will prove to be a credit to the association and to NLADA members-at-large."

Charles Williams joins NLADA as the new meeting planner, replacing Aimee Gabel who left to pursue graduate study at American University in Washington, DC. Prior to joining NLADA, Williams worked for several years in meetings and event management for the federal government, an

education association and the nation's performing arts center.

Most recently, Williams worked as a federal contractor to the Department of Health and Human Services, where he oversaw logistics and conference management for federal employees across the country. While at the Education Trust, Williams managed numerous conferences and meetings for educators and advocates for the Washington, DC, and Oakland, California, offices.

Williams began his career working in the special events office of the John F. Kennedy Center, coordinating events for their trustees, cabinet officials and two presidents. He is a graduate of Auburn University and currently finishing his master's in Public Relations Management at the University of Maryland.

Betty Johnson is the new executive assistant to the president and CEO & senior vice president for programs. With more than 20 years of nonprofit experience, Johnson replaces Tammy Hughes-Brown.

In this capacity, Johnson is responsible for ensuring the smooth functioning of the executive office by providing support to the president, senior vice president for programs, NLADA board of directors, its officers and committees.

Prior to NLADA, Johnson served as executive assistant to the president/CEO of the American Bakers Association. Before that she worked 13 years in the executive office of the National Association of Realtors.

NLADA and NACDL Partner to Provide Enhanced Forensics Library

NLADA and NACDL are pleased to announce a new resource sharing alliance, formed for the benefit of our members. These two national organizations have partnered to create content-rich, Web-based resources devoted exclusively to two critical issues confronting the defense community: forensics evidence and eyewitness identification.

We invite our members to utilize the links below to access these new, joint resources. By working together on common goals, we will continue to bring you innovative tools that enhance your ability to mount the most vigorous defense possible on behalf of your clients.

For more information on accessing the resources below, please contact Maureen James, associate attorney, Defender Legal Services, NLADA at (202) 452-0620 ext. 222 or at m.james@nlada.org.

- Forensic Evidence Committee (Index of Forensic Resources)
- Forensics Listserv via the Web
- Eyewitness Identification Resources

INTERVIEW

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achieve since their learning style required a smaller setting. Those children were in my alternative school for the right reason. The real purpose of an alternative school is to teach children who require a more nurturing setting.

Discipline is a huge concern in primary and secondary schools today. Do you think discipline is emphasized more now than it was 50 years ago, and if so, why?

At the alternative school, we handled discipline differently. Rather than suspend a poorly behaving child, we took him home. If I couldn't take him, I could ask my secretary, the hall monitor or a military aid to take "John" home. Taking a child home is more time intensive than suspending him; however, when we did that, we avoided adding something to the child's permanent record. Then, we could return the child to their traditional high school and highlight improved behavior. My whole staff told the same story and believed in the value of prevention!

That being said, kids' behaviors have deteriorated because the values in society have deteriorated. Mothers tell their children to fight instead of mediate. My mother told me to talk to the adult in charge [when a dispute arose], the bus driver, the teacher, or cafeteria monitor.

Schools need to educate beyond the walls of the building. Instead of commercials about Pepsi, Coke or Folgers coffee, we ought to devote time to public service announcements on television. We can educate parents and the community on the values we want children to have when they walk into the doors of the school.

At the Joint Track kick-off lunch you mentioned a fact that often goes unnoticed: that with new opportunities, Brown arguably also brought disadvantages to minority children. Can you discuss your thoughts on education segregated by race and/or sex?

Despite many obvious disadvantages, Black segregated schools [before Brown] followed an unwritten curriculum of nurturing. Research has shown us that nurturing enhances education. If you know your kids, you can intervene before a fight begins. There is no substitute for personal knowledge of each child. When personal circumstances of a child are understood, exceptions can be made, when fair and necessary. However, the larger schools do not allow for that personal and individual knowledge/information about students; thus, this serves as a disadvantage to all students, but, especially to minority students.

In your view, what can those in the equal justice community

(public defenders, civil legal aid attorneys, law enforcement or military personnel & activists) do when they see a child being tracked from school to jail?

I think it has to be evaluated on a case-by-case basis. The first thing to do is collaborate with those who can get inside the school or system where a child lives to see what is going on. We need mentors for children who are court-involved, as well as those coming out of juvenile facilities. Community liaisons can assist in analyzing both the community and the status of youth in each community. The Department of Social Services could have a child advocate going into a school system where poor or minority children are going to jail at an unacceptably high rate. A local legal aid office could file suit over the disparity between minority and majority children using the fact that the school district is failing minority children at a disproportionate rate. The point is: When every community organization works together, every child can succeed!

*“Hey NLADA,
now that you’ve
finished the 2004 Annual
Conference,
where are you
gonna go?!”*

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Defender Impact Leadership Conference

May 5 – 7, 2005 • Austin, TX
ABA/NLADA Equal Justice Conference

September 14 – 17, 2005 • Scottsdale, AZ
Civil Impact Leadership Conference

June 12 – 16, 2005 • Philadelphia, PA
Trial Advocacy College

November 16 – 19, 2005 • Orlando, FL
NLADA Annual Conference

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