

LegalFront

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ATJ Interns Show Incredible Enthusiasm and Commitment

The third year of the Access to Justice (ATJ) Internship Program was once again a terrific achievement for all involved. The ATJ Internship Program provides a unique opportunity for law students from each of the nine Texas law schools to learn about advocacy skills, legal decision-making, and attorney-client interactions as they bring much needed legal services to remote areas of Texas. The Law School Advisory Committee of the ATJ Commission created the internship in 2005 as a way to increase law school involvement in access to justice matters while increasing access to legal services.

“Unquestionably, access to justice represents one of the most daunting challenges confronting our noble profession and the current generation of lawyers. It is most appropriate, therefore, that the law schools assume a leadership role in addressing this issue by participating in the innovative law student internship program sponsored by the Commission,” stated Jim Sales, Chairman of the ATJ Commission.

The initial internship course occurred in the summer of 2006 in South Texas and consisted of eight students from law schools throughout the state. Due to the success of the program it was expanded to East Texas in 2007, with an additional six students participating. In the summer of 2008, twenty students interned in seventeen legal aid offices around Texas including Lone Star Legal Aid, Texas RioGrande Legal Aid, the South Texas Civil Rights Project, and Legal Aid of NorthWest Texas.

After a two day orientation at the University of Texas School of Law that covered the basics of poverty law and client interaction, the students began their internships on June 2nd. The internship

required seven weeks of full-time work, participation in on-line classes, assigned readings, and writing assignments. In order to offset living costs the students received stipends that were made possible through the generous contributions of the Texas Bar Foundation and the Texas Legal Protection Plan. The Corporate Counsel Section also helped defray costs by making a generous donation. The incorporation of fieldwork and the academic component makes the internship a valuable tool for future attorneys. The final class took place on July 18th, however twelve students took advantage of the opportunity to

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The Access to Justice Commission would like to thank the following groups for their generous contributions to the ATJ Internship:

Texas Bar Foundation



Texas Legal Protection Plan



The Legal Protection Plan

Corporate Counsel Section

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extend their summer legal aid experience beyond the initial seven weeks. The ability and desire to commit more than seven weeks to the internship is a factor that schools weigh heavily when selecting students for the popular internship.

Professor Eden Harrington at the University of Texas School of Law and Professor Catherine Greene Burnett of the South Texas College of Law led the program as they have in the past. The two faculty leaders strive to ensure that each student is supervised by an experienced attorney at the office with whom they discuss clients, cases, proceedings, professional responsibility issues, and other aspects of the law that can not be learned in a typical classroom setting.

"We were pleased to continue expanding our internship program this year," said Eden Harrington, Director of Clinical Education at UT School of Law. "Students helped provide much-needed legal assistance in under-served areas throughout Texas, and they learned a great deal in the process. There is no experience quite as educational or rewarding as working directly with clients and attorneys out in the field." Jim Sales was also glad to see the, "incredible enthusiasm, extraordinary 'can do' attitude, and commitment of these students to serve the less fortunate of society."

The 2008 Access to Justice Internship Program was a success. Plans for the 2009 internship are already underway.

TexasLawHelp.org

Free online legal resource
for low-income Texans.

The screenshot shows the TexasLawHelp.org website. At the top, there's a navigation bar with links for 'About Us', 'Contact Us', 'News', and 'User Survey'. Below that, a main header reads 'TexasLawHelp.org' and 'Free legal assistance for low-income Texans'. A secondary navigation bar includes 'Other States', 'Advanced Search for Help', 'About Legal Aid', and 'Legal Aid Directory'. The main content area is titled 'TexasLawHelp, your one stop, online resource for free and low-cost civil legal assistance in Texas.' and features a grid of service categories, each with an icon and a brief description: Disaster Relief (FEMA Benefits, Insurance Claims, Public Benefits, ...), Family Law and Domestic Violence (Protective Orders, Divorce, Child Support, Custody), Housing (Homeownership, Landlord-Tenant, Public Housing, ...), Consumer (Bankruptcy, Debt Collection, Identity Theft, ...), Public Benefits (Cash Assistance, Food Stamps, Medical Care, ...), Wills & Estates (Wills & Estates), Health (Medicaid, Medicare, Mental Health, ...), Immigration (Immigration and Naturalization Problems), Elder Law (Medicare, Nursing Homes, Social Security, ...), Disability (Rights of People with Disabilities), Work (Employment) (Job Discrimination and Work-Related Problems), Civil Rights (Discrimination, Due Process, First Amendment Protections, ...), and Migrant Workers (Rights of Migrant Workers). On the right side, there's a search bar, a 'You Are Here' section indicating the user is in Texas, and a 'Resources in other languages' section with links for Spanish and Vietnamese. At the bottom, there are links for 'Admin Login' and 'Disclaimer', and a note 'powered by probona.net'.

Pro Bono Champion Colonel Bryan S. Spencer, Volunteer & Director of Operation Enduring LAMP — Austin



How did Operation Enduring LAMP originate and how did you become involved with the program?

Dean Frank Newton was chair of the State Bar's pro bono committee at the start of Operation Desert Storm in 1990. He called a meeting of the committee to determine how the State Bar could help the Guard and Reserves being called to active duty and the active military. He invited the chair of the Military Law Section who asked me to attend in his stead since I lived in Austin. My chair said, "Don't agree to anything!" It was obvious we needed to have a CLE for local attorneys on military-specific laws for them to be more effective in providing legal support to the service members being called up. I suggested a four-hour CLE to accomplish this. Dean Newton said, "Can you put this program together?" Failing to adhere to my chair's direction, I said, "Yes, sir!" He got me a desk in Texas Lawyers Care and it took off from there. We called that program Operation Desert Storm. Fortunately, Desert Storm only lasted six months and we folded our tent and went home.

Then Operation Enduring Freedom began in Afghanistan in 2001 and Texas Lawyers Care called me and said, "You better get back here," and so I came and am still here. Grant Seabolt in Dallas came up with the name of Operation Enduring LAMP (Legal Assistance for Military Personnel), which has been adopted by the ABA Standing Committee on Legal Assistance for Military Personnel for their program.

What is your key role as LAMP director?

In the beginning, it was putting together the CLE programs and coordinating with local bars to assist service members and their families. Today, I try to find an attorney, pro bono or otherwise, for service members or their spouses who need civilian legal help. I am at Texas Lawyers Care four or five days a week from three to six hours. In addition to service members/spouses referred from legal assistance offices here in Texas, I get cases referred from Germany, Iraq, Afghanistan, Japan, Korea, and from many places in the United States. I get wonderful administrative and legal support from Texas Lawyers Care and could not operate without their help.

How many volunteer attorneys generally participate in the program?

Over the course of Operation Desert Storm and Operation Enduring LAMP, we have been fortunate to have several hundred attorneys do pro bono work for service members or their families. Many of them are members of the Military Law Section and have military experience. We also use a mentoring program for situations requiring specific military backgrounds and where the pro bono attorney needs some assistance.

Have there been any particular success stories that have stood out for you?

Most cases arising out of service members in a combat zone are routine divorce or custody cases, but they are not routine for them. All the cases are a success for the individual service member,

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thanks to his or her pro bono attorney. A few of our volunteers include Dan Corbin, a Killeen attorney who handled 14 pro bono probate cases for Fort Hood soldiers who died in combat; Jim Higdon in San Antonio, who did a pro bono guardianship for a wife whose husband suffers from a serious brain-stem injury from combat; and Melanie Cowart of Akin, Gump, Strauss, Hauer & Feld in San Antonio, who secured a guardianship appointment for the divorced wife of a soldier killed in Iraq so she could receive on behalf of their daughter, as the next of kin, the government's "death gratuity."

What are the main goals for the program in 2008–09?

Our goal for 2009 is to hopefully close down the operation because the combat will be over. Absent that, we will continue

to call on the dedicated Texas Bar members to do pro bono legal work for deserving service members and their families.

Col. Bryan S. Spencer was commissioned as a second lieutenant from Texas A&M in 1953 and served in Korea before returning to Austin for law school. He later served as a staff judge advocate/legal advisor with the 4th Infantry Division at Fort Carson, Colo., and with various other posts before retiring in 1988 as a colonel. In 1993, he joined the Texas State Guard, serving until his retirement in 2005.

Access to Justice Track a Growing Hit at Bar Leaders Conference

The Access to Justice (ATJ) Track at this year's Bar Leaders Conference was even more well attended than last year's standing room only turnout. Held July 18 - 19 in The Woodlands, the conference highlighted ATJ issues for bar leaders interested in expanding legal services to poor and low-income Texans through their local bars.

Consisting of a full day of breakout sessions, the ATJ track created an opportunity for ATJ delegates and other local bar leaders to network and hear from an array of speakers. Betty Balli Torres, Executive Director of the Texas Access to Justice Foundation and Lisa Villarreal-Rios, Administrative Attorney for Texas Lawyers Care, gave a presentation on the IOLTA "Comparability Rule" and Prime Partner Banks, as well as incentives the State Bar offers to encourage pro bono participation by attorneys. Daniel Hu, a Commissioner of the Texas Access to Justice Commission, highlighted exciting initiatives of the Commission and ideas for increasing the involvement of local bar leaders in the provision of pro bono legal services to poor and low-income Texans. Stewart Gagnon,

partner at Fulbright & Jaworski L.L.P. and Houston "Day of Giving" Volunteer Chair, shared valuable information regarding the Houston Bar Foundation's "Day of Giving"—a day on which the Foundation held legal advice clinics, open to the public, in 10 different locations throughout Houston. David Mandell of the Houston Volunteer Lawyers Program, Chris Reed-Brown of the Dallas Volunteer Attorney Program and Martha Hernandez of the Community Justice Program of Edinburg concluded the ATJ track with a roundtable discussion aimed at assisting volunteer bar leaders and pro bono coordinators with the development of successful bar-sponsored pro bono programs in their areas.

The ATJ presentation given by Torres and Villarreal-Rios—worth 1 hour of ethics—is available for free to local bar associations and other attorney groups upon request. Materials for these sessions are available through Texas Lawyers Care.

Texas Lawyers Recognized for Supporting Access to Justice

Every year, Texas attorneys choose to contribute to the Access to Justice (ATJ) Campaign through their annual State Bar dues statements. So far this year, Texas attorneys have raised over half a million dollars for the Campaign. All funds generated by the Campaign are earmarked for civil legal aid. By donating, Texas attorneys help meet the civil legal needs of poor and low-income Texans and demonstrate their commitment to access to justice.

In recognition of this commitment, the Texas Access to Justice Commission presented the sixth annual Deborah G. Hankinson Access to Justice Awards at the recent annual Bar Leaders Conference in The Woodlands. The awards honor the local bar associations and Texas Young Lawyers Association affiliates whose attorneys contribute at the highest rate to the annual ATJ Campaign. Named for former Supreme Court of Texas Justice Deborah Hankinson, a relentless advocate of access to justice and a recently featured *Pro Bono Champion* in the Texas

Bar Journal, the awards are meant to encourage competition between local bar associations and TYLA affiliates in the ATJ Campaign.

Texas Access to Justice Commissioner Daniel Hu presented this year's awards to:

Collin County Young Lawyers Association – Small City Texas Young Lawyers Association affiliate;

Austin Young Lawyers Association – Large City Texas Young Lawyers Association affiliate;

Highland Lakes Bar Association – Small City Bar Association; and

Austin Bar Association – Large City Bar Association.



State Bar President Harper Estes presents the 2008 Hankinson Award to representatives from the Highland Lakes Bar Association, the Austin Bar Association, the Collin County Young Lawyers Association, and the Austin Young Lawyers Association.

State Bar Sections Offer Internships to Increase Access to Justice

Support for legal services to the poor in Texas is growing phenomenally through the generous contributions of State Bar sections, in particular, the Labor and Employment Law and Litigation Sections. For several years now, legal services organizations, including legal aid, pro bono, and other non-profit legal services programs, have had the opportunity to apply for and receive grants to sponsor summer interns through the Sections.

The Litigation Section offers stipends of \$4,000 each to six (6) Texas law students who want to spend their summer working on litigation matters. The Labor and Employment Law Section provides two stipends with a total value of \$4,000 each to two (2) Texas law students interested in a summer internship working on labor and employment issues. Each Section funds internships that allow interns the opportunity to work with staff attorneys in the organization for 40 hours-per-week for ten weeks providing direct legal services to low-income clients and offering invaluable real-life experience for each law student. The application periods for each section typically occur in the fall with notifications of the Section's awards being made before the start of the next calendar year.

The following are excerpts from intern reports:

As a native of the Rio Grande Valley, I was eager to return home after finishing my first year of law school and start clerking at TRLA. On my first day, I was asked what kind of assignments I would be interested in working on. I replied that I was interested in pretty much anything and would like to experience as much as possible. During the following ten weeks TRLA fulfilled my request by providing assignments in various areas of law including: probate, family, immigration, juvenile justice, consumer fraud, and property. My assignments ranged from drafting motions to creating a brochure for the Juvenile Justice Team. From meeting with clients to going out into the community to help with outreach, I never had a dull moment.

With each assignment an attorney would give brief overviews of the legal area, explain the client's situation, and then hand over the file. This was both exciting and terrifying. The doors were always open for questions; I took advantage of this as much as possible. The staff at TRLA was eager to take us clerks under their wings. I was asked to accompany them to court hearings, client interviews, clinics, and presentations. These

outings served as a great introduction to the practical side of practicing law.

I am truly lucky to have had my first clerkship be this rewarding. There is a lot spoken unkindly of the legal profession, but I saw none of that this past summer. I witnessed hard work and long hours put forth from dedicated attorneys. My experience at TRLA has reassured my choice in my future occupation and has inspired me to pursue a career working for a nonprofit organization.

While I am sad that my internship has come to an end, I take pleasure in knowing that I have taken a step forward to achieving my goals and gathered valuable experience along the way. It will be difficult to top this experience next summer. For this, I am eternally grateful to the Litigation Section of the State Bar of Texas for providing me with the means to complete my rewarding summer clerkship with Texas RioGrande Legal Aid.

Lucia M. Ceaser – Texas Tech University School of Law

While I am sad that my internship has come to an end, I take pleasure in knowing that I have taken a step forward to achieving my goals and gathered valuable experience along the way.

My experience as an intern with Lone Star Legal Aid in Tyler has been wonderful. It has helped me make personal career decisions. I have also acquired a vast wealth of knowledge that I would not have learned in school. I was able to see the beginning, middle, and end of many landlord/tenant disputes. When clients came to the office they would fill out a form detailing their complaint. I would read the complaint and accompanying documents looking for affirmative defenses and counterclaims, then I would draft an answer. I became very familiar with the Texas Property Code Chapters 24, 91, and 921.

Living in Tyler has been great. I have met so many people and will miss them when I have to leave. While the work is demanding, it has been a break from school. Especially with Baylor's practice court program looming over my head, these last 10 weeks have been paradise. I would like to thank the Litigation Section of the Texas Bar Association for providing me with the stipend to work for Lone Star Legal Aid this summer. I know I will benefit from the lessons learned here.

Luke Brown – Baylor University School of Law

A misconceived stigma typically comes with immigration law. Most people who are not involved in the process have a predetermined notion that the United States of America is giving money, education, and schooling to undeserving individuals. They usually think that the U.S. spends a major part of their money taking care of others instead of taking care of their own citizens. I shared this mind frame prior to the start of my internship. However, I wanted the opportunity to learn more about the process. I took the internship with an open mind and an open heart. I wanted to learn more about why there was such a huge divide amongst people who are fighting for immigration reform and people who are fighting against it.

When a child is initially placed into a facility a large portion of the attorney's time is spent on educating the children on their rights while they are in removal proceedings as well as any legal defenses they may have. I was able to make these presentations as well as do the one on one interview for the children and find out their story and why they chose to leave their lives behind and come to the United States. Part of being an attorney, especially one for children, is having your client trust you.

These children answer various questions such as why did you come to the United States or how were you treated while in immigration custody? The answers that I received to some of these questions were the ones that touched my heart more than I thought that they would. The children's answers to these questions changed the way that I feel about immigration law. I learned that many of the children that come to the United States come because of fear. They come for fear that they will not make it another day alive if they stay in their country. They come with a fear that they may lose their life along the way, but know that they will have pursued a dream of one day having a better life. They come with fear that they will be caught by immigration and they will be mocked, ridiculed, and persecuted. Most importantly, their biggest fear is after having left everything and everyone behind they will be caught and will be forced to return to their own country. After speaking with these children, I have learned that these children are ambitious. They came to the United States because they have hopes and dreams of a better life.

After this internship, I am very proud to say that I am a citizen of the United States. I am very lucky to have such opportunities available to me, and glad that I do not have to travel through several counties, thousands of miles away, to have a voice. Immigration law offers four legal defenses to juveniles who enter without a legal status. All of these defenses are taken away upon attaining the age of eighteen. Not all of the people who enter the United States coming to start a better life are here for a free ride, as most people think. Most immigrants have suffered traumatic experiences and with whatever courage and ambition they have left they choose to pursue a dream that they know will lead them and their children to better endeavors. The people who work for the Diocesan Migrant & Refugee Services and the immigrants who come into the United States have one major thing in common that drives them to push for immigration reform, its faith.

Amanda Marie Tovar - Thurgood Marshall School of Law at Texas Southern University

Five Years of Service - Bi-National Project on Family Violence

This year the Bi-National Project on Family Violence will celebrate five years of helping reunite parents with children who have been taken across national borders. Headed by Texas RioGrande Legal Aid (TRLA) attorney Pamela Brown, the Bi-National Project relies on international treaties and other legal remedies to help family violence survivors in desperate situations.

The project is currently staffed by several TRLA attorneys who assist with court orders and legal petitions that can help parents seeking the return of their children.

Additionally, project staff conducts trainings for victims advocates, law enforcement officials, family violence shelters, and government officials to educate on the remedies available to parents faced with the abduction of a child.

According to Brown, the need for the project is clear. Because Texas is a border state, the refuge that Mexico can offer a child abductor is tempting. Many times, parents will abduct children and take them to a foreign country to seek revenge, cause their partners to be deported, avoid paying child support, or pressure their partner to stay in the relationship. Low-income victims of these crimes often have few places to turn. For those in TRLA's service area, the Bi-National Project offers a valuable set of resources that give victims hope that they will get their children back.



Bi-National Project Director Pam Brown (bottom left) with several private attorneys from Mexico who helped reunite families at the Family Justice Center in Monterrey, Nuevo Leon, Mexico.

“One of the worst situations that a parent can be in is to not know where their child is or if that child is okay,” added Brown. “When the possibility exists that the child is in another country, a parent can feel hopeless. That’s why we are here to help.” The Project has also prioritized working with Mexican attorneys and officials who are willing to provide pro bono services to help parents assert their rights in Mexican courts. These attorneys’ volunteerism and commitment have helped shorten the amount of time necessary for a parent to fight for their child’s return.

Since its inception, the Bi-National Project on Family Violence has helped more than 370 domestic violence survivors prevent the abduction of their children or fight to secure their safe return. Though not all of these clients are successful, their struggles highlight the continued need for resources such as the Bi-National Project to educate the client community, law enforcement, attorneys, and community leaders on how to respond to these cases.

Rudy’s Story

Rudy and her husband Rodolfo had a relationship characterized by frequent separations. They first met in a small community in the Mexican state of Tabasco when Rudy was 15 and Rodolfo was 19.

Within a year they were married and in the United States where Rodolfo found work as a ranch hand in East Texas. Within a few weeks of having moved to the ranch, Rodolfo attacked Rudy. Rudy didn’t know what to do. She was away from friends and family and living in a remote area of a country where she didn’t speak the language. The violence continued, but Rudy was afraid to go to the authorities.

In 1997, Rudy had her first child, Jeniffer, and she was hopeful that Rodolfo would begin to treat her better. But it wasn’t long before Rodolfo started hitting her again. Even after the birth of their second daughter, Jessica, the abuse continued.

In December of 2005, Rodolfo returned to Tabasco to visit his parents but was caught by Border Patrol when he tried to re-enter the United States. By October 2006, Rodolfo had returned to Texas, but Rudy and Rodolfo had agreed to separate. Rudy agreed to let Rodolfo take the girls for weekend visits. She believed he really wanted to be a good father and she didn’t think she had the right to deny him visitation.

Then on Friday, December 8, 2006, Rodolfo called to ask Rudy if he could pick the girls up and keep them for the weekend. Rudy agreed as long as he returned the girls to her by 1:00 pm that Sunday. He picked them up after school on Friday afternoon.

At 1:00 pm there was no sign of Rodolfo and the girls. As the hours went on Rudy became more and more concerned. She began calling Rodolfo's brothers, sisters, and boss. Then she went to the police.

The next morning, Rudy received a phone call from Rodolfo, telling her that he was in Tabasco, Mexico with the girls. She cried as he laughed at her.

A local women's shelter referred Rudy to TRLA's Bi-National Project on Family Violence where project staff filed an Application for Return of the girls under the Hague Convention on the Civil Aspects of International Child Abduction.

In October 2007, Project attorneys and Mexican co-counsel attended a hearing on the client's application in Tabasco where the

judge decided that the girls should be returned to her. Not long thereafter, Project Attorney Pamela Brown flew with the Jennifer and Jessica, now ages 10 and 8, to an emotional reunion with their mother in Texas.

Rudy and her daughters are doing well and looking forward to a lazy East Texas summer.

Contributed by Texas RioGrande Legal Aid.



Maria and Miranda at their reunion.

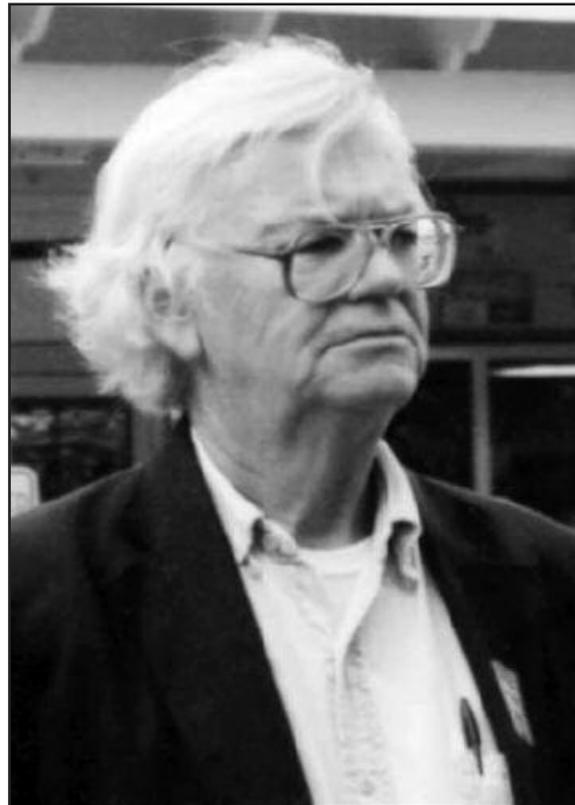
Baylor Law School Names Public Interest Scholarship for LSLA's Bill Kimble

In April, the Baylor Law School Public Interest Legal Society created the Bill Kimble Service Award, in honor of William Kimble, Baylor alum and a senior staff attorney at Lone Star Legal Aid in Waco. The award is given to two students, in the amount of \$250 each, who demonstrate exceptional commitments to community service.

This award stems from Baylor's growing relationship with Lone Star Legal Aid through the school's Public Benefits Project. This partnership with the firm allows law students the opportunity to assist Lone Star Legal Aid clients by determining whether they are eligible for food stamp benefits. If eligible, the project also assists them in the application process for those benefits. The initiative is a win-win for both students and LSLA's Waco office.

For more than 25 years, Kimble has been a tenacious advocate for low-income individuals and families. His practice has focused primarily on helping clients who have physical and/or mental disabilities secure federal disability benefits.

Contributed by Lone Star Legal Aid.



Houston Bar Association Announces New Veterans' Initiative

The Houston Bar Association has developed a new initiative to serve the legal needs of Houston's low-income veterans. Harris County is home to the second largest concentration of veterans in the nation, and the Michael E. DeBakey VA Medical Center serves 350,000 veterans each year. Texas has the fifth largest veteran population among all 50 states. Perhaps an even more startling statistic is that there are more than 4,000 homeless veterans in Houston.

"Our veterans have sacrificed to preserve our freedoms and the rule of law," said HBA President Travis Sales. "We as lawyers should ensure that the protectors of our justice system have full access to it."

Two years ago, the HBA's Houston Volunteer Lawyers Program established a monthly legal clinic for veterans at the DeBakey VA Medical Center. The clinic was held on the last Friday of each month and staffed by volunteer attorneys from the law firm of Beirne, Maynard & Parsons LLP. While this clinic has helped numerous veterans, recent news stories have illustrated the widespread need for drastically increased assistance for veterans in many areas of their lives.

The City of Houston and Harris County have instituted an initiative to address the needs of returning Iraq and Afghanistan veterans, and to move these veterans to the forefront for care. The mayor and county judge are supporting programs that address issues such as medical care, housing, disability, mental health, and legal needs.

Cognizant of the city's efforts to assist these men and women, Sales designated legal assistance to veterans as the major focus of his administration. He has developed an initiative that will provide increased legal services, as well as education and additional resources, to all veterans. Earlier this year, Sales met with Houston Mayor Bill White and County Judge Ed Emmett to discuss the HBA initiative, for which they have expressed strong support. He also met with officials from the Regional Council of the U.S. Department of Veterans Affairs and the Mayor's Director of Veteran Initiatives, to gather information and facts to assist in developing a program.

In addition, HBA and Houston Volunteer Lawyers Program staff met with representatives from two permanent housing locations for veterans in Harris County, to assess needs and obtain input on effective programming.

Many of the programs are implemented through the Houston Volunteer Lawyers Program. The HBA Veterans' Initiative has the following components:

- The expansion of the monthly legal clinic at the Michael E. DeBakey VA Medical Center to a weekly legal clinic, held each Friday from 2:30 – 5:00 p.m.
- The establishment of legal clinics, with an educational component, at DeGeorge at Union Station and U.S. Veterans at Houston Midtown Terrace, two residence facilities for veterans in central Houston. Legal clinics are held on the first Tuesday of each month, from 5:30 to 7:30 p.m. at DeGeorge and on the third Thursday of each month, from 6:30 to 8:30 p.m. at Midtown Terrace. In addition to legal assistance, the HBA Speakers Bureau provides a speaker for each clinic on topics relevant to veterans, including identity theft, disability claims, bankruptcy and creditor's rights, criminal law (specifically municipal court), elder law, importance of jury service, landlord/tenant issues, marriage and divorce law, wills and probate law, consumer rights/scams, worker's compensation, veteran's benefits, and tax/IRS issues.
- The establishment of quarterly legal clinics at VFW and American Legion Posts.
- The provision of legal assistance at other gatherings of veterans, such as stand-downs and military musters.
- The development of a pocket-sized card containing important resource numbers for veterans that will be distributed through the VA hospital and veteran's centers.
- Increasing awareness of resource guides and other information available to veterans, as well as developing resources and links on the HBA's Web site.

Over 150 people have volunteered for the HBA's Veterans' Initiative. "This is a way that we as lawyers can uniquely say 'thank you' to veterans for their service and sacrifice on our behalf," said Sales.

Contributed by the Houston Bar Association.

Legal Services Corporation and LexisNexis Launch “HotDocs® Software Donation Program”

The Legal Services Corporation (LSC) and LexisNexis are pleased to announce the launch of the HotDocs® Software Donation Program for legal aid programs that help the nation’s poor. Under the program, LexisNexis will provide free HotDocs® software to eligible organizations.

HotDocs® is a software program that saves time by creating templates for documents that law offices use every day, such as court forms, real estate and lease agreements, contracts, proposals, correspondence, compliance reports, and other material. Once templates are automated, they can be used to produce customized documents in a fraction of the time it takes to create a document from scratch. Each template has an interview that prompts users for the information needed to complete the document, fills in the documents so they are ready to use, then stores the answers so they may be used again without having to reenter the information.

“This is very generous of LexisNexis, and the Legal Services Corporation applauds this decision to provide free software that will contribute to the efficiency of LSC-funded programs and enhance the legal assistance provided to low-income Americans,” said Helaine M. Barnett, president of the Legal Services Corporation.

“LexisNexis believes that giving is both an opportunity to play a positive role in our local and global communities, and our responsibility as a good corporate citizen,” says Alison Manchester, Vice President of Content Management at LexisNexis. “The HotDocs Software Donation Program provides beneficial resources to organizations that assist those in need, thereby maximizing the impact of our outreach efforts. LexisNexis is pleased to make the software available to programs that facilitate access to justice.”

Legal aid programs funded by the Legal Services Corporation and organizations that receive funds through their state Interest on Lawyer Trust Accounts programs are eligible to participate in the HotDocs® Software Donation Program.

The new donation program will strengthen the important national online document assembly project that LexisNexis, LSC and the State Justice Institute have nurtured to provide access to justice for low-income Americans. LSC initiated that program, known as National Public Automated Documents

Online (NPADO), in 2001 with a grant to the Ohio State Legal Services Association that developed a system in which legal aid programs use HotDocs® Professional Edition to create easy-to-use guided document assembly interviews from existing forms. Interviews are then uploaded to a national server, allowing users to assemble professional-looking legal documents. This program has focused on creating forms so that low-income users can help themselves with their legal issues. This new donation by LexisNexis will be targeted to legal aid advocates, giving them better tools with which to assist their clients.

Under the leadership of Pro Bono Net, a national nonprofit dedicated to increasing access to justice through innovative uses of technology and increased volunteer participation, the NPADO program has been expanded to include court-based access to justice programs. Pro Bono Net works to foster court and legal aid collaborations around document assembly and to promote the use of NPADO to support pro bono attorneys. In the first six months of 2008, more than 53,000 documents were assembled under the national program.

“The online document assembly system increases opportunities for people to resolve their legal problems and improves efficiency for legal aid, pro bono, and courts-based access to justice programs,” said Mark O’Brien, Executive Director of Pro Bono Net. “We are thrilled that LexisNexis is expanding its support of this program, which is a powerful example of how technology can serve human needs.”

Information provided by the Legal Services Corporation.

Spindletop Spin Rides Again!

The Third Annual Spindletop Spin was held on Saturday, June 7 in downtown Beaumont. By 6:00 a.m. that morning, the 373 registered riders had gathered on Crockett Street sporting an impressive display of bikes and wearing an array of colorful spandex. The Spin started promptly at 7:00 a.m. and riders had the choice of riding one of four routes: 10 miles, 33 miles, 43 miles or 70 miles. All routes lead the riders throughout Jefferson County and back to the finish line on Crockett Street. The last rider crossed the finish line at approximately 1:15 p.m. The night before the spin, each route was marked with signs and spray-painted arrows placed by volunteer attorneys, all of whom worked late into the night and went back on duty in the wee hours of the following morning. Local law enforcement officers and community volunteers provided security, traffic control, and onsite repair work.

Teams from various local law firms manned the seven rest stops along the ride routes, which were decorated in different themes of each team's choosing. A contest, held to judge the best rest stop, was won by The Longhorn stop teamed by Orgain Bell & Tucker, LLP, who brought the riders back to the days of disco.

The Spin is the brainchild of local attorney and avid bike rider, Tracy Richardson, and it is held in conjunction with the Jefferson County Bar Association Foundation Pro Bono Program. The ride honors the memory of Judge Tom Mulvaney, who was a champion of the Pro Bono Program.

The Spin raises money for the Jefferson County Pro Bono Program, a program providing free legal services to over 400

people annually. The Pro Bono Program is supported by an exceptionally high percentage of attorney volunteers from the Jefferson County Bar Association. Last year, 188 attorneys donated over 2400 hours of free legal services to qualifying residents of Jefferson County.

The Spin continues to grow each year, and this year's event added over 100 riders from last year's total. Over half of the registered riders come from outside of Jefferson County. The success of the Spin is a tribute not only to all of the riders, but also to the volunteers and community groups that donate countless hours to plan the ride, to implement the ride, and to handle all of the logistical concerns. The Jefferson County Bar Association wishes to express many thanks and much appreciation to the Beaumont Police Department, the Jefferson County Sheriff's Department, and the Reserve Deputies for their assistance in the safety of the riders and volunteers. Beaumont Police Officer Kane Dean deserves special recognition for serving as the security organizer. The Bar Association also thanks the motorcycle group led by Pat Forster who assisted with safety and repairs for the third year in a row. And last, but certainly not least, the Bar Association thanks the Spin's platinum sponsor, Provost Umphrey Law Firm, who set the bar for giving to this worthy program and event.

Mark your calendars for next year! Spindletop Spin date is June 6, 2009.

Contributed by the Jefferson County Bar Association.

Legal Aid Offices to Help Victims of Ike and Gustav

Texas and Louisiana programs funded by the Legal Services Corporation have launched efforts to ensure civil legal aid is available to persons displaced or affected by hurricanes Ike and Gustav.

In Texas, Lone Star Legal Aid has started mobilizing two-person legal teams to work at local shelters and provide assistance. All of the 29 Texas counties declared federal disaster areas are in the program's service area.

Ike slammed into Texas on Sept. 12, causing flooding, property damage and widespread power outages from the coast through the Houston area, and knocked out the Galveston and Beaumont offices of Lone Star Legal Aid. Gustav roared across Louisiana on Sept. 1, and walloped the four LSC-funded programs in the state; the western region of the state also got hit by Ike. But program officials in Texas and Louisiana moved quickly to reroute services and resume operations.

Gustav hit Louisiana almost three years to the day when Hurricane Katrina demolished New Orleans and other parts of the Gulf Coast. LSC-funded programs in Louisiana, Texas and other parts of the region continue to handle cases related to Katrina and another 2005 hurricane, Rita.

“The Texas and Louisiana programs are resilient and resourceful, and we applaud their dedication,” LSC President Helaine M. Barnett said. “Ensuring that low-income individuals and families are able to obtain legal assistance, especially at a time of grave hardship, is a critical part of the nation’s disaster recovery response.”

Following disasters, LSC-funded programs provide low-income Americans with legal aid on matters ranging from temporary housing, rent-gouging, evictions, foreclosures, disaster assistance, consumer fraud, and family issues that arise because of disaster-related distress.

In Texas, the State Bar has established a legal aid hotline (800-504-7030) that is answered by Lone Star Legal Aid in English and Spanish and intended to help people with basic legal questions.

Paul Furrh, executive director of Lone Star Legal Aid, said his program’s experience with Katrina and Rita showed that people need important information early on in the recovery process. Given the scope of the damage caused by Ike, “I expect this is going to take a big share of our time for the next couple of years,” he said.

In Louisiana, nine of the ten parishes designated by the president as disaster areas because of Hurricane Ike are served

by the Acadiana Legal Services Corporation. “Coming on the heels of Hurricane Gustav, ALSC will be facing unprecedented challenges to our delivery system as the effects of the storm lead to critical civil legal problems for our client community,” Joseph R. Oelkers III, the program’s executive director, said.

At the Capital Area Legal Services Corporation in Baton Rouge, executive director James A. Wayne Sr. activated his emergency response plan after Gustav and reassigned staff to work in the program’s Baton Rouge and Gonzales offices. The program’s two other offices, in Donaldsonville and Houma, were closed.

The Houma office, which has the program’s second highest caseload, is in a building that has been condemned. Wayne is working with the parish president and presiding judge on how best to restore legal aid services in Houma.

“We are coping with the situation,” Wayne said.

Other LSC-funded programs in Louisiana are Legal Services of North Louisiana in Shreveport, where Alma S. Jones is executive director, and Southeast Louisiana Legal Services Corporation in Hammond, where Brian D. Lenard and Mark Moreau serve as co-directors.

“Civil legal problems inevitably follow disasters, and we are planning the design of our response by relying heavily on our experiences in the wake of prior hurricanes,” Oelkers said.

Information provided by the Legal Services Corporation.

Self-Help Center Plan Extinguished

On January 22, the Bexar County Commissioners Court approved a plan to fund a self-help center in the law library of the Bexar County Courthouse for pro se filers. The goal was to provide basic assistance to these courthouse filers that often fill out incorrect forms. The center would have been staffed by two attorneys whose goal was to answer questions and provide direction for the approximately 50 pro se filers that show up to the Courthouse on a daily basis.

However, many solo attorneys in Bexar County courts had concerns with the self-help center. The principal opponents were family law and criminal law attorneys who questioned how the

center would affect their practice and expressed concern that the program did not restrict access to its services on the basis of income. Opponents also were upset that the center would be supported by money from the public sector. Proponents say that the plan helps pro se litigants and lessens the load on judges, county clerks, district clerks, and many more people. Due to complaints and a concern that free legal services would be given to people who can afford them, the Commissioner’s Court reversed their previous vote and terminated the two attorneys before the plan could even begin. The hope of a self-help center in Bexar County ended exactly six months later with that vote on July 22.

Continuing Resolution Keeps LSC at Current Funding Levels until March

LSC will continue to operate at fiscal year 2008 funding levels until March 6, 2009, or until LSC's regular FY 2009 appropriation is enacted, according to the continuing appropriations resolution (H.R. 2638) passed by Congress and signed into law by President Bush on September 30. The resolution was necessary to prevent the shutdown of the federal government, since Congress had not passed any of the 12 annual spending bills before FY 2009 started on October 1. LSC received \$350.5 million in FY 2008,

but is still looking forward to the possibility of an 11 percent increase for 2009, as the appropriations committees in the House and Senate have recommended \$390 million for LSC. However, Congress is not expected to revisit the appropriations process until next year.

Information provided by the Legal Services Corporation.

Sharing Strategies for Pro Bono Success

Pro bono coordinators from non-profit legal services organizations converge annually in Austin to share ideas about volunteer recruitment, retention, and recognition. Nearly forty attendees met September 18-19 at the Texas Law Center to participate in a diverse array of workshops emphasizing innovative ways to promote the pro bono opportunities in their respective communities.

At the retreat, attendees met with other similarly situated colleagues to discuss the barriers in securing volunteers to aid in pro bono. Topics ranged from Media Relations 101, which illustrated how coordinators can use the media to publicize pro bono opportunities; to using technology to increase access to justice, which encouraged attorneys to use websites and listservs

to promote opportunities; and working with clients with mental health issues, which focused on recognizing common symptoms and techniques for working with clients who may have a mental health issue. Attendees found the retreat useful and relevant, with one attendee commenting, "All of the speakers were enthusiastic and knowledgeable. I could have enjoyed an all day conference on each topic alone."

Thanks to a generous contribution from Jeff Edwards, an attorney with Whitehurst, Harkness, Ozmun & Brees, P.C., in Austin, attendees enjoyed a wonderful reception with a stunning view of the Capitol. Even during the reception, coordinators continued their discussions on how to provide effective support for volunteers. The 2008 retreat was a great success.



Lourdes Flores of Texas Rio Grande Legal Aid addresses the audience at the Pro Bono Coordinators Retreat.

Challenging Housing Denials in Private Federally Assisted Housing

By Fred Fuchs

Federally assisted landlords (“Owners”)¹ all too often have tenant selection policies that broadly exclude individuals with a felony conviction regardless of when the crime was committed. Congress has given Owners authority to deny applicants who “during a reasonable time preceding the date when the applicant household would otherwise be selected for admission” engaged in violent criminal activity or other criminal activity that would adversely affect the right to peaceful enjoyment of the premises by other tenants.² The United States Department of Housing and Urban Development (HUD) has essentially tracked the statutory language in its implementing regulations: Owners may prohibit admission if a family member has engaged in drug-related criminal activity, violent criminal activity, or other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents “during a reasonable time before the admission decision.”³ Owner selection policies that include a blanket prohibition on admission of any individual with a felony adjudication or that require the elapse of many years between the criminal adjudication and the application are contrary to the statute and regulation and illegal. This article addresses possible legal claims against private federally assisted owners.

When an Owner denies a family admission to federally assisted housing, the Owner must notify the family in writing of the grounds for the rejection and give the family an opportunity to meet with the Owner to discuss the denial.⁴ A family denied admission should request a meeting and use that opportunity to rebut incorrect information or to provide information showing rehabilitation. But, families who are denied admission because of the Owner’s policy precluding admission of persons with a felony or precluding admission unless many years have elapsed since the criminal activity must challenge the policy.

HUD did not define the phrase “reasonable time” in the regulations. In its comment to the final rule it published in 2001 HUD stated:

HUD believes it would be too rigid for it to define a reasonable time period in a manner that covers every circumstance nationally. The reasonable time period is still left up to the owner (or PHA) to determine in its admission policies. Owners and PHAs may want to adopt standards that differentiate what is a reasonable period for different categories of criminal activity.

While HUD considers that five years may be a reasonable period for serious offenses, depending on the offense, some PHAs or owners may not agree. The owners and PHAs should make these decisions in the best interests of their communities.⁵

HUD did not offer any additional guidance in the governing handbook. It simply noted that “the owner may define the length of time prior to the admission decision during which the applicant must not have engaged in the criminal activity.”⁶ The statutory directive requiring a “reasonable time,” however, circumscribes the Owner’s discretion.

In *Ouellette v. Hous. Auth. of Old Town*,⁷ a public housing authority denied Ouellette’s section 8 housing voucher application on the basis of a fifteen-year old conviction for aggravated felonious sexual assault in accordance with its policy to deny all applicants who had committed a violent crime regardless of when the act occurred. The court noted that the governing HUD regulation permitted the housing authority to deny admission for violent criminal activity occurring “a reasonable time period before the admission.”⁸ The court reasoned:

There is no bright-line standard for a reasonable amount of time. By accepting a zero-tolerance policy regarding convicted individuals, Respondents divert from the clear intent of the policy reflected in the HUD regulations. The regulations unambiguously mandate a consideration of whether a reasonable time had passed since the conviction.⁹

The court vacated the decision and remanded it to the local housing authority for further proceedings.

In *Ouellette* a Maine statute provided for judicial review of public housing authority tenant selection denials. Texas does not have a similar statute providing for judicial review of applicant admission denials either by public housing authorities or private owners. Thus, challenges to an Owner’s policies must be crafted to withstand a motion to dismiss in federal court or, if filed in state court, a special exception for failure to state a cause of action. Applicants cannot successfully maintain a claim under 42 U.S.C. § 1983, because two appellate court decisions in the 1980’s effectively established that applicants for federally assisted housing

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have no property interest or entitlement to such housing.¹⁰ Although the Fifth Circuit has not directly addressed this issue, it has held that the actions of private federally assisted owners do not constitute governmental action.¹¹ Thus, a suit premised on § 1983 will not withstand a motion to dismiss or special exception. So, what is the vehicle providing a cause of action?

Three potential causes of action can be stated. First, a claim may be asserted on the basis of an implied private right of action under the statute and the regulation. Whether that claim will withstand a motion to dismiss in federal court or a special exception in state court depends upon the court's analysis of the statute under the implied right of action test established by the U.S. Supreme Court in *Cort v. Ash*.¹² Given the language of the statute and subsequent Supreme Court precedent, this cause of action may be difficult to sustain.¹³ Second, an applicant may seek a declaratory judgment, under the federal or state declaratory judgment act¹⁴ that the Owner's policies violate federal law. Although the Federal Declaratory Judgment Act does not confer an independent basis for federal jurisdiction,¹⁵ jurisdiction exists under 28 U.S.C. § 1331 because the claims present a federal question.¹⁶ Third, an applicant may maintain a state law claim under the Texas Deceptive Trade Practices Act.¹⁷

Congress was unwilling to give Owners free rein in screening applicants for admission. That law is meaningless unless enforced through advocacy on behalf of families denied admission by policies that overreach.¹⁸

Fred Fuchs is a staff attorney with Texas RioGrande Legal Aid.

ENDNOTES

1. See 42 U.S.C.A. § 13664 (2) (West 2005); 24 C.F.R. § 5.100 (2008) (definition of "federally assisted housing"). Although public housing and the

section 8 housing voucher program are included in the definition, this article does not address admission decisions by public housing authorities because different regulations govern. See 24 C.F.R. § 960.202 - § 960.208 (2008) (public housing); 24 C.F.R. § 982.552 - §982.554 (2008) (section 8 housing voucher program). In addition, because public housing authorities are governmental entities, applicants denied admission have different causes of action than applicants denied admission by private federally assisted owners.

2. See 42 U.S.C.A. § 13661(c) (West 2005) (emphasis added).
3. 24 C.F.R. § 5.855 (2008).
4. UNITED STATES DEPT. OF HOUSING AND URBAN DEVELOPMENT, *HUD Occupancy Handbook 4350.3 REV-1*, at ¶ 4-9-C, D (June 2007) (Handbook 4350.3).
5. 66 Fed. Reg. 28776, 28779 (May 24, 2001).
6. Handbook 4350.3, at ¶ 4-7-C-3-c.
7. No. AP-03-17, 2004 Me. Super. LEXIS 60 (Me. Super. Ct. March 12, 2004).
8. *Id.* at *3.
9. *Id.* at *4.
10. See *Hill v. Group Three Hous. Dev. Corp.*, 799 F.2d 385, 389-93 (8th Cir. 1986); *Eidson v. Pierce*, 745 F.2d 453, 457-64 (7th Cir. 1984); but see *Ressler v. Landrieu*, 692 F.2d 1212 (9th Cir. 1982).
11. See *Miller v. Hartwood Apartments Ltd.*, 689 F.2d 1239, 1242-44 (5th Cir. 1982).
12. 422 U.S. 66, 78 (1975).
13. For a brief but informative discussion of subsequent Supreme Court decisions interpreting *Cort v. Ash*, see SARGENT SHRIVER NATIONAL CENTER ON POVERTY LAW, *Federal Practice Manual for Legal Aid Attorneys*, at 121-125 (2004).
14. Federal Declaratory Judgment Act, 28 U.S.C. § § 2201-2202; Texas Declaratory Judgment Act, 37 CIV. PRAC. & REM. CODE ANN. § 37.001 - § 37.011 (Vernon 2008).
15. See *Skelly Oil Co. v. Phillips Petroleum, Co.*, 339 U.S. 667, 671-72 (1950). I have not researched the extent to which a party seeking a declaratory judgment must also state a claim either on an implied right of action theory or some other basis.
16. See SARGENT SHRIVER NATIONAL CENTER ON POVERTY LAW, *Federal Practice Manual for Legal Aid Attorneys*, at 229-231 (2004) (discussion of Declaratory Judgment Act).
17. Cf. TEX. BUS. & COMM. CODE ANN. § 17.45(1), (4) (Vernon Supp. 2008) ("Consumer" includes an individual "who seeks ... by ... lease, any goods. ..."; "Goods" includes real property "leased for use.").
18. I have pleadings and discovery that I can to share with anyone representing a client on a challenge to a "no felony" policy.

LSC, Red Cross Sign Agreement on Disaster Services

The Legal Services Corporation and the American Red Cross will work more closely together during disaster relief operations to strengthen assistance provided to disaster victims, officials announced recently.

LSC and the Red Cross entered into a memorandum of understanding that provides a framework for partnership and cooperation between the two organizations in rendering assistance to disaster victims and other services. The memorandum of understanding was signed by Helaine M. Barnett, president of

LSC, and Kevin M. Brown, the chief operating officer of the national American Red Cross.

"This agreement will enhance efforts by programs funded by LSC to provide legal assistance to people affected by natural disasters and who may have lost their homes and all their possessions," Helaine Barnett said. "LSC thanks the Red Cross for helping establish this new collaborative approach, which will speed our outreach and services during disasters."

“The Red Cross looks forward to partnering with LSC programs so that collectively we may better serve all communities during disasters,” Kevin Brown said. “This new framework will help enhance disaster response activities by both organizations.”

During times of disaster, LSC-funded programs can provide legal guidance on matters ranging from temporary housing, rent-gouging, insurance, consumer fraud, and increased family law issues from disaster-related distress.

Together, attorneys and client advocates employed by LSC-funded programs will set up alongside the Red Cross at their disaster service delivery locations to provide legal counseling, according to the memorandum of understanding. Both organizations will encourage their programs and chapters to join in pre-disaster planning and response activities at the local level.

David Hall, Executive Director of Texas RioGrande Legal Aid, appreciates the “willingness to engage” that has not been seen before, however questions what impact the agreement will have when a disaster occurs. Hall explained, “The difficulty is the Red Cross is there first and most people don’t realize the legal consequences of disasters until later on. It’s only after they leave that people begin to think about legal problems with insurance and their homes.” As a practical matter, Hall says he does not anticipate much difference as a result of the agreement.

LSC, created by Congress in 1974, provides grants to 137 programs with more than 920 offices across the country. LSC’s mission is to promote equal access to justice in our nation and to provide high-quality civil legal assistance to low-income persons.

The Red Cross has more than 700 chapters across the nation that help provide relief to victims of disasters and help people prevent, prepare for, and respond to emergencies. It is led by volunteers and guided by a congressional charter and the fundamental principles of the International Red Cross and Red Crescent Movement.

Information provided by the Legal Services Corporation.



LSC and American Red Cross staff members.

Student Loan Provision Will Help Recruit Legal Aid Lawyers

The student loan repayment program included in the 2008 Higher Education Opportunity Act will significantly improve the ability of legal aid offices to recruit and retain high-quality lawyers, the president of the Legal Services Corporation said today.

“Legal aid lawyers are among the lowest-paid members of the legal profession, and the financial pressures that stem from student loan debt are often the primary reason they leave,” Helaine M. Barnett, president of LSC, said. “Our experience with an LSC pilot program found that loan repayments make it more likely that talented young lawyers will apply for and accept jobs in our programs, and that participating attorneys will stay with their LSC programs. If we keep talented young lawyers, this helps ensure our clients receive the legal assistance they need.”

Under the legislation signed by President Bush on Aug. 14, the Secretary of Education may offer student loan repayments of up to \$6,000 a year to civil legal assistance attorneys who agree to a minimum three-year commitment to their work. Total loan repayments cannot exceed \$40,000, according to the law. The loan repayment provision in the bill was championed by Sen. Tom Harkin of Iowa, who began his career as a legal aid attorney, and Rep. George Miller of California. Sens. Edward M. Kennedy of Massachusetts, Michael B. Enzi of Wyoming, and Barbara A. Mikulski of Maryland were key proponents of the bill.

The legislation authorizes the student loan repayment program, which Barnett said she hopes will become a permanent replacement for the LSC pilot program, which enters its fourth year on Oct. 1. “I thank Senators Harkin and Mikulski and others for their great achievement in easing the burden of law school

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debt on the nation's young lawyers who are committed to bring equal access to justice to low-income Americans," Barnett said.

In a report provided the LSC Board of Directors at their Aug. 1 meeting, 77 percent of attorneys who received LSC loan repayment assistance said the pilot program was a pivotal factor in their decision to work for an LSC grantee.

That and other findings were drawn from an evaluation of the pilot's second year, from Oct. 1, 2006 through Sept. 30, 2007. Seventy attorneys participated in the loan repayment program during that period, and each received a forgivable loan of \$5,000. Participants in the pilot must make a commitment to work at their LSC-funded program or repay the loan.

Eighty percent of LSC program executive directors who participated in the pilot said it significantly improved their ability to hire new staff, and 94 percent said the pilot significantly enhanced their ability to keep staff, according to the report.

The report on 24 LSC-funded programs that participated in the pilot found that attorneys receiving loan repayments left their programs at far lower rates than attorneys with similar levels of professional experience who were not receiving loan repayments. During 2006-2007, 18 percent of participating attorneys voluntarily left their programs, compared to 29 percent of their colleagues who were not participating in the pilot, the report showed.

In a survey conducted for the report, more than half of the attorneys in the pilot said they had a law school educational loan debt of more than \$75,000 when they began working for their legal aid program. Nearly one-half said they expected to make loan repayments on their educational debt for more than 21 years.

Information provided by the Legal Services Corporation.

Housing Bill to Provide Grants for Legal Counseling

The housing bill approved by the Congress will bolster efforts by legal aid programs funded by the Legal Services Corporation to help low-income Americans worried that they may lose their homes through foreclosure.

The bill, the Housing and Economic Recovery Act of 2008, provides \$30 million for pre-foreclosure and legal counseling through a new grant program.

"Because of the enormous impact that the subprime mortgage crisis is having on the poor, particularly the elderly on fixed incomes and low-income renters, legal assistance is a crucial and necessary component in the effort to address the crisis," Helaine M. Barnett, president of LSC, said.

"Foreclosure cases are complex and time consuming, and legal aid attorneys funded by LSC often are the only resort for low-income individuals and families. We expect requests for legal assistance to continue to grow, and, without additional funding, our programs will be unable to meet that demand."

The Legal Services Corporation is a congressionally funded nonprofit organization dedicated to promoting equal access to justice in our nation and to providing high-quality civil legal assistance to low-income persons. LSC currently funds 137 civil legal aid programs with more than 920 offices across the country.

LSC-funded programs report that many of their legal aid offices could see twice as many requests for help in the coming year compared to past years. Many low-income individuals worried about losing their homes call LSC programs to complain they were targeted by predatory lenders, have lost a job, have become disabled, or have lost a spouse and spousal income. LSC has asked its programs to begin collecting data on requests from eligible clients seeking to avert a home foreclosure.

Under the housing bill, the Neighborhood Reinvestment Corporation, a congressionally chartered nonprofit that does business as NeighborWorks America, will make grants to housing counselors "to hire attorneys to assist homeowners who have legal issues directly related to the homeowner's foreclosure, delinquency or short sale." No funds may be used for "legal representation involving or for the purpose of civil litigation," according to the bill.

"Homeowners who are struggling with their mortgages and seeking mortgage counseling may also need legal services. We're pleased that the Congress has appropriated \$30 million to help qualified homeowners in distress access the important legal help that they may need," said Kenneth D. Wade, chief executive officer of NeighborWorks.

Information provided by the Legal Services Corporation.

Minus Evacuation Order, Border Patrol Checks for Documents

By Emma Perez-Trevino

On the day that Hurricane Dolly slammed the Rio Grande Valley, civil rights groups conferred via a conference call with the U.S. Department of Homeland Security but failed to secure a commitment that the immigration status of people fleeing a disaster would not be screened for immigration status at checkpoints.

“When it’s a life or death situation and it’s a natural disaster, Mother Nature makes no distinction between legal or illegal Mexicans or Americans,” Texas RioGrande Legal Aid attorney Celestino A. Gallegos in Edinburg said Friday.

U.S. Border Patrol agents did check the immigration status of people going through the Sarita checkpoint on U.S. Highway 77 before Hurricane Dolly struck, spokesman Dan Doty said Friday.

Various sources have told *The Brownsville Herald* that agents continued to check the immigration status of people at the checkpoint- whether or not they were fleeing the Valley amid the imminent threat from Dolly.

“We did make apprehensions at the checkpoint,” Doty said, making the distinction that an “evacuation order” had not been issued.

Apprehension numbers were not immediately available.

If there had been an order, Doty said that the agency would not impede an evacuation. “We will assist in it,” Doty said.

Doty’s statement indicates that people passing the Sarita checkpoint were processed as usual because neither Cameron County Judge Carlos Cascos nor the Valley cities’ mayors ordered an evacuation.

“I would ask DHS if this is the way they would treat people in Miami, New Orleans or New York in the event of a natural disaster,” Gallegos said. “Why do they single out the border residents for this kind of treatment?”

The Texas RioGrande Legal Aid is one of the organizations that represents La Union Del Pueblo Entero, Proyecto Juan

Diego, Proyecto Digna and San Felipe Community Church in their petition filed July 9 in the U.S. District Court for the Southern District of Texas.

The groups want to take the deposition of DHS to clarify its stance on verifying the immigration status of evacuees during hurricane evacuations. This is still pending, but the groups and DHS have been communicating with the latter and proposed talking points a day before Hurricane Dolly struck.

“We’re on the right track. The problem is that they are not binding,” Gallegos said of the proposals. “We are just looking for a firm commitment.”

Discussions continue.

Various sources have also told *The Brownsville Herald* that Border Patrol agents were spotted around neighborhoods in Harlingen questioning tree-cutters that were helping homeowners in the cleanup following Hurricane Dolly.

Doty said agents are not checking the immigration status of tree-cutters.

If they are performing a job, “we do not bother them,” he said.

“We don’t stop people from doing cleanup work nor on job sites,” Doty said. “We are not stopping and asking for citizenship. We don’t do site enforcement.

“We don’t do inspections at job sites,” added Doty, who noted that he has not heard of any such initiative from the federal division responsible for enforcement.

Gallegos said that if Border Patrol agents are questioning tree-cutters, “again, I would ask, what is the value of doing that in the circumstances that we are facing? People are trying to clean up their homes in a natural disaster . . . and secondly, I’m not quite sure what kind of ID a tree-cutter is going to carry.”

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A Bold Course Set by TAJF for Public Interest Lawyers' Salaries

Lawyers seeking employment with legal aid and other non profit advocacy organizations are not motivated by high salaries and the kind of prestige that normally goes with employment with large law firms; government jobs such as with the Department of Justice or as in-house counsel positions with companies like Dell or ExxonMobil. What inspires lawyers to go into public service is the opportunity to pursue justice for the less fortunate - to make a difference for the disenfranchised and impoverished in this country and to serve interests that help guide society toward its better angels.

However, fewer attorneys are able to accept employment in the non profit legal aid world because of the depressingly low salaries and the mountain of debt that accompanies them when they graduate law school. College graduates and public school teachers just entering their fields, often earn more than a licensed public interest attorney representing clients in trials and appeals, often carrying heavy caseloads and dealing with some of the most pressing issues such as homelessness, civil rights, home foreclosures, and consumer fraud. These noble attorneys seek to insure that the legal professions' obligation for the administration of justice for all, are not just empty words. But historically, lawyers desiring to serve the poor and practice public interest law have been underpaid.

How did we get to a position when public interest attorneys are often paid less than paralegals in the private sector and if married with children, might themselves fall within 200% of the federal poverty guidelines?

Legal aid to the poor in America can be traced back to March 8, 1876 when the German Society in New York City established the first legal aid organization to fight exploitation of newly arrived German immigrants. This was followed in 1886 in Chicago under the auspices of the Woman's Club operating under the name of "The Protective Agency for Women and Children." In both cases, financial support came solely from charitable donations. Emery A. Brownell reported in his book "Legal Aid in the United States," initially published in 1951 and supplemented in 1961, that the average staff attorney salaries ranged from \$5,124 and \$5,958 in 1959, depending on the size of the legal aid program.

Fast track to the 1960's and these efforts had been joined by hundreds of similar organizations and criminal-defense agencies.

However, as in previous years, the legal aid movement continued to depend entirely upon charitable contributions and staff attorneys were woefully underpaid and carried unrealistic caseloads. In 1981, the starting salary for a Texas metropolitan legal aid lawyer was \$19,000 annually. It would take \$43,308 in 2008 just to have the same buying power that \$19,000 had in 1981. In 2007, many Texas non profits providing free legal aid offered a starting salary of \$35,000 per year for their starting attorneys.

Clearly, salaries for public interest lawyers were in no way keeping pace with the cost of living, inflation, rising college and law school tuition not to mention comparable career opportunities in similar public service jobs such as state and federal government employment. Yet, today, there are a greater number of sources for funding legal aid than ever before. However, there has been a continued failure to recognize that as a sector and professional field, legal aid lawyers salaries were being depressed and held stagnant, reflecting an outdated mindset that it would be wiser to fund two attorneys at low salaries than fund one attorney at a reasonable salary. This approach reflected the desire to provide the greatest amount of services, regardless of the negative and long term effect and impact it had on the profession. This tension between facing limited resources and growing needs, and the need to increase attorneys' salaries seemed to always land on lower salaries which then impacted the ability of programs to recruit and retain dedicated and talented lawyers.

This approach has been magnified by the crushing debt that law students were carrying after graduation and the inability to accept or continue in public interest jobs because of the low wages. There has been a growing crisis brewing within the legal services community across the country and in Texas; that salaries for the attorneys among the many non profit legal aid programs were failing to be competitive even in other public interest areas, let alone the private sector and resulting in a potential crippling of Texas' ability to attract and retain talented and committed attorneys to serve Texas' less fortunate.

National studies were being published and circulated, expressing the need to address salaries, which were gaining national attention. The Recruitment and Retention Committee of National Legal Aid and Defender Association's Civil Policy

Group, in 2006, developed and conducted a national survey. The survey results indicated the growing crisis in the recruitment and retention of attorneys in civil legal aid practice. It suggested that the legal services community is largely failing in this effort. Two additional recent major studies examined the factors that affect recruitment and retention in legal aid and found that chronically low salaries, particularly coupled with high student loans, were having a significantly corrosive effect on legal aid services across the nation. Two such reports, one out of Illinois and the other out of Florida, found that “pay dissatisfaction was the strongest correlate of turnover intentions” among attorneys surveyed. More than half of attorneys surveyed in these studies were planning to leave their position within the next three years. The report recommended that at a minimum, legal aid compensation should be comparable to compensation paid to government or other public service lawyers.

This high rate of turnover is extremely costly to legal aid programs, which are incurring the costs of training new attorneys, many of whom leave before the organization can recoup its costs. By failing to address the causes of these departures, programs are increasing the costs of delivering high quality legal services and undermining their mission of effectively providing legal services to low-income individuals and communities.

In early December, 2007, the Texas Access to Justice Foundation (TAJF) distributed an online survey to approximately 1000 staff members of the legal aid programs it funds. The purpose of the survey was to help TAJF “determine how most appropriately to use the additional moneys that will result from the recent change in interest rates paid IOLTA accounts.” Pay dissatisfaction was the strongest correlate of turnover intentions among attorneys surveyed.

The comments to the survey contained a number of very strong statements regarding the importance of addressing salary needs. One comment noted that: “A new teacher in Fort Worth has a higher starting salary than a new legal aid attorney.” The comment went on to ask whether it was reasonable to “expect an attorney to devote his entire career to legal aid when he knows he will never be able to provide for a family?”

TAJF also held a public forum on January 17. A large number of the witnesses at the comparability forum stated a similar concern about the impact of low salaries on recruitment and retention of staff. One director of an immigration counseling service noted that her program’s experience is that 18 months after

staff begin, they have become “highly skilled and marketable,” and they leave for higher salaries.

TAJF’s Board of Directors concluded that something had to be done for legal aid attorney salaries that have far too long lagged behind what is competitive in other non profit and public sectors. There were new grant categories developed to award grants under these funds. One of these categories was: Salaries - Recruitment & Retention. On April 9, TAJF’s Board of Directors created a fund of \$1.8 million for grants that will recur for three consecutive grant years to help address the problem of chronically low attorney salaries among many of the grantees and to support other efforts to improve the recruitment and retention of employees.

In creating the Salary Improvement and Staff Retention Fund, the Board of Directors of TAJF identified benchmarks for attorneys’ salaries at various levels of experience with comparable salaries for experience levels not specifically set out below. These recommendations were based on a study, entitled *2007 Attorney Salary Survey: Not for Profit Organizations*, conducted by the Hay Group on behalf of the National Consumer Law Center and the Center for Public Representation (hereafter, Hay Group Report). The Hay Group Report was based on a survey of a cross-section of legal aid organization across the country. The results do not purport to be competitive public interest salaries, but rather comparable salaries in legal aid organizations. Those benchmarks are:

- Starting licensed attorneys —at least \$45,000 per year;
- Attorneys with five years experience —\$55,000-57,500;
- Attorneys with 10 years experience —\$67,500-\$70,000;
- Attorneys with 15 years experience —\$80,000-\$82,500;
- Attorneys with 20 years experience —\$92,500-\$95,000;
- Attorneys exceeding 20 years experience —>\$95,000.

TAJF recognized that salaries among many of its grantees are below these benchmarks at all levels of experience and that not every attorney can be brought to the appropriate benchmark salary with the funds that are available. Each grantee that applied for these funds to improve salaries, established salary structures that moved toward fairly rewarding staff attorneys at most if not all levels of experience. Board action on July 1, resulted in twenty-three (23) grantees being awarded \$1,871,762 in new IOLTA dollars to increase salaries of their staff attorneys.

This is just the beginning and the process has to be long term and sustainable if competitive salaries for staff attorneys in non

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profits that serve the poor are to remain a priority. This action signals TAJF's commitment to supporting its grantees in improving salaries throughout the system. The salaries in the legal aid system are close to crisis level and it is essential to start addressing the problem now. TAJF realizes that this effort can only be a catalyst and will only succeed if each organization develops and implements long term strategic planning which calls for aggressive fund development and maintaining attorneys salaries as a part of their ongoing recruitment and retention

plan. Difficult and informed decisions need to be made by the executive director and boards that attorney's salaries must not be sacrificed or slighted for the short term benefit of increased numbers of staff or cases closed. An experienced and senior attorney can be equally as productive long term as opposed to an additional new attorney that is hired at a low salary and only retained for a short period of time. TAJF believes that long term successes in salary comparability can be achieved by quality short term decisions.

TAJF Grantee Meeting



Randall Chapman of the Texas Legal Services Center speaks to Grantee Meeting attendees.

The Texas Access to Justice Foundation held its "Annual All Grantee Meeting" in Houston at the South Texas College of Law on July 22. Over 80 representatives from 40 Texas non profit organizations attended. Participants

were provided with presentations and updates by Richard Tate and Betty Balli Torres from the Foundation, Randy Chapman with the Texas Legal Services Center, Anthony Haley with Haley Romero Winick & Kroll Inc., Elma Garcia with Texas Lawyers Care, and Jim Sales and Emily Jones with the Texas Access to Justice Commission. Ronnie Hagerty, United Way of Greater Houston, gave a wonderful presentation on "Organizational Strategic Planning".

Based upon the comments and surveys returned, the meeting was considered a big success by all in attendance.

Corporate Counsel Section Offers Grants to Statewide Non-Profit Legal Services Providers

The Corporate Counsel Section of the State Bar of Texas is now accepting grant applications from statewide non-profit legal services providers. The Section will award up to \$10,000 in grant money per selected application and the minimum award to a selected statewide non-profit legal services provider will be \$3,000. Grant money is intended for projects that broaden the availability of pro bono opportunities to in-house counsel. In-house counsel are attorneys whose sole client is their business firm employer and who are not litigation specialists.

Applications must be postmarked no later than January 15, 2009. Send one signed original application form to:

**Laney M. Vazquez
Attorney, Litigation, BP Legal Group
BP America Inc.
501 Westlake Park Blvd.
WL1 – 16.135
Houston, TX 77079**

The application should also be e-mailed at the same time to Ms. Vazquez in PDF or Word format at laney.vazquez@bp.com.

For additional information, please contact Ms. Vazquez at the above e-mail address.

2009 Poverty Law Conference

Join us in Austin on April 15-17, 2009 when Texas Lawyers Care will host its 12th annual Poverty Law Conference at the Austin Hilton Airport Hotel.

The Poverty Law Conference is the place to learn about the latest developments in civil law. Designed primarily for legal services advocates and pro bono attorneys, this three-day conference provides excellent training on poverty law issues affecting low-income and poor Texans. The conference will feature presentations on substantive topics relating to poverty law, such as, but not limited to, family law; consumer law;

housing; immigration; bankruptcy; litigation strategies; and public benefits, from some of the most knowledgeable poverty law practitioners in their fields.

All legal services and pro bono advocates are invited to attend. CLE credit will be available. A limited number of scholarships are available (deadline: February 27, 2009). Be sure to visit the conference website, www.texasbar.com/plc for the latest information on registration and scholarships.

If you have suggestions for topics, please email TLCmail@texasbar.com.

Pro Bono College of the State Bar of Texas

Outstanding contributions to legal services to the poor

The State Bar of Texas is accepting applications for 2008 membership in the Pro Bono College. Attorneys who have exceeded expectations in pro bono legal services to the poor by performing a minimum of 75 hours of eligible pro bono service are encouraged to apply.

Benefits include:

- **Certificate** signed by the President of the State Bar and Chief Justice of the Supreme Court,
- **Subscription** to the *LegalFront* newsletter, a publication of Texas Lawyers Care (TLC) providing statewide information on legal services to the poor,
- **Free** one year subscription to TexasBarCLE's Online Library (\$295 value),
- **Training** in substantive poverty law issues at TLC's annual Poverty Law Conference at a reduced tuition rate,
- **Recognition** at the State Bar Annual Meeting, and
- **Membership** in a college of exceptional attorneys who have demonstrated a desire to help address the vast unmet legal needs of the poor by providing access to the justice system.

Join Texas attorneys who are proud members of the Pro Bono College by completing a membership application today.

Visit www.texasbar.com to download an application or contact us at 800-204-2222, ext. 1855.

Application deadline is December 1.



STATE BAR OF TEXAS

Texas Lawyers Care

P. O. Box 12487

Austin TX 78711-2487

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Fax (512) 477-8302

E-mail: tlcmail@texasbar.com

2008 - 2009 Calendar

*For more information about events, call Texas Lawyers Care at 800-204-2222,
ext. 1855 or e-mail tlcmail@texasbar.com.*

December 1, 2008

Litigation Section Summer Law Student
Internship Application Deadline

December 3-6, 2008

National Aging and Law Conference
Arlington, VA

December 6, 2008

Federal Housing Programs: One-Day
Training for New Practitioners
Washington D.C.

December 7-8, 2008

Housing Justice Network's National
Meeting
Washington D.C.

January 2, 2009

Litigation Section Grants Deadline
Austin

January 13, 2009

Access to Justice presentation for the
Coastal Bend Women Lawyers Association
Corpus Christi

January 15, 2009

Texas Bar Foundation Spring Grants
Deadline
Austin

January 15-16, 2009

Annual Litigation Update Institute
San Antonio

January 21, 2009

Access to Justice presentation for the
Jefferson County Bar Association
Beaumont

April 15-17, 2009

Poverty Law Conference
Austin

*The articles in this publication reflect the viewpoints of the authors and do not necessarily express the opinion of
the State Bar of Texas, its Sections, Committees, or Departments.*