

LegalFront

Winter 2005 • Volume 6 No. 1

Task Force on Indigent Defense Funds Creation of Public Defender Offices

By Judge Sharon Keller

On December 8, the Task Force on Indigent Defense (Task Force) awarded over \$13 million in grants to counties to support improvements in the delivery of indigent defense services. The Task Force awarded almost \$2 million in discretionary grants on a competitive basis to assist counties develop new and innovative programs. These grants were funded primarily by a new \$65 annual legal services fee paid by attorneys. One-half of the fees collected are designated for “demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings.” The other half of the fee supports civil legal services to the poor. The funds are instrumental in allowing counties to try groundbreaking models for the delivery of indigent defense services. Indigent defendants being served by these new programs will benefit greatly from the generous support provided by the attorneys of the state.

The Task Force has given top priority to funding for the creation of public defender offices and the provision of mental health defender services. We were pleased to be able to fund four new programs totaling over \$1 million that met these priorities, including two brand new public defender offices. These offices are the first large scale offices formed in Texas since the late 1980’s and will

raise to nine the total number of counties with public defender offices. The grants awarded are for the first year of funding and may be continued for another three years if they are successful and funds remain available. The Task Force will fund 80 percent of the cost in the first year with a 20 percent reduction each year thereafter until year five when the program will be entirely county-funded.



Judge Sharon Keller, Chair of the Task Force on Indigent Defense and Presiding Judge of the Court of Criminal Appeals

Bexar County was awarded over \$370,000 to create a new appellate public defender office staffed by attorneys who specialize in the handling of appeals. The centralization of these types of cases will allow the county to effectively manage the number of open cases any one attorney may have at any given time. It will also bring more predictability to the budgeting process and should result in long-term cost efficiencies.

Hidalgo County also was awarded nearly \$400,000 to assist the county in creating a public defender office to represent defendants charged with misdemeanors, or those charged with both misdemeanors and felonies. The new office will work in conjunction with the existing assigned counsel system. The program also will target representation for defendants who remain in custody and had previously refused to request counsel. Studies have shown that 90 percent of such defendants ultimately request and are appointed counsel at

Inside this issue of

LegalFront

TATJ
COMMISSION
3

SPOTLIGHT:
COMMITMENT TO
PRO BONO
6

JUSTICE
AT WORK
15

POVERTY LAW
PRACTICE
21

TEXAS BAR
FOUNDATION
26

TEAJF REPORT
29

ANNOUNCEMENTS
30

CALENDAR
32

their first court appearance, which is often a week later. The public defender office will provide legal assistance to those in custody so that they understand the court process and the need for assistance from counsel. The program should result in more timely representation of defendants and reduced costs to the county by decreasing jail time served and expediting case dispositions.

The other two multi-year programs that were funded deal with specialized mental health defender services. Dallas County was awarded \$152,136 to create a mental health division within the Dallas County Public Defender's Office. The funds will allow the office to hire one attorney and two caseworkers who will specialize in representing defendants with mental illness or mental retardation. In addition to this specialized caseload, the new division will act as a resource to the other attorneys in the office when mental health issues arise. This program is similar in scope to a new mental health unit created last year in the El Paso County Public Defender's Office. We also awarded Limestone County \$174,100 to contract with two attorneys and two caseworkers to provide representation to defendants with mental illness or retardation. The program will include training of jail staff to facilitate accurate identification of defendants with mental health issues.

The groundwork for the creation of these new programs was laid last year when the Task Force worked with a nationally recognized expert to examine the practices of two public defender offices and provide guidance to counties considering creating such offices. The Spangenberg Group was commissioned to do the work in response to requests from counties for information on public defender offices. After completing evaluations of the public defender sys-

tems in Dallas and Wichita counties, the group published the *Blueprint for Creating a Public Defender Office in Texas*. The *Blueprint* provides counties with the tools needed to determine whether a public defender office makes sense in their community, as well as with the steps necessary to form one.

Public defender offices have proven to be effective systems for providing indigent defense services. In 2004, the Task Force funded a study conducted by Texas A&M's Public Policy Research Institute with assistance from Dr. Tony Fabelo to examine how Fair Defense Act (FDA) requirements have impacted indigent defense service delivery and how county implementation strategies may affect effectiveness in meeting FDA requirements. A key finding of the study is that public defender offices are well suited to contain and manage costs. This conclusion is in accord with a report issued by the comptroller in 1999 called *Reduce Costs Involved in Representing Indigent Defendants – El Paso County*. That report concluded that the public defender office was the most efficient method of providing services.

The Task Force awarded the remaining \$11 million in grants under a population-based formula to support the increased county expenditures for indigent defense since passage of the FDA in 2001. Expenditures have increased over 50 percent from \$92 million prior to the FDA to \$139 million last year. These funds provide critical assistance to counties to help ensure top quality indigent defense services across the state.

Sharon Keller is Chair of the Task Force on Indigent Defense and Presiding Judge of the Court of Criminal Appeals

Access to Justice Commission Report to Supreme Court of Texas

On November 30, 2004, Jim Sales, chair of the Texas Access to Justice Commission (TATJC), filed the Commission's semi-annual report to the Supreme Court of Texas as required by the Court's order creating the Commission. The report covers the period of May through November 2004. Excerpts from the report follow.

New Commissioner

In response to a request by the Commission seeking to broaden the involvement of the business and corporate community in access to justice issues, the Supreme Court created a new position on the Commission for a representative of the business and corporate community. Charles W. Matthews, Vice President and General Counsel of Exxon Mobil, was appointed to this position. Matthews has a long history of dedication to the provision of free legal services to the poor. This appointment is for three years. Matthews also serves as chair of the Commission's new Corporate Counsel Committee.

Strategic Planning

The Commission recently completed a yearlong process to identify gaps in the current delivery system, to ascertain ideas for strengthening the broad legal services community and to discover ways to generate increased funding. Dennis Dorgan, Management Information Exchange, completed his report, *Framework for Resource Development*, in July. The report served as a resource for the Commission as it developed a five-year Strategic Plan. As part of the development of its Strategic Plan, the Commission invited all grantees of the Texas Equal Access to Justice Foundation (TEAJF), which includes the vast majority of the legal services providers in the state, to a meeting in Austin in July to discuss their concerns and the problems they face in providing legal services to the poor. The Commission involved other stakeholders in its planning process, including the State Bar of Texas, TEAJF, and others.

The Strategic Plan, adopted by the Commission in October after months of planning, sets out broad objectives and specific initiatives identified to reach the objectives within five years. The broad objectives include:

- Develop and implement a statewide endowment program to ensure stable funding for legal aid providers
- Develop and implement a cy pres strategy
- Develop a corporate counsel strategy
- Expand delivery of legal services to the underserved areas of the state
- Develop a legislative strategy

- Develop programs with law schools
- Establish additional quality CLE and training to legal aid lawyers
- Refine a program for communications about legal aid to the legal community in consultation with legal services providers
- Develop a go-forward technology strategy

The Commission already has begun work on the objectives of the Strategic Plan. New committees have been created to undertake the work of reaching the objectives. The new committees are: Endowment Committee, Corporate Counsel Committee, Cy Pres Committee, CLE Committee and Law School Advisory Committee. Existing committees are taking on additional tasks, including the Communications Committee, Technology Committee, Legislative Committee and the Legal Access Committee.

Additionally, the Commission asked the Supreme Court to create a Taskforce to Expand Legal Services Delivery, which the Court has done. Representatives of numerous State Bar of Texas Sections, the Texas Young Lawyers Association, legal services providers and other attorney groups will work together to increase access to legal services in underserved areas of the state.

Resource Development Activities

Access to Justice Voluntary Dues Statement Contribution

In addition to their annual State Bar dues, attorneys may voluntarily give a suggested amount of \$100 in the form of an "opt-in" contribution to the Access to Justice Campaign. The funds are earmarked for civil legal aid. Texas attorneys voluntarily contributed almost \$650,000 this year, in addition to the new mandatory fee enacted by the Texas Legislature in the last session.

Law School Scholarships

The Commission approached the Texas law schools to consider establishing full tuition scholarships to qualified applicants in return for a commitment that, upon graduation, the graduate lawyer would agree to practice law for a recognized provider of legal services to poor and low-income Texans. Baylor University Law School and the William Wayne Justice Center for Public Interest Law at the University of Texas School of Law responded to the proposal and have established the Equal Justice Scholarships, which will be awarded to students with strong academic credentials as well as demonstrated commitment to public service. Upon graduation from law school, the scholarship

recipients, in accordance with their commitment, will practice law at legal aid organizations for at least three years.

Texas Student Loan Repayment Assistance Program ("SLRAP")

The SLRAP has been restructured from a grant program to a loan forgiveness program and currently has 24 recipients. The Texas Bar Foundation now administers the program and its Board voted to increase SLRAP payments to \$400/month (\$1200/quarter) from \$250/month beginning December 2004. The payments were increased because the State Bar of Texas and a number of individuals, many of whom are State Bar of Texas Board members, generously donated money to the Texas Student Loan Repayment Program for this fiscal year (Fiscal Year 04-05).

ABA Days in Washington

On May 5-6, the Commission and the State Bar sent a delegation to Washington, D.C. for the American Bar Association's annual ABA Day. The Texas team visited Texas Senators Kay Bailey Hutchison and John Cornyn, some 20 members of Congress, and Judge Alberto Gonzales, Counsel to the President, to discuss funding for legal services. For the first time, both Texas senators, along with numerous members of Congress from Texas, agreed to sign letters of support for increased funding for the Legal Services Corporation, the largest source of

funding for legal services in Texas. The team this year included Justice Harriet O'Neill, Supreme Court of Texas; John Jones, then Chair of the Commission; Judge Lora Livingston, Vice-Chair of the Texas Equal Access to Justice Foundation; Kelly Frels, State Bar President; Guy N. Harrison, former SBOT President; and Bill Whitehurst, Chair of the ABA Standing Committee on Legal Aid and Indigent Defendants.

Stars of Justice

The Commission honored John R. Jones, its former chair, with the Star of Justice Award on September 8. Former Supreme Court Justice Deborah Hankinson presented Jones with the award at the Texas Equal Access to Justice Foundation's Twenty-Year Anniversary reception. The reception was held in the Supreme Court foyer following the Court's Hearing on Civil Legal Services to the Poor in Texas. The purpose of the award is to recognize individuals who have done stellar work on behalf of legal services to the poor and who improve access to justice for all Texans. Jones received the award not only for his work as chair of the Commission but also for his countless other activities that increase legal services to the poor, including his many pro bono cases, his legislative efforts in Washington for LSC funding, his service on legal aid programs' boards of directors and his work with access to justice groups in other states.

Court Creates Corporate Position on the ATJ Commission

In response to a request by the Texas Access to Justice Commission seeking to broaden the involvement of the business and corporate community in access to justice issues, the Supreme Court of Texas created a new position on the Commission for a representative of the business and corporate community. Charles W. Matthews, Vice President and General Counsel of Exxon Mobil, was appointed to this position. Matthews has a long history of dedication to the provision of free legal services to the poor. His appointment is for three years.

Matthews will also be chairing the Commission's recently established Corporate Counsel Committee. The purpose of the Corporate Counsel Committee is to develop specific programs to promote funding for legal aid, volunteer efforts by corporate counsel staff for the legal aid effort, the establishment of an annual fund giving campaign, and providing ongoing input to the Commission for the statewide endowment campaign.

Texas Student Loan Repayment Assistance Program (SLRAP) Update

In 2002, the Texas Access to Justice Commission created the Texas SLRAP to assist lawyers choosing to pursue legal aid careers in Texas and in doing so became the fourth state to have a SLRAP. Low salaries coupled with high student loan debt have made it difficult or impossible for lawyers to accept legal aid jobs

or stay in those jobs long-term. The SLRAP is part of the long-term plan to retain and recruit lawyers to public interest careers in the access to justice arena. The SLRAP has been restructured as a loan forgiveness program and currently has 24 recipients. The Texas Bar Foundation now administers the SLRAP. The

foundation increased payments to \$400/month (\$1200/quarter) from \$250/month beginning December 2004. The payments were increased because the State Bar of Texas and a number of individuals, many of whom are State Bar of Texas Board members, generously donated money to the Texas Student Loan

Repayment Program for Fiscal Year 04-05. Further, the maximum individual annual income level was increased to \$45,000 annually. The maximum household annual income remains \$80,000 per year.

President Signs Omnibus Bill

On December 8, the President signed HR 4818, an omnibus appropriations bill containing FY 2005 funding for a myriad of agencies included in nine separate spending bills. The \$338.4 billion measure includes the appropriation for Commerce, Justice, and State (CJS), which contains funding for the Legal Services Corporation (LSC). Unfortunately, the FY 2005 appropriation for LSC was subject to an across-the-board cut of 0.8 percent and an additional 0.54 percent internal to the CJS bill. The post-rescission overall amount of \$330,803,705 for LSC is divided in the following manner:

- \$ 312,375,183 basic field grants
- \$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 bill allows LSC to use \$1 million of carryover funds from the Office of Inspector General for a loan repayment assistance program pilot project. It also continues to carve out an adjustment for states whose funding decreased as a result of the 2000 census. Although LSC programs in Texas lost funds due to the 2000 census, Texas is not one of the ten states that will receive "census adjustment" funds.

Information for this article was obtained from the NLADA Update.

Volunteer Attorney Helps Make Little Girl's World Safer

By Wendy Smith Castellana

Grandma needed help. CPS had removed her grandchild from Mom and placed her with Grandma. She was awarded Managing Conservatorship by the Court, but time had passed and she wanted to adopt her granddaughter “in case anything should ever happen to me.”

She called Legal Aid of NorthWest Texas' telephone intake line. The Dallas Volunteer Attorney Program (DVAP) took the case to place it with a volunteer attorney. The termination and adoption took time. This client already knew about waiting. She had been on an organ transplant list for 2 years, and she was recovering from that surgery when her granddaughter came to live with her.

From the volunteer attorney's perspective? “It was the type of case you always think Legal Aid is about—the client needed my help. She was grateful, patient, and helpful. The evening the Court approved the adoption was truly a happy occasion. Great-Grandma even attended!”

And from Grandma's perspective? As she told her volunteer attorney, “Just think how you've made this world a safe place for one little girl.”

Wendy Smith Castellana is a staff attorney and development officer with the Dallas office of Legal Aid of NorthWest Texas.

Family Law Section Continues its Strong Support of Pro Bono Work

By Victor H. Negron, Jr.

The State Bar of Texas has long urged its membership to take up the cause of assisting clients who cannot afford lawyers by providing pro bono legal services. One of the ways that many attorneys have been recruited is through seminars provided through the State Bar of Texas Family Law Section's Pro Bono Committee, chaired by Charles Hodges. The courses are light-heartedly entitled “Family Law Essentials for \$2,000 Or Free”—that is, the attendee agrees to pay a \$2,000 course fee or take two pro bono cases in one year and attend for free.

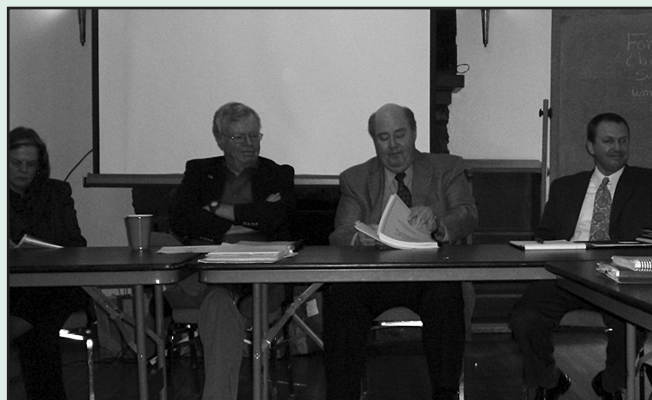
These seminars provide free continuing legal education (averaging 6.75 credit hours) in a one-day seminar on a variety of legal topics of interest to the family law practitioner. In exchange, the practitioner agrees to take two pro bono cases in one year. In this way, many clients who would not otherwise have access to justice acquire the services of an attorney willing to help them out.

These courses are the brainchild of Douglas Woodburn of Amarillo, Tom Vick of Weatherford, Gary Nickelson of Fort Worth, and the Family Law Section's Pro Bono Committee. The intent of the program is to conduct courses in those areas of Texas where affordable, quality continuing legal education is rarely presented for those interested in handling pro bono cases. Since 2001, venues have included Midland, Tyler, Huntsville, Weslaco, San Angelo, Waco, Amarillo, Beaumont, Corpus Christi, El Paso, Lubbock, Wichita Falls, Brownwood, Nacogdoches, Laredo and Alpine.

Speakers are recruited throughout the preceding year at the State Bar's various family law seminars. The written materials are selected from those seminars by the Pro Bono Committee for inclusion in the upcoming year's courses, guaranteeing a binder-



Seminar participants Bart Medley of Ft. Davis, Teresa Todd of Marfa, Kay Nehring of Alpine, Gary Garrison of Odessa, and Anthony Foster of Alpine visit during a break in the training.



Judge Val Beard, Judge Kenneth DeHart, Judge Bob Parks, and Judge Don Minton (left to right) participate in a panel discussion during the seminar.

full of quality papers on timely legal topics. Such topics include domestic and family violence, temporary orders, discovery, evidence presentation, legal advocacy, characterization and property issues, custody and child support issues, and contempt. A local judges' panel is presented at the day's end to allow dialogue between the local bench and bar on issues of interest to both.

The course director selected by the Pro Bono Committee coordinates with the local legal services organization in securing a site for the course, snacks and lunch, registration materials, volunteers to assist at registration, and special computer or audio-visual equipment. Course books are printed and provided free to registrants, and mailed to the course site by the State Bar of Texas/Texas Lawyers Care.

In the most recent presentation at Alpine, speakers and volunteers commented on the beauty of the Alpine/West Texas area, and they enjoyed fall-like weather in which to eat their pic-

nic barbecue lunches. As with all the courses, there was a free exchange of ideas among the professionals attending and the speakers. These speakers dedicate themselves to this task at their own cost, since they are not reimbursed by either the State Bar of Texas or the Family Law Section. The spirit of the local volunteers, as well as the out-of-town speakers, is an inspiration to all attorneys seeking to give of their time and money to those who seek equal access to justice.

For more information, please contact Charles Hodges, the current chair of the Pro Bono Committee, at Charlie@koonfuller.com.

Victor H. Negron served as moderator for the seminar. He is with the firm of Kerr, Wilson & Negron, PC in San Antonio.

Pro Bono: It's A Family Affair

By Wendy Smith Castellana

Jones Day was named as the Law Firm of the Year at the Dallas Volunteer Attorney Program's 22nd Annual Pro Bono Awards Reception held on October 7. The "Pro Bono: It's A Family Affair" theme commemorated how the pro bono work of dedicated Dallas-area lawyers, judges, and support helps low-income Dallas families. This year's awards event honored outstanding pro bono work donated from June 1, 2003 through May 31, 2004.

The award-winning Jones Day pro bono team is led by Sally Crawford, a partner with the firm's mergers and acquisitions section. "I have been involved in pro bono work since I was licensed to practice law in 1986. I truly believe that we, as lawyers, have a moral, ethical and professional obligation to give back to the community in a way that only we can. Doing pro bono work is also very personally gratifying," said Crawford. "There is such a great need for legal services to those less fortunate in our community—it makes you feel good to know that you are helping in some small way."

Throughout the history of Jones Day, the firm's lawyers have provided pro bono legal services and have actively assumed leadership roles in public, private and professional organizations dedicated to improving the communities in which they live and work. The firm strongly encourages its lawyers to engage in public service activities as part of their professional responsibility. The Dallas office regularly staffs the Dallas Volunteer Attorney Program's neighborhood legal clinics and takes cases through the clinics, as well as through judicial appointments. It is involved in a large number of pro bono cases involving family law, immi-

gration and asylum matters, probate, adoption, landlord tenant issues and commercial litigation. A group of Jones Day attorneys is also representing a family that was defrauded out of their home.

Frank Hubach, the partner in charge of the Dallas office of Jones Day noted that pro bono work helps everyone involved. "The firm wholeheartedly supports pro bono work not only because it provides much needed services for the community, but because pro bono cases also provide invaluable substantive experience for lawyers in the early and mid-stages of their careers."

Jonathan Blum, an associate with Weil, Gotshal & Manges LLP, was named Lawyer of the Year by DVAP. "The pro bono work I've done through the Dallas Volunteer Attorney Program has been such a satisfying experience for me and has given me a tremendous sense of fulfillment," said Blum. Blum was instrumental in working with his firm's pro bono partner/coordinator to re-energize the firm's pro bono clinic work. In addition to accepting cases for pro bono representation, Blum volunteers at DVAP's West Dallas Clinic every month and several times a year at the Garland Clinic. In addition to his legal prowess, Blum helps in a very basic way: communication. Blum is bilingual. DVAP has an enormous need for Spanish-speaking attorneys to help applicants and clients.

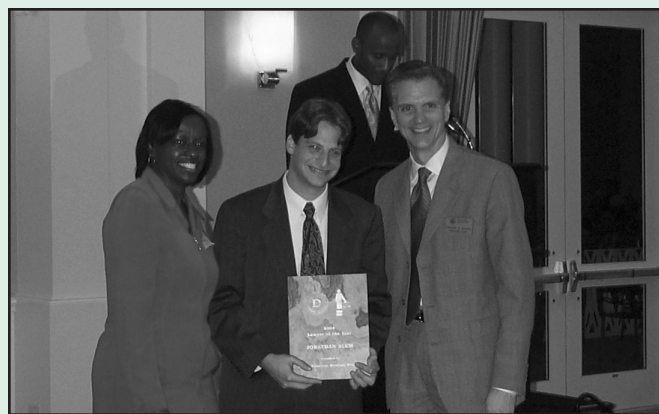
Vance Beagles, litigation partner for the Dallas office of Weil, Gotshal & Manges LLP, describes the firm's philosophy this way: "Weil Gotshal is committed to the principle that attorneys should devote significant time rendering pro bono legal services.

In addition to being a part of a lawyer's professional responsibility, the firm believes that pro bono work can be an enriching personal and professional experience."

"Volunteer attorneys are so important to Legal Aid's mission. They step up to the plate and help immensely by donating their time and expertise to provide urgent legal aid to needy families in Dallas County," said Jonathan Vickery, chief operating officer of Legal Aid of NorthWest Texas.

For more information about the Dallas Volunteer Attorney Program (DVAP), please call DVAP's Recruiter Chris Reed-Brown at 214-748-1234, extension 3316.

Wendy Smith Castellana is a staff attorney and development officer with Legal Aid of NorthWest Texas, and she served as the Chair of DVAP's 2004 Pro Bono Awards Event.



Judge Cheryl Williams (left) congratulates Jonathan Blum (center) of Weil, Gotshal & Manges LLP on his award along with DBA President-Elect Tim Mountz (right) and Channel 11 Sports Anchor Brian Custer (in the background).

Texas C-BAR Presents Community Builder Awards

Texas C-BAR celebrated four years of outstanding dedication and commitment in October. Texas C-BAR established its annual Community Builder Award to recognize attorneys, corporations, and law firms who have distinguished themselves through the volume of pro bono cases accepted, the number of attorneys participating from a firm, and the number of hours worked either in direct representation or in assistance with C-BAR publications, legal resource library or trainings. This year, C-BAR recognized the special work of the attorneys and law firms listed below.

Law Firms

Patton Boggs LLP demonstrated leadership in the field of transactional pro bono through the number of attorneys involved with Texas C-BAR, the volume of pro bono cases accepted through C-BAR, and an exemplary pro bono policy.

Winstead, Sechrest & Minick PC provided hundreds of hours of legal services to nonprofit groups and involved a large

number of attorneys with Texas C-BAR clients. Winstead attorneys have accepted several community counsel partnerships.

Attorneys

Cheryl Camin, Gardere Wynne Sewell LLP, exhibited excellence in service and outstanding dedication to her pro bono clients. Cheryl was nominated by her nonprofit client, the Migrant Clinician's Network (MCN).

Mark A. Jones, Bracewell & Patterson LLP demonstrated excellence in service and outstanding dedication to his pro bono clients.

Terry McDonald, McGinnis, Lochridge & Kilgore LLP, has long exhibited an outstanding commitment to his pro bono clients. McDonald has earned a reputation as a "go to" guy for Texas C-BAR staff, handling complicated cases with efficiency and dedication.

Texas C-BAR congratulates its 2004 Community Builder Award recipients.

Pro Bono College Honors Ten-Year Members

The 2004 Pro Bono College of the State Bar of Texas is proud to honor its members who have provided at least 75 hours of pro bono service annually for ten years. These lawyers make pro bono service a priority in their practices. The College honors 15 ten-year members this year.

Robert Etnyre, Jr. of Houston is a former winner of the State Bar of Texas Frank J. Scurlock Award, which honors individual attorneys who have done outstanding pro bono work in providing legal services to the poor. Asked why he does pro

bono work and has done it for so long, Etnyre wryly replied, "It justifies my existence." Etnyre has done political asylum pro bono cases for so long and so well that he is acknowledged as an expert in the field. He enjoys his busy admiralty practice but added, "The pro bono cases are the ones where so much is at stake. These folks have everything on the line." He also praised legal aid staff attorneys saying, "The legal aid lawyers are on the front lines" of providing access to justice for the poor. "We are on the sidelines salving our consciences." He emphasized that

there is “nothing like helping out someone and moving them on down the road of life.”

The ten-year Pro Bono College members clearly are committed to pro bono for the long haul and most have been taking pro bono cases throughout their careers. “I started back in the mid-’70s because my clientele tends to be lower income,” said **Henry Gonzalez, Jr.** of San Antonio. “We saw such a need for help that people desperately needed and were unable to pay anything.” Gonzalez noted that his pro bono work has continually increased over the years. “Now probably 40 percent of my practice is pro bono,” he observed. “Most of my pro bono work involves consumer cases. There is a greater need for pro bono now. Society is becoming more complex, and it catches the little guy. Many people don’t understand that. They don’t understand that a nonfunctioning car is a catastrophe for someone who has to go to work.”

What do these lawyers get out of their pro bono work? “The satisfaction of helping people with their problems, which is why I practice law in the first place,” said **Charles L. Henke, Jr.**, a commercial litigator in Houston. “I just think some of my pro

bono work has been some of the most rewarding, seeing people who have no or little hope of hiring a lawyer. I’ve been able to give those people hope. I don’t know that there’s anything more rewarding than that.”

Lawyers who have been doing pro bono work for many years have difficulty understanding why any lawyer would not do it. “It’s the right thing to do,” declared former State Bar of Texas President **Richard Pena** of Austin when asked why he takes pro bono cases. “Lawyers have unique talents, training and skills, and it’s important that they utilize these in order to help the public. I can’t believe there are people who don’t do pro bono.”

The other ten-year members of the 2004 Pro Bono College include: **Christina Melton Crain**, Dallas; **Carl O. Gunnstaks**, Dallas; **Ronnie E. G. Harrison**, Houston; **Roy W. Hendrick**, Houston; **Ivan R. Lopez De Victoria**, Houston; **Jeffrey Steven Mahl**, Del Rio; **Norman Maples**, Cleburne; **Michael Glenn Mask**, Jacksboro; **John R. Shaw**, San Antonio; **Francis Edwin Smith, Jr.**, Dallas; and **Marvin Justine Williams**, Houston. Ten-year members of the College receive a plaque in honor of their history of pro bono service.

2004 Pro Bono College Membership

*Denotes 10 year members

Husein Ali Abdelhadi
Wafa Abdul Rauof Abdin
Emilio E. Abeyta
Angela Lynn Abney
Jerald Lewis Abrams
Manuel Acosta-Rivera
Jeffrey Wayne Actkinson
William B. Adair
Altaf Adam
Gilbert T. Adams Jr.
James Wesley Adams Jr.
Lateph Akingbade Adeniji
David B. Adler
Stephen I. Adler
Thomas Harold Adolph
Lynette Lynn Aguilar
G. R. Akin
John Hudson Akin
Rick M. Albers
William Todd Albin
Eben R. Alexander Jr.
John W. Alexander
Stewart J. Alexander
Rehan Shams Alimohammad
David L. Allen
Jessie L. Allen
Travis Richard Alley
Adrian Almaguer
Cheryl Lynn Alsandor
Ernest J. Altgelt III

Russell J. Amsberry
Daniel Anchondo
Barbara Gayl Ancira
Janice Kathleen Anderson
Michael Hal Anderson
David Lance Andrews
Bruce Edward Anton
John Lee Arellano
Constance Rose Ariagno
Antonia Arteaga
Laura Arteaga
Jimmy Allen Ashby
Kimberly Danette Ashley
Rogena Jan Atkinson
Scott J. Atlas
Kelly Ausley-Flores
Rowe Jack Ayres Jr.
Laura Elena Flores Bachman
Christopher V. Bacon
Jeffery Barton Badders
Laureen Furey Bagley
Carol L. Bailey
Brenda K. B. Baker
Joel Patrick Baker
James Morris Balagia
John Charles Ball
Carol M. Barger
Angelica Juarez Barill
Paul D. Barkhurst Jr.
Juanita Jackson Barner

Charles Lee Barrera
Nora Barrera
Robert J. Barrera
Kathleen Ann Reilly Barrow
Jayne Jones Barstow
Kyle G. Basinger
George F. Baum Jr.
David Christopher Baumann
Stephen Robert Baxley
Melba Sampson Baxter
Nicolas M. Bazan
Martha Lee Bean
William J. Beard
James Lenroy Bearden
Steven Alexander Bearman
G. Ward Beaudry
Allison York Bech
Doneane Elise Beckcom
Stephen Peter Bega
Robert Meyer Behrendt
Renee Beilue
Michelle Helene Belco
Gary Michael Bellair
Joshua Jay Benn
Cecil Eugene Berg
Nancy L. Berger
Pamela K Bergman
Joy Spencer Berry
Richard L. Berry Jr.
Tony Ray Bertolino

Maria Elena Olin Bickerton
Nathan Myrick Bigbee
Staci Dian Biggar
Cecil R. Biggers
David W. Biles
Blair Allan Bisbey
Kenneth E. Bishop
Susan M. Bishop
Peggy Sue Bittick
David B. Black
John Thomas Black
Robert E. Black
John Lee Blagg
J. Roxane Blount
John Gordon Bock
April Dennise Bodovsky
Robert Doherty Bond
William D. Bonham
William D. Bonilla
Alexandra Vanessa Boone
Barry Boorstein
Alison Courtwright Boren
Melissa Ann Botting
Timothy Wililam Bouch
Michelle Theresa Boudreaux
Richard Bourke
Bruce Patrick Bower
Matthew Mcgregor Boyle
James R. Bradley
Patricia Lorine Gibbs Bradley

Danna Kay Archer Brady	Alan Leroy Carlson	Christina Melton Crain*	Stephen A. Doggett
Sarah Jane Clinton Brady	Patricia Ann Carlson	Mike L. Crane	Francisco X. Dominguez
Victor F. Branch	Scott Allen Carlson	Robin Theobald Cravey	Scott R. Donaho
Michael Lee Brandes	James Dwight Carmichael	Karen Jacqueline Crawford	John Philip Donisi
Sarah Katherine Brandon	Donald F. Carnes	Sally Lynn Crawford	Pamela Anne Donnelly
Kristin L. Brandt	Leo A. Carrasco	Ann Kenney Creighton	Jesus Martin Dovalina
Jeff R. Branick	Ethel Carroll	Kevin Sekaly Cribbs	Thomas E. Dowdell
Jesse E. Branick	Jimmy Don Carter	Casey Holt Cross	Angela Michelle Dowdle
Richard R. Brann	Victoria Lea Carter	Kelly Marie Cross	Wm Clarence Dowdy Jr.
Forrest G. Braselton	Donald Mack Cartwright	William R. Crow Jr.	John M. Doyle
Mark Evan Braswell	Sandra Casias	Geron Bryant Crumley	Woodson E. Dryden
Jacqueline Ann Brennan	Eric John Cassidy	James E. Cummins	Tony Kirk Duckett
Michael P. Bresson	Ricardo T. Cavallera	Gary William Cunha	Bernadette L. Duffey
David Brett Brewer	Jose Homero Cavazos	John Wesley Curington	Charles L. Duke
Max Brewington	Eric William Cernyar	Marlo L. Curry	Edwin R. Dulin Jr.
Edgar William Bridges	Fernando Chacon	David Michael Curtis	Keith Best Dunbar
Alan M. Bristol	Bernard L. Chanon	Jeffrey Czar	Frances V. Dunham
John B. Britt	Chanita Chantaplin	Michael L. Dahlenburg	Hough-Lewis Dunn
Daniel R. Brody	Celina Charania	Laura June Dyke Dale	Elisa Maria Fernandez Durban
B. J. Brown	J. Scott Chase	Harold Dean Dampier Jr.	Rodney F. Durham
Garry Dale Brown	David A. Chaumette	S. Craig Daniell	Kristy Lee Durkovic
Judy Harris Brown	Ira Harvey Chenkin	John Carter Danish	Suzanne M. Duvall
Kyle David Brown	Patricia Lynn Cherry	Kendyl Hanks Darby	David Moore Eaker
Rebecca Gormezano Brown	Emily A. Chick	Clayton E. Dark Jr.	Michael W. Eaton
Russell Clay Brown	Susan Chmielowiec	Bill Davis	Beth Ann Eccles
W. Ralph Brown	Daniel John Christensen	Edmund Milton Davis	Michael Eddings
Darwin J. Bruce	Karan Cummings Ciotti	Howard E. Davis	William Joseph Edmonds
Robert E. Brunkenhoefer	Martin Jay Cirkiel	Jason Murray Davis	Susan Marie Edmonson
Amy Cecile Pewitt Bryan	Barry David Clar	Jerry L. Davis	Mitchell Ehrlich
James Bruce Bryant	Irrekka Latanya Clark	Leonard Earl Davis	Ingrid Ellerbee
Cindy Lorraine Buckner	Richard Lee Clark	Michael P. Davis	Charles P. Ellis
Valerie Ann Bullock	Douglas E. Clarke	Roberto E. De La Garza	Juliana Kristine Emmett
Lynda Kay Burchett	Kurt Godfrey Clarke	Ofelia Garza de los Santos	Francisco J. Enriquez
Juan Luis Burgos-Gandia	Andy Cline	Lisa Ann De Marco	Armando Escamilla
Daniel Burkeen	Sara Elizabeth Cockerham	Benjamin H. De Vries	Lynn Estep Jr.
Sandra Kaye Burns	Colin Ashley Coe	Glenn J. Deadman	William F. Estes
Mark Alan Burroughs	Jeffrey V. Coen	Truman W. Dean Jr.	Robert Hays Etnyre Jr.*
J. Randy Burton	Patricia Morce Cofty	J. Gordon Dees	George Stephen Evans
Susan Perry Burton	Kelly Jack Coghlan	Dick DeGuerin	Jerry Don Evans
Patricia Faye Bushman	Francis J. Coleman Jr.	Raymond A. Deison Jr.	John Christopher Evans
Avo Stevens Butler	Clarinda Comstock	Catherine H. del Valle	Jon Thomas Evans
Rosa M. Cabezas-Gil	William B. Connolly	Francis G. Delaney	M. Daisy Everhart
Brent John Cahill	Joseph A. Connors III	Eddy L. Delossantos Jr	Pamela Sue Evers
Emanuel Joseph Caiati Jr.	Brooks William Conover III	Ricardo Delossantos	Melinda Robin Fagin
Sr. Kathleen Louise Cain	Mary Ellen Conway	Kathryn Dennis	Edward P. Fahey Jr.
Marion W. Cain	Ralph Edward Cooper	Ronald Ned Dennis	Kentley Robert Fairchild
Tom M. Cain Jr.	Ann Eileen Coover	Kelly Simone Denson	Marvin J. Farek Jr.
Rae Venable Calvert	Elizabeth A. Copeland	Bart Douglas Denum	Jim Farrar
Cheryl S. Camin	Brandy Leigh Copley	Elizabeth Marie DeSilva	Harry Clyde Farrell III
Denise Lasalle Campbell	William E. Corcoran	Norman A. Desmarais Jr.	Trentin Delayne Farrell
Timothy Chuck Campbell	Yolanda Cortes	Thomas J. Devine	C. O. Farris
San Juanita Reyna Campos	Geoffrey Neil Courtney	Karolena Johnson Diaz	Vic Feazell
Gregory Wayne Canfield	Rebecca Dea Cousins	Will G. Dickey	Ami Michelle Feltoch
John C. Cangelosi Jr.	John Powell Covington V	Donald Webb Dickson II	John Stephen Fenoglio
Joe B. Cannon	Ana Elizabeth Cowan	Stephen Paul Dietz	Jose Jesus Fernandez
Felix M. Cantu Jr.	David Clay Cowan	Cheryl Harris Diggs	Wenda Lee Ferrell
Dan Carabin	Sharron Lynn Spriggs Cox	Amy Catherine Dinn	Luis Antonio Figueroa
Jack G. Carinhas Jr.	Allen T. Craddock	Dawn Tracy Greensage	F. R. (Buck) Files Jr.
Laura Hanley Carlock	Pamela Rose Craig	Dittmar	Patrick John Filyk

Anne Marie Finch	Windel M. Gibson	Billy Ray Hall Jr.	Iliana Noemi Holguin
Frank Finn Jr.	Joe R. Gilbreath	Edmon G. Hall	James W. Holliday
Larry Finstrom	Claude Giles	William E. Hall Jr.	Gordon A. Holloway
Susan Aubre Fisher	Stephen Alfred Giovannini	Oscar C. Hamilton Jr.	Mary Jo Holloway
Harry J. Fisk	Christina Hoffmann Givaudan	Angela L. Hammonds	Clifton Lee Holmes
Carmen Marie Fitzgerald	Augustus Robert Glaser	Troy Don Hammons	David W. Holmes
Michael E. Flanagan	Kip Glasscock	Rudolph V. Hamric	James Holmes
Billy Keith Flanary	Dorie Glickman	Mary Jane Hancock	William O. Holston Jr.
Joe Alfred Flores	Linda Marie Roberts Glover	Brenda Gail Hansen	Mark Edward Holsworth
Randy Milton Floyd	Shawn Christopher Golden	Ronald Evans Harden	Brenda J Jarden Holter
Patrick A. Flynn	Ronald Kinnan Golemon	Grant U. Hardeway Sr.	Kenneth R. Holzman
William D. Fong	W. Scott Golemon	Thomas R. Harkness	Charles A. Hood
Robert B. Ford	Lynne Marie Gómez	Sterling Alan Harmon	Cynthia L. Hooper
Frederick P. Forlano	Ruth Gomez	Melinda Rich Harper	John Paul Hopkins
Michael S. Forshey	Victor R. Gomez	Kelly R Harrington	John K. Horany
W. Douglas Foster	Daniel R. Gonzalez	John Weldon Harris	David Lynn Horton
Dawn E. Fowler	Guillermo Jose González	Nelda F. Harris	Ellen M. House
Bruce S. Fox	Hector Rene Gonzalez	Rick J. Harris	Wm. Morris House Jr.
David O. Fraga	Henry B. Gonzalez Jr.*	Ronald E. Harris	Roy D. Howell Jr.
Victor C. Franck	Ricardo González	Steven B. Harris	Lisa Ann Hubacek
John Charles Frauston	Marlene Gonzalez-Ruiz	Thomas O. Harris	Michael William Hubbard
Sarah Mary Frazier	Linda Sue Good	Ronnie E. G. Harrison*	Emmett S. Huff
Jessica Lee Freedson	Catherine Hendren Goodman	Cornelia A. Hartman	Wayne Calloway Huffaker Jr.
David Matthew Freeman	Michael Edward Goodman	Jana Lei Hartnett	Carlos Hughes Jr.
Angela Lee French	Mary A. Goodrich	Debra Hatter	Robert Higgins Hughes Jr.
Gail N. Friend	Jodilyn Marie Goodwin	Mark Lee Hawkins	Shawn P. Hughes
Lynda Elizabeth Frost	George D. Gordon	William Montague Hayner Jr.	Cynthia L. Humphries
Wayne N. Frost	Keith Matthew Gould	Alison White Haynes	Philip Joseph Hundl
Kirkland Alan Fulk	Saul A. Gower	Carl Hays	Charles L. Hunnicutt
Jon Christopher Fultz	Harold Laverne Graham	Bernard L. Hebinck	Benjamin Wayne Hunsucker
Stewart W. Gagnon	Joseph Graham	Joseph R. Heffington	Dan M. Hurley
Santiago Galarza	R. Norvell Graham Jr.	Betty Diane Heindel	V'Anne Elysse Bostick Huser
Laura Galaviz	John Alois Graml	Chris Heinrichs	Barbara Hutzler
John Paul Galligan	Robert L. Graul Jr.	John Scott Helwig	William Edward Hymes
Ronald Stuart Galloway	Lynn C. Grebe	Roy W. Hendrick*	Linda Icenhauer-Ramirez
Rose Mary Galvan-Schulze	Barry Keith Green	Charles L. Henke Jr.*	Joseph Indelicato Jr.
Jesus Maria Gamez III	John L. Green	Katharine Henkel	Timothy Wayne Inman
William B. Gammon	Steven Ray Green	Jenny L Henley	Hubert Phil Isaacks
Alicia V. Garcia	Marcel S. Greenia	Michael A. Henry	Shahid Suleman Ismail
Carlos Robert Garcia	Tom W. Gregg Jr.	Walter E. Herman III	Afton Jane Izen
Eliseo John Garcia	Ronald Dean Gresham	Lee R. Hernandez	Stephen J. Jabbour
Julio Arnoldo Garcia Jr.	Gary Allmon Grimes	Susan McDonald Herndon	Carol Bowling Jackson
Luis Alfonso Garcia	Marcia L. Grimes	Jack O. Herrington	James Dean Jackson
Robert R. Garcia Jr.	John M. Groce	Marisa Ann Hesse	Patrick Richmond Jackson
Clark Garen	Robert Thomas Groneman	Kelcie Augusta Hibbs	William James Jackson
John P. Gargan	David E. Grove	Daniel Earle Hinde	Veronica F. Jacobs
Elizabeth Leigh Anne Garvish	Lucie Lan Jones Guajardo	Annette Cantu Hinojosa	Eduardo Jaime
Carlos J. Garza	Brian Cooper Guequierre	Kelly Lynn Van Camp Hinton	Fay Recilla James
Dax Frank Garza	Jerry Guerra	Reginald A. Hirsch	Rudolph Francis Jass Jr.
Martin Edward Garza	Humberto G. Guerrero Jr.	Barry Paul Hitchings	Clay Lewis Jenkins
John T. Gauntt	Richard A. Gump Jr.	Jade L. Hlavinka	James R. Jenkins II
Paula Jean Gaus	Carl O. Gunnstaks*	Aloysius Duy Hung Hoang	Stacey Machele Jenkins
Michael D. George	Joseph C. Gunter III	Ralph Julian Hobby Jr.	Paul F. Jensen
Micheal G George	Janna Lynn Gustafson	Wesley H. Hocker	J. Atwood Jeter
Samuel Mills George	Joseph Richard Gutheinz	Justin Allen Hodge	Micheal Elwood Jimerson
Sherry German	Wendy Louise Newman Hackler	Wilson Eugene Hodge	Leslie C. Johns
R. S. Ghio	Hugh E. Hackney	Susan Lee Hoeller	Bernard Grover Johnson III
Carmine John Giardino	Mark Stephen Haenchen	Michael R. Hoelscher	Dane Michael Johnson
David Charles Gibbs III	Catherine Marianne Haenni	Virginia Katherine Hoelscher	Micheal Anthony Johnson

Orrin W. Johnson	Robert C. Lassmann	Jani J. Maselli	Jill Williford Mitchell
Price Lewis Johnson Jr.	Michelle Julie Woomert Latray	Michael Glenn Mask*	Laura Page Mitchell
Coyt Randal Johnston	Judith Ann G. Laughlin	Edgar Adams Mason	Ebb Bailey Mobley III
Michael W. Johnston	Judge Paul Houston LaValle	Susan Mcmillion Mason	Beverly Jo Moffitt
Billy R. Jones	George Noël Lawrence	Cynthia E. Masson	Steven D. Monk
David Stanley Jones	Steven Bruce Leavitt	Mary Lauren Mathews	Rene P. Montalvo
John Robert Jones	Pia Rebecca D. Lederman	Randal Mathis	Bradford L. Moore
Mark B. Jones	Stephanie Marie Ledesma	Karen Cable Matkin	Cheryl Jerome Moore
Robert E. Jones II	Gary Edwin Lee	Edward Allen Mattingly	Franklin D. Moore
Margaret Renee Jones-Johnson	Sherrita Doris Lee	Michael Leroy May	Sara F. Moore
Adrian I Sigel Jonrowe	Leslie Paris Legrand Jr.	Benjamin Ejike Mbonu	Sandra S. Moore-Duarte
James E. Joplin Jr.	Louis D. Leichter	Patric Page McCallum	Heriberto Morales Jr.
John Joseph Jordan	Tracy Louise Leissner	Daniel P. McCarthy	Matthew Walter Moran
Leo John Jordan	John Berchman LeJeune	James P. McCauley	Enrique Moreno
Harvey G. Joseph	Cameron Charles Lenahan	Shannon K. McClendon	Daniel Isaac Morenoff
George A. Juarez	Jeffrey D. Lerner	Robbie Sayle McClung	Gordon Blaine Morgan
Lucinda M. Juarez	Wendi Lester-Mason	Janet McCullar	Ira L. Morgan III
Kimberly Kyle Juenger	Alene Ross Levy	Robert Dennis McCutchan	Michael T. Morgan
Melvyn Santibanez Jurisprudencia	Michael Byron Lewis	James E. McCutcheon III	Veronica E. Morgan-Price
Leora Teicher Kahn	Kevin Warren Liles	Amanda Sue McDaniel	James Bradford Morin
Abigail Guenther Kampmann	Aymara Edwards Lilienthal	Don Shelton McDaniel	Paul T. Morin
Melissa Ballou Kates	Stephen R. Lindemood	Ben F. McDonald Jr.	Larry Creston Morris
Thomas C. Kayser	Donald E. Lindsay	R. Sean McDonald	Orpha Machelie Morris
Jennifer L. Keefe	Edward E. Lindsay	Kevin John McDonnell	Christopher Todd Morrison
Terrence M. Keel	Allecia Yvette Lindsey	Larry P. McDougal	Robert Jeffrey Mueller
Jeannine C. Keel-Flynn	William C. Lipsey	John Greer McGarr Jr.	Philip M. Mulford
Amos Woodrow Keith III	Myer Jack Lipson	Genevieve Bacak McGarvey	Jane Johnston Mumej
Amy Keith	Jaquelin M. Bickmore Lloyd	Jerry L. McGonigal	Martin Bert Muncy
Lannie Todd Kelly	Amy Dalaine Long	Byron Adam McGough	Kirk A. Munden
David E. Keltner	Virginia L. Lootens	James P. McGowen	Richard Mark Munoz
Roland C. Kemp	John Lopez III	Billy F. McGraw	Mae Nacol
Rodney Steven Kemsley	Ivan R. Lopez De Victoria*	Martha McGregor	Shirley Christianna Nallie-
Lynnan Locke Kendrick	Elias V. Lorenzana Jr.	Christopher Scott McHam	Courtney
James S. Kennedy	Gregory Phillip Love	Monica Lyn McHam	Glynn D. Nance
Billy Dewell King Jr.	Renee Colwill Lovelace	Julie Clegg McKain	Howard L. Nations
John Andrew King	Michael Lowenberg	Darwin McKee	John Arthur Nechman
Lauretta Winter Kinsey	Brooks Patrick Lynn	Sandra L. McKenzie	Kay Ann Nehring
Travis Eugene Kitchens Jr.	Michael Patrick Maguire	Patrice McKinney	William R. Neil
Abigail Connor Klamert	Jeffrey Steven Mahl*	R. Leonadis McKinney	Scott Alexander Nelson
Murphy S. Klasing	Francis Steven Mahoney	David L. McLane	John Edward Neslage
Robert J. Kleeman	Charles Mais Jr.	J. Richard McMillan	Charles R. Nettles Jr.
David Charles Klimaszewski	James R. Makin	Karen Evelyn McRae	W. Frank Newton
Allen Haber Kline Jr.	Roberto Maldonado	C. Patrick Meece	Anne Newtown
Richard H. Klitch Jr.	Kurt A. Malmquist II	Laurie Joan Meggesin	Judy L. Ney
Nancy Randolph Kornegay	Kurt A. Malmquist II	Karen Hensley Meinardus	Hai Ngoc Nguyen
Daniel Y. Kruger	Patrick J. Malone	Alfonso L. Melendez	Lan Tuyet Nguyen
David Terrell Kulesz	William Ray Malone	Rebecca Anne McCarty	Jason Donovan Nichols
Tom Alexander Kulik	Collin Michael Maloney	Menduni	Pedro G. Nieto
Richard B. Kuniansky	Ralph Peter Manginello	Feroz Farook Merchant	David Austin Robert Nimocks
Joseph J. LaBella	Jan Michelle Mangum-	Patrick S. Metz	Ruben Niño
Kevin Symons Laine	Merendino	Leo C. Michaud	Kenneth Aghadi Nnaka
Kip Kevin Lamb	Norman Maples*	Heath A. Miller	Lori Lynn Noack-May
William Morris Lamoreaux	Martin Garcia Marasigan	Michael Sidney Miller	J. Kenny Norris
Lisa Watson Lance	Anna Nigel Marketto	Richard T. Miller	Cecil Wayne Northcutt Jr.
J Pete Laney	James Marlin Marsh	Robert D. Miller	Laurie Jeannette Nowlin
Mark W. Laney	Richard M. Marsh Jr.	Stewart Ransom Miller	Donica Rose Nowotny
Jennifer Doerrie Langford	Amanda A. Martin	Roger Michael Millsap	Stephen Martin Nutt
Keith Lamar Langston	Thomas Allan Martin	Lisabeth Ann Mims	Grace Ngozi Nwanguma
Andrew J. Lannie	Elizabeth Martinez	Sergio T. Miranda	Carl E. Oates
David John Larue	Mario J. Martinez	John Preston Mitcham	Robert M. O'Boyle
	Raymond Martinez		

Michael G. Oddo	Melissa Lynette Plumlee	Felipe Reyna	Ronald L. Sands
Dorothy Bryant O'Donnell	George Walton Poage III	Mauro L. Reyna III	William A. Sansing
Phyllis A. Oeser	Karen Denice Poe	John Henry Rheinscheld	E. David Sawyer
Mark D. O'Leary	Nancy Gene Pofahl	Eric Lamont Rhodes	Daniel R. Scarbrough
Lloyd W. Oliver	Sandra Kay Polk	Darrel A. Rice	Adam Glenn Schachter
Jana Olson	Karlene Dunn Poll	Paul D. Rich	Heather Ann Badgett Schaefer
David P. O'Neil	Andrea Carol Polunsky	Damon C. Richards	Jane Hardee Schaefer
Godson C. Onyediri	Preston L. Poole Jr.	Rhonda B. Rieken	David P. Schafer
Eric Christopher Opiela	Iris Brite Porter	J. Jesus Rios	Clay B. Scheitzach
Abel A. Orendain	Diana L. Powell	Judith Ann Ritts	Leigh Ann Schenk
Peter E. Ormsby	John Ross Powell	Roberta Andrea Ritvo	Leonard E. Schilling
Alfonso Hynes Ornelas	Roger T. Powell	Joe Albert Rivera	Kevin J. Schmid
Laura J O'Rourke	Sam Thomas Powell	Glen Alan Rives	Patricia J. Schofield
Cynthia Eva Hujar Orr	Sidney Powell	Jones W. Roach Jr.	Calvin Wayne Scholz
Wm Alfred Orr Jr.	Jason Andrew Powers	Wm C. Roberts Jr.	Sigrid Caroline Schroder
Ruth Aniacka Ortiz	Karen H. Pozza	Sylvia Ann Robertson Brauer	Edward J. M. Schroeder II
Anita E. Osborne-Lee	Gina A. Price	James Patrick Robinson III	Harry John Schulz Jr.
Robert Howard Osburn	Jimmie P. Price	Marvina Nichelle Robinson	Malcolm C. Schulz
Janice Payte Oviatt	John A. Price	Beatrice G. Robles	Larry Harvey Schwartz
Jason Wendell Owsley	Wayman Lee Prince	W. Stephen Rodgers	John Blue Scofield Jr.
Robin Berry Page	Deborah Jean Pritchett	Adam Patrick Rodrigue	Earnest Wayne Scott
Henry Curtis Paine Jr.	T. W. Proctor	Bertha Isabel Garza Rodriguez	Robin Scott
Gus E. Pappas	Ronald Buford Pruitt	Debra Marti Rodriguez	Wallace H. Scott III
H. O. Quannah Parker	Mark Pryor	Geronimo M. Rodriguez Jr.	Robert Milburn Searle
Jenny C Parks	Madhu Dhillon Purewal	James Leonard Rodriguez	Terry H. Sears
John M. Parras	Stan M. Putman Jr.	John Jason Rodriguez	Brad Edward Seidel
Sangita S. Patel	Julie H. Quaid	R. W. Rodriguez	Donald Sepolio
James Walter Paulsen	John B. Quigley	Salvador E. Rodriguez	David Kenneth Sergi
Matthew Goodwin Paulson	L. D.(Doug) Quillen	Aaron P. Roffwarg	Akash Draper Sethi
Jesus Humberto Payan	Jean M. Rader	Karla J. Rogers	Phillip G. Shaffer
Jim L. Peacock	Roman Richard Rainosek	Lois Ann Rogers	Kimberly Nicole Shanklin
Gary Don Peak	Abraham Ramirez Jr.	Regina J. Rogers	Mitzi T. Shannon
Kent Bryan Pearson	Oscar Perez Ramirez	Susan D. Romund	Sarfraz Aftab Sharif
McLynda G. Pearson	Alberto M. Ramon	John Daniel Roosa	James S. Sharpe
Luke K. Pedersen	Andrew Garcia Ramon	Paul William Rosenbaum	Lindsay O. Sharpe
Chris Alexander Peirson	Ricardo Ramos	Avelyn Marie Ross	John R. Shaw*
Ralph F. Pelaiá Jr.	Ronald Rangel	Jared Christopher Ross	Daucie Elana Shefman
Lionel A. Peña	Elizabeth Rapkin	J. David Rowe	Scot Edward Sheldon
Richard Pena*	Michael S. Ratcliff	Roy Edward Rowland	Julie A. Shelton
Ruben R. Peña	Jad Powers Ratliff Harper	Christopher Robert Rowley	Wade Bryant Shelton
Dayla Sarai Pepi	Ronald G. Ray Sr.	Phyllis Butler Royal	Walden E. Shelton Jr.
Cesar Ricardo Perez	Thomas W. Reardon Jr.	Bernard L. Royce	William Shelton Shires
Della Fay Perez	Vernon N. Reaser Jr.	Mary Grace Ruden	Salmon Adegboyega Shomade
Lori Peterson Perez	Gary A. Reaves	Therese Ruffing	Jeffrey Kyle Short
Daniel J. Perkins	Ryan Jarratt Rebe	Mony Ruiz-Velasco	William B. Short Jr.
Trina Paulette Perkins	Anthony E. Rebollo III	Peter Alan Ruman	Ronald W. Shortes
Dan C. Perry	David William Reddell	Jennifer Beth Rustay	William Kenneth Shortreed
Arthur Pertile III	Charles Gordon Reed	Peter John Rutter	Karen Greer Shropshire
David Scott Perwin	Roger H. Reed	Elaine Ryan	Joe Edward Shumate
Ira Fidel Perz	Tiffany Lynn Reedy	Kenneth Michael Sabath	Gregory Allen Shumpert
Michael A. Petersmith	J. Joseph Reina	Roberto Salazar	Suzanne Stephenson Shumpert
Barry Don Peterson	Rebecca Lynn Reitz	Barbara Jean Brady Saldaña	Pamela Jackson Sigman
Charles Clyde Philips	Rebecca Denise McCrum	Nazario Saldaña	Kimberly Britt Sikes
David Lynn Phillips	Renfro	Jennifer A Salomon	Antonio V. Silva
Marsha Phillips	Tracie Jo Renfro	Daniel T. Saluri	Gregory Scott Simmons
Robert M. Phillips III	Carlos Resendez	Daniel Watson Sanborn	Jerry Wayne Simoneaux Jr
Anson David Phipps	Richard Stephen Resslering	Benjamin Kirke Sanchez	Fred A. Simpson
Randall J. Pick	Gianni Ret	Tommy Sanchez	Michael A. Simpson
James A. Pikel	Kathleen Yvon Reyes	Willis Robert Sanchez	Michael S. Simpson
Lori Renee Ploeger	Armando L. Reyna	Garland R. Sandhop Jr.	John C. Sims

Beau Thomas Sinclair	Joseph Stephen Stokes	Margaret Turner	Jack H. Welge Jr.
Evan Paul Singer	Kellie Fister Stokes	Barbara K. Twigg	Catherine Zilahy Welsh
Manpreet Kaur Singh	Brian Edward Storts	Crystal Tyler	Jamie Ryan Welton
Ann B. Sizemore	Matthew Forrest Stowe	Toby P. Tyler Jr.	Richard O. Werlein
Michael Skadden	Laura Katharine Strathmann	William Michael Ucherek II	Mark Eric Wewers
Louis Wayne Skelton	Jack Vernon Strickland Jr.	Michael Ugarte	Rebecca Ann Wheeler
James Otis Skinner	Hogan S. Stripling	Gregory Lee Underwood	Sarah Shelton White
Nelson P. Skinner	Larry B. Sullivant	Tab Ryan Urbantke	Stephen F. White
James Donaldson Slack III	William B. Sullivant	Carlos Ismael Uresti	William O. Whitehurst Jr.
Barbara C. Slavin	Jean Petersen Sumers	Teresa Slowen Valderrama	Marc S. Whitfield
Heather Ree Slay	Neal S. Sundeen	Ruben F. Valdés	Beverly Ann Whitley
Timothy Ann Sloan	Michelle Leek Sutton	Jerry Valdez Jr.	Elizabeth A. Wiesner
Anthony Martin Smith	Jane K. Swanson	Steven W. Valikonis	Richard T. Wilbanks III
Cheryl Rivera Smith	Gerard Swonke	Louis Charles Van Cleef	Robert Joseph Wiley
Donald Cone Smith	Howard Patrick Tagg	G. Allan Van Fleet	Tracy J. Willi
Francis Edwin Smith Jr.*	Eugene Paul Tausk	Lisa A. Vance	David K. Williams
Gary Don Smith	Amy Dunn Taylor	Travis Evans Vanderpool	Donald R. Williams
Gene F. Smith	Nicholas C. Taylor	Soledad R. Vaquerano	Guy Williams
Jennifer Suzanne Smith	Stephen Christopher Taylor	Lal Varghese	Marvin Justine Williams*
Robert Bryan Smith	Terisa G. Taylor	Thomas Michael Vasquez	Regan Lane Williams
Russell Bryan Smith	Donald P. Teague	Lane W. Vaughn	Steven John Williams
Shelton Smith	James Earl Teague	Gilbert F. Vazquez	L. Van Williamson
Stephen W. Smith	Johnna Michele Teal	Moises V. Vela	Travis Charles Williamson
T. A. Sneed	Charles Todd Tefsteller	Terry Lynn Velligan	Doyle H. Willis
Amanda Grace Green	Jose Salvador Tellez	Alexander R. Veltman	Myrna Lynn Wilson
Snowden	Wesley Glenn Terrell	Misty M. Ventura	Russell P. Wilson
Justin Scott Sobey	Frank M. Teveni	Ruth Lavada Pressley Vernier	Terri Gaines Wilson
Glenn A. Sodd	Maria Marcelina Teveni	Roxie Huffman Viator	Carl T. Wimberley III
Troy Dale Soileau	Jason Napoleon Thelen	Carl Edward Villarreal	Kenneth G. Wincorn
Meridel Solomon Solbrig	Bonita Denyse Thierry	Kathleen Marie Vossler	Shelly Flowers Winn
Cristina Rosales Soliz	Judge John Michael Thoma	Charles Coby Waddill	Joshua Zachary Wintters
Jose Ricardo Soliz	Clyde E. Thomas III	William V. Wade	Georgianna L. Witt
Cynthia Fay Solls	David N. Thomas	David Kent Waggoner	Michael Y. Wong
John M. Somyak II	Debra Kay Thomas	Allister M. Waldrop Jr.	Jenna Paige Wimberley Wright
Larry Robert Spain	Kenneth P. Thomas	Jarrod Lee Walker	Robert L. Wright
Margaret E. Spain	Lance K. Thomas	Lindsey Walker	Thomas L. Wright
Stephanie Ann Spanhel	Robert Leon Thomas Jr.	Misty Lynn Walker	John Allen Yanchunis
Jerry L. Spence	Linda Anne Thompson	Pamela Ann Walker	Emily J. Young
Bonnie E. Spencer	R. D. Thorpe	Stephen Rolfe Walker	Minerva Inez Zamora
David Lee Spiller	Gary B. Tillman	Dennis R. Joe Wall	Hector M. Zavaleta
Darrel Dwayne Spinks	John William Tinder II	Ben A. Wallis Jr.	Ty Zeller
Gregory Glen Spivey	Randall Joe Tinney	Dan Gibson Walton	Ronald D. Zipp
Dianne M. Sprague	Paul W. Tipton	Kimberly Ann Wamsley	William C. Zorn
Truman E. Spring	Cindy Venise Tisdale	Jamyne Boone Ward	Sarah Ann Zottarelli
Stanley Oliver Springerley	Joe Derrell Tolbert	Travis Scott Ware	
Rashaun Nicole Stagg	Robert M. Tolleson	Larry Logan Warner Sr.	
Martha Lee Stahr	Sheri Joy Nasya Tolliver	Victoria G. Warner	
Charlotte Louise Staples	Minerva Torres	William F. Warnick	
Sharon K. Steckler	Victoria E. Touchet	Larry D. Warren	
Richard Parks Steele	William Earl Touchstone	Morgan Sheinberg Warren	
Michael G. Steinheimer	Daniel William Tower	Kimberley Kaye Waterhouse	
Brad Stephenson	Heather Elizabeth Kelly	Alexander B. Wathen	
Charles K. Stephenson	Trachtenberg	Murray Watson Jr.	
Joseph A. Sterle	Steven Randolph Tredennick	David Bruce Weaver	
Julie Marie Stern	Jacques Evan Treviño	Michelle Theresa Ruttan	
Scott English Stevens	Richard O. Trevino Jr.	Weekley	
Cathleen C. Stevenson	Allen Keith Trial	Edmund A. Weinheimer Jr.	
Frank Earl Stevenson II	Robert M. Trimble	Gary Bernard Weiser	
Sterling W. Steves	John Earl Tschirhart	Sheldon Weisfeld	
Rebecca Kerstiens Stewart	Cynthia Zan Carr Turcotte	Ira Daniel Weizel	

Exonerating the Innocent in Texas Prisons

In recent years, DNA testing and other scientific advances have revealed that a significant number of people throughout the United States prison population have been falsely accused and convicted of crimes they did not commit. Among other reasons, these injustices have occurred due to faulty science, inaccurate identifications, and false testimony. When these errors are discovered, some citizens are critically close to being executed for crimes of which they are actually innocent; other innocent people have languished in prisons for decades.

In response to the grave consequences for a significant portion of the prison population, some Texas attorneys and community activists have formed grassroots organizations to advocate for the innocent. These programs, modeled after to the "Innocence Project" founded by Barry Scheck and Peter Neufield at the Cardozo School of Law in New York, rely mainly on student and community volunteers. The volunteers respond to a multitude of letters from prisoners who believe that there is evidence that could exonerate them, if only it were investigated.

Joyce Ann Brown, founder and Chief Executive Officer of Mothers (Fathers) for the Advancement of Social Systems, Inc. (MASS), is one such innocent person who was sentenced to life imprisonment for a murder that she did not commit. She served nine years of that sentence before her innocence was proven and she was released in 1989. After her release, Brown became an advocate for the release of other innocent citizens through MASS, a Dallas-based program she founded in 1990 to investigate innocence claims and provide extensive support services to formerly incarcerated persons and their families after their release from prison. Pro bono attorneys, investigators, and other community volunteers staff MASS's innocence component, the "Innocence In Prison Program."

Also responding to the growing need for resources to assist Texas prisoners, Professor David Dow of the University of Houston Law Center established the Texas Innocence Network

(TIN) in March 2000. He began by recruiting volunteers from the Law Center student body to start investigating cases. The students began with the innocence claims made by prisoners that Dow, who has been litigating death penalty cases since the 1980s, was representing. But as word of their work spread at the prisons, letters from inmates requesting the help of the TIN began to flood into Dow's office.

To meet the demand, Dow expanded the project into a full-fledged clinic and began offering students course credit in exchange for their work. As the need for volunteers grew, students from other departments and Texas universities joined the project. In the four years since the students at TIN began working on innocence claims, they have processed approximately 5,000 cases and have won two exonerations, James Byrd¹ and Josiah Suttoni. Most recently, on December², Dow's efforts secured a four month reprieve on the execution of Frances Elaine Newton, in order to investigate possible evidence of her innocence in the murder case that she was scheduled to die for that day.

In August 2003 law professors Robert Dawson, William Allison and David Sheppard officially launched the Texas Center for Actual Innocence at the University of Texas at Austin School of Law. They saw a need for an organized system to work on innocence claims after three of Allison's and Sheppard's clients were exonerated for cases for which they had each been serving life sentences. Since its inception, the UT program has received approximately 850 letters from prisoners requesting assistance. Each semester ten students participate in the clinic and investigate cases.

Endnotes

- 1 James Byrd was released from prison on December 23, 2002 where he had been serving a sentence for a robbery that he did not commit.
- 2 On March 5, 2003, Josiah Sutton was released from prison after serving the first five years of a 35-year sentence for a rape for which he was later exonerated.

The Right To Fair Treatment in Housing

By D'Ann Johnson

A recent Fair Housing Seminar sponsored by the Austin Tenants' Council (ATC) and the City of Austin's Equal Employment and Fair Housing Office, in collaboration with Texas RioGrande Legal Aid attorney Kelli Howard, brought together housing advocates for equality in access to housing for low-income Texans. The U.S. Department of Housing and Urban Development provided grant funds to help support the program.

Housing advocates spent a day discussing compliance and enforcement of local, state, and federal housing rights laws. Mary Daniels Dulan, director of ATC's Fair Housing Program, has been active in tenant's rights since she was a resident of public housing in Austin during the 1960s. Dulan, whose long experience makes her a valuable asset to the advocacy community, could tell stories all day about how a law on the books makes little difference without the assistance of tenants' rights organizations and lawyers willing to take a landlord to court.

One elderly client of ATC had to use a portable potty for two years in her own apartment, relying on attendants who came every two to three days to change it, because her bathroom door was not wide enough. The door was eventually widened, but the change would not have happened without the intervention of tenant advocates. Dulan expressed her gratitude for legal aid attorneys saying, "We appreciate legal aid attorneys taking the time to train housing providers and advocates about housing rights for all people, including those with disabilities, children, or those who have suffered violence in their homes. Legal Aid has been a great partner to the community advocates, and we look forward to continuing the struggle to make fair housing a reality in Austin."

TRLA attorneys Nelson Mock, Team Manager for Housing – People with Disabilities, and Kelli Howard, a former Equal Justice Works Fellow, presented information on fair housing laws and the rights of people with disabilities and victims of domestic violence to housing advocates, public employees, and landlords in Austin. Mock explained that an undue delay in

granting a reasonable accommodation to a person with a disability is a violation of fair housing law. In addition, tenants do not have to use special forms or magic language to ask for a reasonable accommodation. There is no time limit for asking for a reasonable accommodation, and the denial of a reasonable accommodation by a landlord can be a defense against eviction. Howard described various materials that are useful for housing advocates and tenants, including the Fair Housing Act Self-Help Packet published by the Austin Tenants' Council and Howard's manual on How to Relate to Clients with Mental Disabilities.

Other speakers included Kathy Stark, executive director of ATC, who spoke about familial status discrimination (prohibited by the Fair Housing Act) and the use of outdated policies that require families to move to apartments with a larger number of bedrooms. These policies have a disparate impact on families and result in pricing them out of decent and affordable housing. Jennifer McPhail from ADAPT of Texas, a disability rights advocacy group, reminded attendees that people with disabilities do not want to live in segregated housing or institutional settings. One example she offered to prevent such isolation is a ramp built at her father's home through Austin's architectural removal program. McPhail, who was born with her disability, will be able to celebrate Christmas dinner in her father's home by entering the house—unaided—for the first time since she became an adult.

Even aside from fair housing law that protects tenants, human dignity and common sense are reasons to protect access to housing for all persons, regardless of income, familial status, race, gender, or disability.

For more information, please email Kelli Howard at khoward@trla.org.

D'Ann Johnson is branch manager of the Austin office of Texas RioGrande Legal Aid.

Founders and Defenders of IOLTA Recognized at Third Annual Texas Applesed Good Apple Dinner

Texas Applesed's mission is to promote justice for all Texans by using the volunteer skills of lawyers and other professionals to find practical solutions to broad-based problems. The Texas Applesed Good Apple Dinner is held annually to recognize leaders in the legal field who have made outstanding contributions to bringing greater justice and equity to our legal system.

This year, the Good Apple Award recipients were seven founders and defenders of IOLTA—a program that funds legal aid in Texas. The IOLTA program, which was established by the Supreme Court of Texas in 1984, calls for attorneys to pool short-term and/or nominal deposits made on behalf of clients or third parties. The interest earned is designated for nonprofit organizations that provide free civil legal aid to the poor. The Texas IOLTA Program generates about \$3 million annually.

Recipients of the 2004 Good Apple Award

W. Frank Newton

W. Frank Newton is the executive director of the Beaumont Foundation in Houston. He is a former State Bar of Texas president and served as dean of the Texas Tech University School of Law. Newton helped devise the Texas IOLTA Program and served as chair of the Texas Equal Access to Justice Foundation.

Richard L. Tate

Richard L. Tate is an attorney in Richmond, Texas. He has served as the chair of the Texas Equal Access to Justice Foundation since 1999, guiding the Foundation through much of the IOLTA litigation.

Harold F. Kleinman

Harold Kleinman is of counsel in corporate and securities with Thompson & Knight in Dallas. He was the first chair of the Texas Equal Access to Justice Foundation.

William O. Whitehurst

Bill Whitehurst is a past president of the State Bar of Texas and the Texas Trial Lawyers Association. He is currently chairman of the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants.

A.J. (Jack) Pope

Jack Pope served for 20 years on the Supreme Court of Texas, the last three of which he served as chief justice. He wrote two of the 21 cases selected by *Texas Lawyer* as having the greatest impact on Texas during the last century.

Darrell Jordan

Darrell Jordan is a senior partner in the Dallas firm of Godwin Gruber. He was president of the State Bar of Texas when the IOLTA Program became mandatory. In addition, he represented the Texas Equal Access to Justice Foundation in the IOLTA litigation

Richard Royds (posthumously)

Richard Royds was appointed to the Texas Equal Access to Justice Foundation Board of Directors in 1989; he was appointed chair in 1997, serving until his death in 1998. While on the board, he implemented initiatives that resulted in increased resources for the Foundation.



2004 Good Apple Award recipients Harry F. Kleinman, William O. Whitehurst, M. Frank Newton, A.J. (Jack) Pope, Darrell Jordan and Carrin Patman on behalf of the late Richard Royce; 2003 Good Apple Award winner Harry Reasoner, Richard L. Tate, and Texas Applesed Chair Michael Lowenberg

Texas RioGrande Legal Aid Kicks Off Fundraising Campaigns

Last fall, Texas RioGrande Legal Aid (TRLA) kicked-off its first ever effort to support equal justice for low-income residents living in San Antonio, the Rio Grande Valley, and El Paso. The first of their kind in these areas, the regional Campaigns for Equal Justice are annual fundraising campaigns with a mission to raise funds that will benefit Texas Rio Grande Legal Aid (TRLA), the primary provider of free civil legal services to low-income residents in all three regions. The 2004-2005 Campaign goals are to raise \$100,000 in each region to support general access to justice.

TRLA, a nonprofit 501(c)(3) organization that provides free civil legal services to low-income residents throughout 68 counties in central, south and west Texas, currently has one attorney for every 18,000 income-eligible Texas residents. "The needs are great, that cannot be disputed," said David Hall, TRLA's executive director. "As federal and state funding decreases every year, we've increasingly begun to reach out to the private sector to help support legal aid for poor Texans. We've never asked the local legal communities for direct contributions before, and we hope that attorneys practicing throughout these regions will make TRLA their charity of choice."

The campaigns are headed by regional advisory councils—private attorneys, bar leaders, and judges who are dedicated to providing equal justice for low-income Texans in each of the three regions. As members of the campaign committees, not only do these supporters contribute to the campaigns themselves, but they also encourage their peers in the legal community to follow their lead by pledging a contribution as well. In

addition to the legal community, campaign committee members and TRLA staff seek donations from foundations, corporations, and individuals from outside of the legal community as well. Currently plans are underway to kick-off campaigns in Austin, Laredo and Corpus Christi for the 2005-2006 fiscal year.

The money raised through the campaigns will go directly to providing civil legal services to San Antonio, El Paso, and Valley residents. "100 percent of the money raised in these regions will provide additional legal services to residents of these regions who desperately need them," said Lamont Jefferson, TRLA Board President and San Antonio Campaign Co-Chair. "With an additional \$100,000 contributed annually in each of these regions, TRLA can provide services to hundreds more clients every year."

When southwest Texas residents have nowhere else to turn, they come to legal aid. Often, a low-income resident obtaining access to legal aid means the difference between staying in an apartment or being evicted and thrown out on the street. Too often it also means the difference between victims of family violence finding protection under the law or staying in an abusive relationship that could result in the victim's death. "TRLA's screening process is designed to prioritize clients whose problems are life altering or threatening," states Jefferson. "Supporting legal aid for these residents who cannot afford it is the responsibility of every attorney who practices in these areas."

For more information on these campaigns, contact TRLA's Development Director, Jennifer Gallegos at or 512-447-7707 extension 350.

Terror in the Night

By Wendy Smith-Castellana

Imagine waking to your mother's screams as your father tries to burn her to death. Two little girls went through this waking nightmare. Before they moved to this country, their father wanted to kill their pregnant mother. He poured lighter fluid on her and tried to set her on fire with a cigarette butt. When that did not work, he chased her through the house with a lighter. That is when they awoke to her screams.

The abuse didn't stop there. He continued to be abusive to the mother, and he beat the daughters. And the unborn baby? Miraculously, he lived. He has muscular dystrophy and is unable to walk. The father just thought he was lazy and weak—he did not really need his wheelchair. He continually tried to force the little boy to walk. The children would pray to die to get away from the abuse.

This mother came to Legal Aid of NorthWest Texas for help (the family had moved to Texas, but the abuse continued). Staff Attorney Heidi Marsala, with Legal Aid's Dallas branch office, knew this was a case of life and death. As an attorney with Legal Aid's family law division, Marsala represents victims of domestic violence. Every day clients tell her of the abuse they have suffered, and every day she tries to help them.

When the mother sought a divorce, the daughters were afraid that if their father won custody of them he would take them back to their country and kill them. Unfortunately, this was not an unrealistic fear. When one of the daughter's friends did not come home one night, her father slit her throat in the street the next day—and went unpunished.

The court awarded custody of the children to the mother in the divorce decree.

The children are in counseling and are thriving, and the little boy is receiving medical treatment. The mother is also being counseled, and she is in college getting an education to help her support her family. And the abusive father? He fled to another country during the proceedings, and he was deported from there back to his home country. At least now, awaking from a

bad dream for these children means just that—they are having a bad dream. The real life nightmare has ended.

Wendy Smith-Castellana is a staff attorney and development officer with Legal Aid of NorthWest Texas, Dallas office.

Women's Advocacy Project Gala Raises Funds to Support Legal Services to Domestic Violence Victims

The Women's Advocacy Project, a statewide nonprofit legal organization based in Austin, earned more than \$68,000 at its annual fundraiser gala on November 12. The event drew a crowd of over 400 elected representatives, advocates, domestic violence service providers and donors to the Austin Renaissance Hotel. Proceeds go to support free legal services for domestic violence victims through the Women's Advocacy Project.

The event paid special tribute to Stewart Gagnon of Fulbright & Jaworski, for his work as chairman of the Texas Supreme Court's Protective Order Taskforce. Amy Wright, Executive Director of the Women's Advocacy Project, said, "Protective orders are the most basic legal remedy for victims of family violence trying to escape abuse. Protective orders create a zone of safety by ordering an abuser to stay away from the victim and any children. Our research shows that family violence victims are 80 percent less likely to be re-victimized when they had gotten a protective order. The Protective Order Task Force's work to make this tool more accessible to victims is an enormous step forward for Texas."

Presenting the award was Representative Toby Goodman (R-Dist 49, Arlington), a key figure in passing legislation over the years that benefits the children and families of Texas. Representative Goodman also serves on the Protective Order Task Force, and commented that he has consistently sought Gagnon's counsel on numerous legal issues facing Texas families.

Gagnon remarked, "I feel pride and humbleness in receiving the Ann Clarke Snell Award, and I will be reminded daily of my obligation to continue to earn this recognition."

"We will make Texas the leader in stopping domestic violence," said Susan Zachos, Chair of the Project's Board of Directors. "The time is right and the Women's Advocacy Project is exactly the organization to take this on."

For more information on the Women's Advocacy Project, please contact Victoria Corcoran at 512/225-9594, or vcorcoran@women-law.org.



Rebecca Silvernail, Eyes of a Child Photography
From left, Rep. Elliott Naishtat, Rep. Toby Goodman, and Honoree Stewart Gagnon.



Rebecca Silvernail, Eyes of a Child Photography
Herman Millholland (third from left in back row) of the Attorney General's Office with Staff and Friends.



Rebecca Silvernail, Eyes of a Child Photography
Rep. Toby Goodman, Executive Director Amy Wright, and Board Member Bree Buchanan.

ABA to Revise Standards for Providers of Civil Legal Services to the Poor

The American Bar Association (ABA) has begun an ambitious initiative to revise the 1986 Standards for Providers of Civil Legal Services to the Poor (Civil Standards). The ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) was assigned the task of developing a proposal for the new Civil Standards.

The Task Force created by SCLAID is chaired by Sarah Singleton, a former member of SCLAID from New Mexico and a partner in the firm of Montgomery & Andrews, and includes: Mary Asbury (Legal Aid Society of Greater Cincinnati); Helaine Barnett (Legal Services Corporation); Camille Holmes (NLADA/CLASP Project for the Future of Equal Justice); Alan Houseman (Center for Law and Social Policy); Wilhelm Joseph (Legal Aid Bureau); Jeremy Lane (Mid-Minnesota Legal Assistance); Paul Montouri (liaison from ABA Young Lawyers Division); Lillian Moy (Legal Aid Society of Northeastern New York); Linda Rexer (Michigan State Bar Foundation); M. Catherine Richardson (Bond, Schoeneck & King); Don Saunders (National Legal Aid & Defender Association); Thomas Smegal (Knobbe, Martens, Olsen & Bear); and Linda Zazove (Land of Lincoln Legal Assistance Foundation).

In addition, there will be a client representative as well as liaisons from other relevant ABA committees and sections. John Tull, who was the reporter for the 1986 Civil Standards, has been retained as the reporter for this revision. Bill Whitehurst, chair of SCLAID and former president of the State Bar of Texas, hopes that the proposed revisions for the new Civil Standards can be completed by December 2005 and presented for adoption to the ABA House of Delegates at the ABA's mid-winter meeting in February 2006.

On December 3, a panel of the Task Force heard testimony at the first of three planned hearings, which was held in conjunction with the NLADA Annual Conference.

After opening remarks by Bill Whitehurst, the panel heard testimony from William F. McCalpin, a former chair of SCLAID who oversaw the process when the Civil Standards were last revised in 1986.

Two members of the Task Force, Helaine Barnett and Alan Houseman provided testimony on a broad overview of issues from the perspective of LSC and the legal services community that should be addressed in the revision process. The Task Force heard from a number of legal services leaders on a wide-variety of issues. The presenters were: John Arango (New Mexico Legal Aid); Richard Cullison (Legal Aid of the Bluegrass); Phyllis

Holmen (Georgia Legal Services Program); Bruce Iwasaki (Legal Aid Foundation of Los Angeles); Lillian Johnson (Community Legal Services); Neil McBride (Legal Aid Society of Middle Tennessee and the Cumberland); John Midgley (Columbia Legal Services); Irene Morales (Inland Counties Legal Services); Kevin Mulder (Legal Aid of Western Ohio); Lonnie Powers (Massachusetts Legal Assistance Corporation); Paul Uyehara (Community Legal Services); and Jan Walker (Legal Aid of Western New York). Some of the issues raised included:

- how to address changes in legal services delivery since 1986 brought about by advances in technology, including hotlines and centralized intake systems;
- the need for the Civil Standards to address expanded advice and brief service activities;
- the impact of the 1996 congressional restrictions on LSC funds and other restrictions on providers of legal assistance;
- the effect of emerging state justice systems on the delivery of legal services;
- changes in the Model Rules of Professional Conduct;
- developments in service delivery, including unbundling and pro se;
- the existence of other ABA standards on pro bono, monitoring and evaluation, and hotlines;
- fundraising by providers;
- changes in discrimination laws including the Americans with Disabilities Act;
- the need to highlight diversity and take into account the increasing number of limited English proficient clients;
- sliding fee schedules;
- increases in pro bono activities and changes in the relationship between pro bono and civil legal aid programs; and,
- how to revise the standards so that they become a more integral component of management and performance in civil legal aid programs.

Two additional hearings are planned as SCLAID and its Task Force do their work. The next hearing will be held at the ABA/NLADA Equal Justice Conference in Austin, Texas in May 2005. The final hearing will be held on the West Coast during the summer of 2005, but the location and time has yet to be determined. Those who are interested in presenting oral testimony at one of the upcoming hearings are strongly encouraged to do so and should contact the Task Force Reporter John Tull at jatassos@earthlink.net or Terry Brooks, director of the ABA's Division for Legal Services, at tjbrooks@staff.abanet.org.

The Task Force seeks and encourages broad participation by the legal services community in the development of the revisions to the Civil Standards. In addition to testimony at the hearings, observations on the issues listed as well as others that may be rel-

evant are welcome. Such observations can be sent to John Tull or Terry Brooks. SCLAID will also seek comments on various drafts that are produced by the Task Force. The 1986 Standards can be downloaded from www.abalegalservices.org.

LSC Celebrates 30th Anniversary

On November 30, in an event preceding the NLADA Annual Conference in Washington, DC, the Legal Services Corporation (LSC) hosted a celebration of the 30th anniversary of the signing of the Legal Services Act by President Nixon in 1974. Over 400 supporters, friends, advocates and others associated with the mission of LSC joined President Helaine Barnett and LSC Board Chair Frank Strickland in remembering the high- and low-points of 30 years of federal support for the concept of equal justice under law.

Attendees enjoyed keynote remarks from Judith S. Kaye, chief judge of the State of New York Court of Appeals, and Robert J. Grey, Jr., president of the American Bar Association, as well as videotaped greetings from Senators Pete V. Domenici and Hillary Rodham Clinton. A wonderful highlight of the

evening was a walk through the events of the decades of federal funding for legal aid in this country, guided by the following critical figures in the evolution of LSC:

1960s: Justice Earl Johnson, Jr., second director of the Office of Economic Opportunity Legal Services Program

1970s: Thomas Ehrlich, first LSC president

1980s: Justice Howard Dana, former LSC board member

1990s: LaVeeda Morgan Battle, former LSC board member

2000s: Frank Strickland, chair of the LSC board

Gwendolyn Johnson followed the panel with her perspective as a client board member of the Legal Aid Bureau of Maryland. The event concluded with remarks regarding the future of LSC from President Barnett and a reception, during which many old friendships were rekindled and memories shared.

Recent Developments in *Frew v. Hawkins*

By Susan Zinn

Frew v. Hawkins finally made it out of the appellate courts at the end of July. When the District Court held a status conference with the attorneys on October 1, the Texas Attorney General announced plans to ask the District Court to either dissolve or modify the consent decree that was entered in 1996.

Plaintiffs recently received Defendants' motion, which contends that the decree should be dissolved or changed because they believe they are complying with federal Medicaid law for children and their health care services.

Plaintiffs contend that when *Frew v. Hawkins* was filed in 1993, few Texas children on Medicaid got check-ups or other health care that they needed. Plaintiffs believe that improvements since then would not have occurred without the federal District Court's supervision. Consequently, the *Frew* plaintiffs do not think that federal court supervision should end now.

The plaintiffs in the case expect to oppose Defendants' motion. In preparation, they are gathering information about problems that prevent children from getting health care that they need through the Texas Medicaid program once they have Medicaid coverage. The kinds of problems Plaintiffs are interested in are:

- * Do they know about the health care that they're entitled to get?
- * Can they get medical and dental check-ups?
- * Can they get follow-up care that they need if they have health problems?

If you have questions about this case, or if your clients have problems getting health care that their children need through the Medicaid program, please contact:

Susan Zinn, San Antonio, 210-734-0425

szinn@sbcgloabl.net

Jane Swanson, The Woodlands, 281-367-4483

jks@sbcglobal.net

Ed Cloutman, Dallas, 214-939-9222

crawfish11@prodigy.net

Susan Zinn, along with Swanson and Cloutman represent the Frew plaintiffs and class members in their private practices.

Legal Aid Helps Client Retain Benefits

By Chris Parks

The McKinney office of Legal Aid of NorthWest Texas (LANWT) recently represented a woman in a case against the Texas Department of Human Services (TDHS) for her Community Based Alternative (CBA) benefits. The CBA program provides financial assistance to critically ill persons for medications, caregivers, and medical equipment so that they may remain in their homes.

The woman suffers from a degenerative disease known as Friedreich's Ataxia. This disease causes the neurons in her nervous system to die, leading to a high loss of muscle control. At age 50, she is confined to a motorized wheelchair that she requires assistance to operate, and she can barely use her arms or turn her head. Her brain remains active, and she is possessed of a lively sense of humor, but she can only communicate in partial words and monosyllables; a full sentence of a few words takes a minute or more to communicate.

Research into this disease is slow, as it is rare and is seldom in the public eye, but the client has been followed by the UT Southwestern Medical School's Department of Neurology as part of a study of the progression of the disease. Part of her treatment has been prescribed massive doses of certain vitamins to help protect her nervous system: 25,000 units of beta carotene per day and eight one-gram tablets of Vitamin C each

day, for example. For eleven years, the Dallas office of TDHS had been paying for these vitamins. But when she recently moved to McKinney, coming under the jurisdiction of a different TDHS office, she was denied payments for the vitamins.

At the hearing, the basic issue was the conflicting language in the TDHS policy manual covering payment of CBA benefits. One sentence plainly stated that vitamins could not be paid for by the program; another sentence stated that prescribed medications were paid for. Legal Aid's contention was that because the vitamins were prescribed by doctors, and the prescriptions were specific as to the amount, type, and frequency of the medications she was to take, they constituted "prescribed medications" under the TDHS rules. The attorney introduced letters from her doctors stating that although the course of treatment had never been proven, this patient and others taking the same amounts of vitamins were living much longer than patients going without, and that the vitamins were, therefore, necessary medications. The hearing officer agreed, and ruled in favor of the LANWT client.

Chris Parks is the Managing Attorney for Legal Aid of Northwest Texas' McKinney Office, and he represented the client in this case.

Revised Proposed Rules on Medicaid Estate Recovery

By Bruce Bower

The Texas Health and Human Services Commission has issued revised proposed rules on Medicaid Estate Recovery. The revised proposed rules were published in the Texas Register on December 3, 2004. The comment period on the revised proposed rules ends on January 3, 2005. These revised proposed rules result from negotiations between the State Medicaid program and the federal Centers for Medicare and Medicaid (CMS), in the time since the initial rules were proposed on April 30, 2004. Medicaid Estate Recovery was required by the Omnibus Budget Reconciliation Act of 1993 at 42 USC §1396p(b)(1). Texas delayed implementation for ten years. The Texas Medicaid estate recovery program will begin operation no earlier than March 1, 2005. All receipts to the State from the program will be reinvested in community-based and facility-based long-term care.

The revised proposed rules are to be codified in the Texas Administrative Code (TAC) at 1 TAC Chapter 373. There will be three subchapters – A (General), B (Recovery Claims), and C ((Notice).

Subchapter A contains the basic definitions for Medicaid Estate Recovery. It is this subchapter that makes estate recovery

applicable to long-term Medicaid for persons 55 years of age or older (a federal limitation) who apply on or after March 1, 2005 (evidently agreed to by CMS). Subchapter A also is the part of the revised proposed rules in which covered services are defined. As in the initial proposed rules, covered services include nursing facility services and related costs of hospital and prescription drug services. It appears that CMS would not permit Texas to ignore services in intermediate care facilities for the mentally retarded, nor home and community-based services under a "Section 1915(c)" waiver, nor community attendant services under a "Section 1929(b)" waiver. Sections 1915(c) and 1929(b) are sections of the Social Security Act, under which Texas has received federal waivers to provide community-based Medicaid as an alternative to facility-based Medicaid. The federal Medicaid statute does not except these services from Medicaid Estate Recovery, and evidently CMS was not willing to bend the federal statute so as to ignore these services.

Subchapter A has additional definitions, including the definition of estate (limiting it to the probate estate). The revised proposed rules continue the provision of the initial proposed rules that limit estate recovery to the probate estate. Property passing

by operation of law, such as joint tenancy property or remainder interests in life estates or life insurance proceeds, will not be captured.

The revised proposed rules also continue the previous non-use of liens – liens are not a feature of Texas estate recovery, under the revised proposed rules.

Through the definition of “covered services” in Subchapter A, the revised proposed rules continue the feature of the first version of the proposed rules, that all those who apply for long-term care Medicaid before the effective date of the rules, will be “grandfathered out” from being covered. This may have been acceptable to CMS due to the fact that once people apply for long-term care Medicaid, they usually are not recipients for more than three years.

Subchapter B (Recovery Claims) indicates that CMS also appears to have accepted the full range of “excluding survivors” proposed by the State. In addition to those survivors, which federal law (42 United States Code §1396p(b)(1)) says block estate recovery, the State has added an additional blocker: an unmarried adult child residing continuously in the decedent’s homestead for at least one year prior to the time of the Medicaid recipient’s death. Given that CMS appears to have accepted this, the list of excluding survivors in the revised proposed rules is: (1) Surviving spouse, (2) Surviving child or children under 21 years of age, (3) Surviving child of any age who is blind or disabled as defined by 42 U.S.C. §1382c, or (4) Unmarried adult child residing continuously in the decedent’s homestead for at least one year prior to the Medicaid recipient’s death. The first three categories of excluding survivors are required by the federal Medicaid law; CMS appears to have agreed that Texas can add the fourth category just mentioned.

Subchapter B provides that any claim filed by the Medicaid Estate Recovery Program (MERP) will include a statement that to MERP’s best knowledge the deceased Medicaid recipient was not survived by any of the “excluding survivors,” that there will be no undue hardship from estate recovery, and that estate recovery will be cost-effective. Subchapter B also provides that MERP’s claim will be filed within 70 days after MERP has actual notice of the death of a Medicaid recipient age 55 years or older who received covered long-term care services.

If there is no excluding survivor, the revised proposed rules continue to use a list of further circumstances that can constitute “undue hardship,” and which can thus cause avoidance or minimizing of estate recovery. Subchapter B lists these undue hardship circumstances. The revised proposed rules continue all the previously proposed hardship exclusions (1 – 3, 5) and they add a new fourth one, all as set forth in this list: (1) The estate property has been a family business, farm, or ranch for at least 12 months before the death of the recipient and is the primary income-producing asset of heirs and legatees and produces at least 50% of their livelihood, and recovery by the State would affect the property and result in heirs or legatees losing their pri-

mary source of income; (2) Heirs and legatees would become eligible for public and/or medical assistance if a recovery claim were made; (3) Allowing one or more survivors to receive the estate will enable him or her or them to discontinue eligibility for public and/or medical assistance; (4) The Medicaid recipient received medical assistances as the result of a crime, as defined by Texas law committed against the recipients; or (5) Other compelling circumstances.

The initial proposed rules had a further provision that allowed for undue hardship to be claimed (when estate recovery was not totally blocked by an excluding survivor), if the homestead was not worth more than \$50,000. This has been increased to \$100,000, provided that one or more siblings or direct descendants of the Medicaid recipient has gross family income below 300 percent of the federal poverty income limit (FPIL). The former \$50,000 homestead hardship waiver has been superseded by this new proposed \$100,000 amount, which now has the 300 percent of FPIL income test.

Subchapter B’s provisions on the undue hardship waiver can protect up to \$100,000 of the tax appraisal district value of the homestead. To protect the full \$100,000, each inheriting sibling or lineal heir must have gross family income below 300 percent of the federal poverty income limit. If some, but not all, of the inheriting siblings and lineal heirs have income below 300 percent of the federal poverty income limit, the revised proposed rules allow for proration of the \$100,000 waiver amount.

Subchapter B requires that requests for an undue hardship waiver must be filed with MERP within 40 days of MERP having given Notice of Intent to File a Claim. MERP will act on the undue hardship waiver request within 40 days of receiving it. Subchapter B of the revised proposed rules allows an undue hardship waiver applicant 40 days from the date of denial by MERP of a waiver, in which to request review of the denial of the waiver.

Subchapter B also provides that MERP will not engage in estate recovery if recovery is not cost-effective. The revised proposed rules provide that recovery will be deemed not cost-effective if the value of the estate is \$10,000 or less, if the recoverable amount of Medicaid costs is \$3000 or less, or if the cost involved in the sale of the property would be equal to or greater than the value of the property.

Subchapter B further allows MERP to compromise, settle, or waive any claim that does not qualify for an undue hardship waiver, “upon good cause shown.”

Subchapter B of the revised proposed rules continues the previous exemption for certain assets and resources of American Indians and Alaska Natives.

Subchapter C of the revised proposed rules is titled “Notice.” Subchapter C provides for notice of the Medicaid Estate Recovery Program, upon application for long-term care Medicaid. Notice upon application will be provided to the applicant, the applicant’s guardian, agent under a medical power

of attorney, agent under a general durable power of attorney, or, if none of the foregoing are known, to family members acting on behalf of the applicant. The notice will contain a description of the Medicaid Estate Recovery Program, information about which services are covered, the procedures for filing a recovery claim (under Section 322 of the Texas Probate Code), information on long-term care Medicaid look-back penalties that pertain to transfers of assets for less than full value, a description of the undue hardship waiver request procedures, and information concerning the MERP Notice of Intent to File a Claim, and the Medicaid Estate Recovery Claim.

Subchapter C additionally addresses the “Notice of Intent to File a Claim.” When MERP has been informed of the death of a Medicaid recipient, within 30 days, MERP will provide a Notice of Intent to File a Claim to the estate representative, the recipient’s guardian, the recipient’s agent under a medical power of attorney or a general power of attorney, or, if none of the foregoing are known, to family members who have acted on behalf of the recipient, provided that MERP knows the names and addresses of those family members.

Subchapter C provides that the Notice of Intent to File a Claim will include an overview of the Medicaid estate recovery

program, a questionnaire to determine if there is any excluding survivor, and an undue hardship waiver request form.

Thus, the revised proposed rules, provide this sequence of dates: (1) MERP will send Notice of Intent to File a Claim within 30 days of notification of the death of the Medicaid recipient. (2) Within 40 days of the Notice of Intent to File a Claim, an undue hardship waiver request can be made. (3) A Medicaid Estate Recovery Claim will be filed within 70 days after the MERP has actual notice of the death of a Medicaid recipient age 55 years or older who applied for Medicaid after the effective date of the rules and who received services covered by estate recovery. (4) MERP will make its undue hardship waiver determination within 40 days of receipt of the undue hardship waiver request. (5) If MERP denies the undue hardship waiver request, within 40 days of that denial, the person who requested the waiver can request review of the denial.

As noted, if there is no excluding survivor, and if there is no undue hardship, and if recovery would be cost-effective, MERP can still waive the claim “for good cause shown.”

Bruce Bower is Director of Advocacy and Client Services at Texas Legal Services Center.

Preventing Impoverishment of the “Community Spouse”

By H. Clyde Farrell

When one spouse needs long term care, it often spells disaster for the other spouse. In addition to the inevitable emotional loss, the couple is suddenly faced with *additional* bills of \$3,000 to \$5,000 *per month*. No wonder that 78% of Texas nursing home residents are on Medicaid—90% of whom became impoverished and qualified for Medicaid in less than 26 weeks!

History of Protection of the Spouse at Home

Until 1989, all the assets and income of both spouses were counted by the Medicaid program. Therefore, neither spouse could qualify until both were impoverished. As a result, people who had been married for 50 years—and who loved each other—were forced to go to the District Court to get a divorce, to protect the one left at home.

Fortunately, federal protections against such “spousal impoverishment” now make such tragedies unnecessary—provided you know the complicated rules for obtaining those protections. Here is a very brief summary of those rules. (The dollar amounts are effective in Year 2005 and will change on January 1, 2006 with inflation.)

How Much Can We Keep?

First, the “community spouse” is entitled to keep a “protected resource amount.” The starting point is to subtract from all

the couple’s property (both community and separate) certain exempt property including the residence, household goods, personal goods, one car, and certain funeral and burial arrangements. The non-exempt property is valued as of the first day of the first month one spouse is in a nursing home. The “protected resource amount” is one-half of the total value of the non-exempt property, provided it cannot (in 2005) be less than \$19,020 nor more than \$95,100—unless it is increased at a hearing, as explained below.

How Can We “Spend Down” Quickly?

Take for example a couple with \$100,000 in countable assets, who will be allowed a “protected resource amount” of \$50,000. The one who needs Medicaid can become eligible as early as the first day of the second month in the nursing home by “spending down” \$50,000 in one or more of the following ways:

- Pay debts (such as a home mortgage)
- Buy “exempt” property, such as home improvements or an automobile
- Buy an irrevocable annuity meeting certain specific requirements, such as paying in equal amounts monthly in the name of the spouse at home

Some annuity sales organizations promote annuities as the best solution in all cases. However, they have the option of “increasing the Protected Resource Amount,” (discussed below), most couples choose to protect all their assets without buying an annuity. Usually, the annuity option is preferable only when the “Protected Resource Amount” cannot be increased. Read on for more information on that.

What Happens to Our Income?

In addition, the community spouse is allowed to keep a limited amount of countable income, known as a “spousal needs allowance.” In 2005, the maximum amount is \$2,377.50 per month. If the combined countable incomes of both spouses (after certain deductions) exceed the “spousal needs allowance,” the excess amount (to the extent it consists of income of the spouse in the nursing home) must be paid to the Medicaid program; *provided*, the community spouse can keep *all* income coming in her or his name, without limit. Here are some ways the community spouse’s income can be protected:

- Shift pension income of the Medicaid-eligible spouse to the community spouse (usually requiring a court order). (This is not necessary if the spouse at home can have just as much income through the use of a “Miller Trust.”)
- Request an increase in the spousal allowance to prevent hardship
- Transfer all investments to the community spouse

Although these protections are most often applied when one spouse needs nursing home care, they are also available (to some extent) for those needing home care under the Community Based Alternatives program.

How Can We Increase the Amount We Can Keep?

If the combined incomes of the spouses are not sufficient to provide the community spouse the full “spousal needs allowance,” the couple has a right to obtain an increase in the protected resource amount. They will be allowed to keep an amount sufficient to produce enough income to provide the spousal needs allowance of \$2,377.50 for the spouse at home.

For example, if the spouses’ combined noninvestment incomes (such as Social Security and pensions, after certain deductions) total \$2,100, the spouse at home can keep enough assets (to the extent they own enough) to produce an additional \$277.50 per month, at the rate of interest being paid locally on one-year certificates of deposit. In this example, if CD’s are paying 2.0% interest, the spouse at home can keep \$166,500. If CD’s are paying 3.0% interest, they can keep \$111,000.

Moreover, if the institutionalized spouse first went into a nursing home and/or hospital for a stay of at least 30 days, before September 1, 2004, a more generous rule applies. Even if the net combined incomes of both spouses exceed the \$2,377.50 level, it may still be possible to keep more than the standard “protected resource amount,” by “shifting” some income to the cost of nursing home care. For example, if the couple in the example above have \$2,400 per month noninvestment income, with the spouse at home having \$2,000 countable income, they can still keep \$240,000 in assets (if the CD rate is 2.0%) by agreeing to pay \$22.50 per month to the nursing home out of the income of the spouse on Medicaid. The spouse at home will *still* have \$2,377.50 per month income, including investment income. Remember, though this is possible only if the 30-day stay began before September 1, 2004.

To obtain this benefit, the applicant spouse must ask that the “Protected Resource Amount” be increased and must sign certain important forms. Those forms determine how much they can keep and how much must be paid to the nursing home. The rules and calculations are quite complex, and the Medicaid program often inadvertently fails to offer this benefit or makes mistakes in the calculations. An Elder Law attorney can help ensure this benefit is protected and that the application is not denied unnecessarily.

The difficulties of the one left at home are great enough without adding preventable financial distress. For more information on preventing “spousal impoverishment,” contact an Elder Law Attorney, the Legal Hotline for Texans, the Texas Health & Human Services Commission Family Eldercare (in Austin), or your local Area Agency on Aging.

For more information on Medicaid and other Elder Law topics, go to www.elderlawanswers.com. To view the web site of the Law Office of H. Clyde Farrell, enter “512” in the box at the top left of the first page under “Search by Area Code”. Then click on “Law Office of H. Clyde Farrell.”

H. Clyde Farrell is certified as an Elder Law attorney by the National Elder Law Foundation and is a Certified Financial Planner.

Nothing contained in this publication is to be considered as the rendering of legal advice for specific cases. This article is for educational purposes only. Readers are responsible for obtaining such advice from their own legal counsel.

Copyright 2005 by H. Clyde Farrell

Texas Bar Foundation Awards Grants

The Texas Bar Foundation awarded the following grants on October 28. The deadline for spring grant applications is January 15. For more information, or to apply for a grant, visit the TBF website at www.txbf.org.

Refugee & Immigrant Center for Education and Legal Services “Support for New Staff Attorney”—Refugee and Immigrant Center for Education and Legal Services (RAICES) of San Antonio will use this grant to provide equipment and software to add a second attorney to the staff. RAICES provides attorney representation for detainees, asylum applicants, domestic violence victims, and unaccompanied minors in twenty-five counties. (Amount Awarded: \$5,000)

Dallas Legal Hospice “Computer Network Replacement Project”—Dallas Legal Hospice is expanding its services to an 11 county rural area to provide assistance to the low-income terminally ill. This grant provides partial funding for the technology required to serve both existing clients and the expanded service area. (Amount Awarded: \$5,000)

Catholic Family Services “Legalization Technology Upgrade Project”—Bureau of Immigration Affairs Accredited paralegals at Catholic Family Service of Lubbock assist people in 30 Texas counties. This grant replaces obsolete workstations, software, and printers to increase the effectiveness of the paralegals and support staff. (Amount Awarded: \$8,000)

Legal Aid of NorthWest Texas “Access to Justice Project”—Legal Aid of NorthWest Texas provides legal representation for people living in poverty throughout a vast area of Texas. This grant will provide laptop computer in the Abilene, Amarillo, Denton, Fort Worth, Lubbock, Midland, Odessa, and Wichita Falls branch offices. The computers primarily will be used at off-site intake clinics. (Amount Awarded: \$17,200)

Catholic Charities of the Diocese of Beaumont, Inc. “Immigration Services”—Catholic Charities of Beaumont is the only accredited non-profit program in southeast Texas recognized by the Board of Immigration Appeals to provide immigration services. This grant will cover a portion of the costs for salary and supplies for the program director and two paralegals. (Amount Awarded: \$12,500)

NAACP Houston Branch “Technology Enhancement Project”—The Houston Branch legal department provides legal services for low-income people primarily in the Houston area. This grant will partially fund hardware and software to permit remote access to client files, to permit e-filing, and to train staff and volunteer attorneys on the new technology. (Amount Awarded: \$20,000)

Family Crisis Center of the Big Bend “Legal Advocacy for Victims of Crime”—The Family Crisis Center of the Big Bend serves victims of domestic violence and sexual abuse in the area between El Paso and Midland. This grant provides partial funding for the salary, benefits, training, and travel for an advocate to assist low-income clients with protective orders, custody, and court accompaniment. (Amount Awarded: \$25,000)

Volunteer Legal Services of Central Texas “Desktop Technology and Website Revitalization”—Volunteer Legal Services of Central Texas provides volunteer attorneys to help low-income individuals with their civil legal matters and also provides assistance through pro se clinics. This grant will help upgrade the hardware, website, and software to increase the effectiveness of these volunteers. (Amount Awarded: \$27,553)

Las Americas Immigrant Advocacy Center “Justice for Women and Children Project (JWCP)”—Las Americas, based in El Paso, through the Justice for Women and Children Project, provides direct legal services and advocacy to detained children along the border. This grant will assist with the salary of one attorney along with accreditation training for two paralegals to become certified legal representatives with the Board of Immigration Appeals. (Amount Awarded: \$25,000)

Texas RioGrande Legal Aid, Inc. “Voice Over IP Project”—Responsible for a vast service area, Texas RioGrande Legal Aid developed a centralized telephone intake system to serve larger cities such as El Paso, Austin, and San Antonio. This grant will provide some of the funds to connect Eagle Pass, Corpus Christi, and Harlingen to the intake system as well. (Amount Awarded: \$30,000)

Center for Nonprofit Management “Nonprofit Legal Clinic 2004”—The Center for Nonprofit Management in Dallas, through the Nonprofit Legal Clinic, permits nonprofit staff and board members to consult privately with volunteer attorneys experienced in both nonprofit issues and more general matters such as employment law. This grant assists with promotional and registration materials. (Amount Awarded: \$2,325)

Alamo Children’s Advocacy Center “2004 Child Abuse Conference”—Alamo Children’s Advocacy Center of San Antonio will produce a training conference with more than 40 workshops for police officers, prosecutors, caseworkers, and other front-line personnel who investigate, prosecute and treat child victims of abuse. This grant underwrites the cost of audio-visual equipment for this statewide conference. (Amount Awarded: \$5,000)

Texas Legal Services Center “Legal Hotline for Older Texans Technology Improvement Project”—Legal Hotline for Texans has provided information for low-income Texans for many years. With this grant, the Texas Legal Services Center will make needed improvements to the Hotline that will provide important information about the callers and the matters that lead people to contact the Hotline (Amount Awarded: \$5,300)

Johnson County Children’s Advocacy Center “Child Victim Life Enhancement Project”—In Cleburne, the Johnson County Children’s Advocacy Center provides a safe place for children to tell their stories of abuse. Additionally, the Center provides counseling to establish self-confidence. This grant funds special programs to take place during the counseling process. (Amount Awarded: \$7,500)

Irving Hannah’s House “Service Expansion Project”—High-conflict divorces contain elements of risk. As a result, the courts order low-income families in the Irving area involved in a potentially dangerous divorce to use Irving Hannah’s House for

visitation. This grant will subsidize the visitation fees for low-income families. (Amount Awarded: \$10,000)

Child Advocates Incorporated “Kids and the People of the Court”—Child Advocates, Inc. of the Houston area will use this grant to produce a book for elementary-age children who are in the State’s custody due to abuse or neglect. The book describes the roles of adults working in the juvenile court and foster care systems. (Amount Awarded: \$12,500)

Supreme Court of Texas Protective Order Taskforce “Pro Se Protective Order Kit”—The Supreme Court of Texas charged the Protective Order Taskforce to produce a pro se protective order kit. This grant will fund translation of the Taskforce’s work into lower-literacy Spanish and English as well as distribution to battered women’s shelters, hospital emergency rooms, etc. The taskforce anticipates that advocates and volunteer attorneys also will use the kit. (Amount Awarded: \$26,140)

Texas Bar Foundation Awards Grant for Pro Se Protective Order Kit

The Texas Bar Foundation awarded the Supreme Court Protective Order Taskforce a grant of \$26,140 to help finance the publication and dissemination of the Taskforce’s pro se protective order kit. Created in 2003, the Taskforce has developed a kit of court forms and step-by-step instructions for domestic violence survivors to use to obtain protective orders. The kit is specifically designed for pro se applicants.

The grant will finance: (1) a reading assessment of the kit to assure it is written in plain language at a fifth grade reading level, (2) translation of the entire kit into Spanish, (3) printing and mailing costs for the kit in hard copy and on CD-ROMs, (4) inclusion of the kit and expanded information on [\[aslawhelp.org\]\(http://www.aslawhelp.org\), and \(5\) creation of a training video for those who will be helping pro se litigants complete the form.](http://www.tex-</p>
</div>
<div data-bbox=)

The Taskforce has developed a distribution plan and a mailing list that includes law enforcement offices, court clerks, domestic violence programs, legal aid programs, and many others. The kit, pending approval of the Court, will be distributed in early 2005.

Since its inception in 1965, the Texas Bar Foundation has awarded more than \$6 million in grants to law-related programs. Supported by members of the State Bar of Texas, the Texas Bar Foundation is the nation’s largest charitably funded bar foundation.

Texas RioGrande Legal Aid Receives Grant from Texas Bar Foundation to Complete Technology Project

In November 2004, Texas RioGrande Legal Aid (TRLA) was awarded \$30,000 from the Texas Bar Foundation to complete its Voice-over-Internet-Protocol system (VoIP). VoIP is a computer-age telephone mechanism that uses the standard internet communication protocol to convey digitally encoded packets of data that produce a representation of the human voice. VoIP service will reduce the cost of voice and data transmission, enhance the efficiency of the existing wide area network by

combining voice and data transmission on one network, reduce administrative burdens on IT staff, and permit the use of paralegals in branch offices as intake workers on the Telephone Access to Justice (TAJ) hotlines.

The primary benefit of VoIP will be to reduce the cost of long-distance telephone service, not only between TRLA offices but also to all telephone numbers in the cities where TRLA has a VoIP presence. In addition, the VoIP system will allow para-

legals in any office where the system is installed to function as TAJ operators on an as-needed basis. In the existing system, which relies heavily on law students to conduct the initial substantive interviews with clients applying for services, academic schedules disrupt the intake schedules at times. On those occasions, mostly in May and December, any paralegal (or lawyer) who has a VoIP telephone on her desk, can log onto the TAJ network and receive calls from clients applying for service. The paralegals will be able to conduct an intake interview, enter the information into the TRLA Client Tracking System, and send the case on for review by a staff attorney who is a member of the appropriate practice area team. Making those additional resources available will make the delivery system as a whole significantly more efficient.

VoIP provides an integrated and streamlined intake system for TRLA's newly expanded service area. In 2002, TRLA

merged with Bexar County Legal Aid Association, Coastal Bend Legal Services, El Paso Legal Assistance Society, and Legal Aid of Central Texas. The merger created the third-largest program providing civil legal assistance to low-income clients in the United States. After the merger it quickly became clear that a new communications system must be put in place to address the overwhelming demand for additional intake capacity at TRLA, given the substantial increase in counties the program now serves.

In early 2004, TRLA received a large grant from the Houston Endowment to continue implementation of this communications system. The grant from the Texas Bar Foundation will assist TRLA in nearing completion of VoIP implementation by adding the new system in offices in Eagle Pass, Corpus Christi, and Harlingen.

Family Crisis Center Receives Grant

By Lovika De Koninck

The Family Crisis Center of the Big Bend, Inc. (FCCBB) has received confirmation of a grant for \$25,000 from the Texas Bar Foundation. These funds will be used to provide legal advocacy to victims of crime.



Family Crisis Center staff members Keila Contreras and Ron Boswell stand in front of marquee.

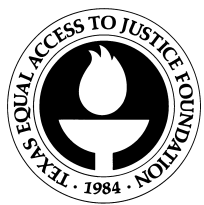
This past funding year has been disastrous for the Family Crisis Center of the Big Bend, as it has been for many shelters, particularly those in rural areas. The Big Bend area is as remote as any in Texas and probably in the continental United States.

The FCCBB service area covers four counties measuring approximately 16,000 square miles.

FCCBB experienced a \$15,000 funding cut from the SAPCS (Sexual Assault Prevention & Crisis Services). All programs funded by the Office of Attorney General for SAPCS were reverted to 2003 funding totals, with the least amount cut being \$15,000. For the first time since the Violence Against Women Act was inaugurated, FCCBB was not awarded funding, as were many other shelters across Texas. For FCCBB, this was a loss of \$70,000—a great blow to a small agency—amounting to a third of its state funding and 15 percent of its total funding from all sources. The grant award from the Texas Bar Foundation will go a long way toward helping those in the greatest need by providing legal services in an area far removed from any metropolis.

Keila Contreras, Legal Advocate, will provide support and accompaniment in the clients' pursuit of legal options, including, but not limited to, protective orders and crime victim compensation claims. Contreras is also responsible for Texas RioGrande Legal Aid duties including client intake, outreach services, and pro se divorce proceedings. Ron Boswell, Administrative Assistant and Paralegal, will assist clients completing various legal and medical forms and will help the agency formulate policy standards.

Lovika De Koninck is Executive Director of the Family Crisis Center of the Big Bend, Inc.



TEAJF Report

TEAJF AWARDS \$11.8 MILLION FOR 2005 GRANT YEAR

The Texas Equal Access to Justice Foundation (TEAJF) has announced its 2005 grant plan for the allocation of \$11.8 million to Texas providers of civil legal aid. The funds will assist 38 nonprofit organizations in providing legal assistance, such as advice or representation, to individuals who cannot afford attorneys.

The Supreme Court of Texas created the Foundation in 1984 to administer the Texas Interest on Lawyers' Trust Accounts (IOLTA) Program, which provides funding for legal services to the poor. Since then, the Foundation has diversified funding sources to include the following:

- Basic Civil Legal Services (BCLS) Program (includes filing fee add-ons, Justice for All license plate revenue, pro hac vice funds, half of the new mandatory Access to Justice fees)
- Crime Victims Civil Legal Services (CVCLS) Program
- Private donations (including voluntary contributions on the State Bar of Texas due statement)

To be eligible for legal aid under IOLTA and BCLS funding, an individual must not earn more than \$11,638 per year. To be eligible under CVCLS, an individual must not earn more than \$17,456. According to the U.S. Census Bureau, approximately 3.7 million Texas residents, or about 17 percent of the state's population, live below poverty level. This is a 20 percent increase in the poverty population since the 2000 Census. Because the need for legal services is so great and resources so limited, legal aid groups only meet about 25 percent of the legal needs of poor and low-income Texans.

Although IOLTA funds amounted to only \$3 million for the upcoming grant cycle, total grant awards increased over the 2004 cycle due in part to two new funding sources established by the Texas Legislature. Non-resident attorney, or pro hac vice, fees amounted to \$393,000 in its first year. Additionally, the new Access to Justice Fee assessed to qualifying Texas attorneys generated \$1.6 million for civil legal aid.

For a complete list of TEAJF 2005 grant awards, go to www.teajf.org.

TEAJF Welcomes Lisa Melton

Lisa Melton, former executive director of the Texas Equal Access to Justice Foundation, has returned to the TEAJF staff as director of grants. Melton will oversee the grants administration processes, conduct site visits and provide technical assistance to current and potential grantees. Melton left TEAJF in 2001 to move to Tennessee with her husband and two children, but she continued to provide consultant services to TEAJF. She moved back to Texas in 2003, and she re-joined the TEAJF staff in September 2004.

When asked about being back, Melton stated, "I am so impressed with the distance the access to justice community has come during my years away. I am delighted to again be working with the many excellent Texas legal services programs and the committed and seasoned TEAJF staff and board of directors to improve and increase legal services for low-income Texans." Melton's email address is ldmelton@teajf.org. She can be reached by phone at 512-320-0099, ext. 112.

Welcome back, Lisa!

State Bar Committee Seeks Nominations for Awards

The Legal Services to the Poor in Civil Matters Committee of the State Bar of Texas seeks nominations for:

The Frank J. Scurlock Award

For the attorney who has done outstanding pro bono work in the field of providing legal services to indigents.

The Pro Bono Award

For the volunteer attorney organization which makes an outstanding contribution toward guaranteeing indigents access to the legal system.

The J. Chryst Dougherty Legal Services Award

For the Legal Services Corporation/IOLTA-funded staff attorney who has made outstanding efforts beyond normal job expectations on behalf of indigents. This award is presented jointly by the Committee and the Texas Bar Foundation, and it includes a cash stipend.

The W. Frank Newton Award

For the group of attorneys (e.g., law firm, corporate law department, government attorney office, or law school faculty) whose members have made an outstanding contribution in the provision of or access to legal services to the poor.

The 2005 awards will be presented at the State Bar Annual Meeting in Dallas in June. The nominations must be submitted on nomination forms available at www.texasbar.com or by contacting Texas Lawyers Care. Each nominee must be a member in good standing of the State Bar of Texas. The original plus eight copies of each nomination should be sent to the committee, c/o Texas Lawyers Care, State Bar of Texas, P.O. Box 12487, Austin 78711-2487. The street address is 1414 Colorado, Suite 604, Austin, 78701-1627.

All nominations must be received in the office by 5 p.m., Wednesday, March 2. For more information, call Texas Lawyers Care at (800) 204-2222, ext. 2155, or 463-1463, ext. 2155.

Texas Lawyers Care Welcomes Melissa Shearer

Melissa Shearer is a new administrative attorney in the Texas Lawyers Care office. Shearer, an Austin native, attended law school at the University of Colorado School of Law. During law school, she interned with the Colorado State Public Defender, and she also clerked as a Judicial Fellow with the Colorado Supreme Court. After graduating, she practiced as a Deputy Public Defender with the Denver Trial Office of the Colorado State Public Defender.

Shearer returned to Austin last summer and clerked at the

Travis County Juvenile Public Defender's Office, prior to joining Texas Lawyers Care. At Texas Lawyers Care, she serves as Editor of the LegalFront, staff for the Standing Committees on Legal Services to the Poor in Criminal and Civil Matters, and Access to Justice Commission Committees.

Shearer received her Bachelor's degree in Social Work, with honors, from the University of Texas at Austin in 1997. Her interests include reading, scrapbooking, and writing. She can be contacted at mshearer@texasbar.com.

Justice For All Calendars Still Available

After a few years off, TLC is proud to announce the return of the bi-annual Justice for All pocket calendar, which is full of useful information and numbers for legal service clientele throughout the State. Printed in both English and Spanish, the calendar is good through December 2005 and has a smaller footprint than before, with a slick cover that allows for ease of access to back pockets and purses. Topics in this edition include: Your Welfare Rights and Tips, Debt Collection Practices, Children with Special Health Care Needs, Vocational Rehabilitation, Injured Worker Rights, and Unemployment Benefits. Feel free to contact TLC to order copies for your clients, and let us know if there are any topics you feel need to be covered in future editions, any topics you would like to

author for the next calendar, or whether such a calendar needs to be translated into other languages. Contact TLC about your calendar needs and/or concerns at jcortez@texasbar.com.

Poverty Law Conference Deadlines

The 2005 Poverty Law Conference will be held March 30 through April 1 at the Omni Southpark Hotel in Austin. Early registration for the conference is February 28. The late registration deadline is March 9. Please remember to reserve your room at the Omni by March 8 to ensure room availability and the special conference rate. If you need more information or have any questions, please contact Susan Schoppa at TLC, 512-463-1463, ext. 2155 or sschoppa@texasbar.com.



2005 EQUAL JUSTICE CONFERENCE

Celebrating the Pro Bono and Legal Services Partnership

AUSTIN, TEXAS

MAY 5 - 7, 2005



Keynote Speakers:



Sarah M. Buel
Founder of the Domestic
Violence Clinic at the
University of Texas
School of Law

- Over 70 workshops designed to strengthen and expand your capacity to deliver high quality pro bono services



Robert J. Grey, Jr.
President
American Bar Association

- Special tracks for bar association leaders, pro bono volunteers, law firm pro bono coordinators, corporate counsel and academics, pro bono committee chairs, access to justice committee members



Molly Ivins
Nationally syndicated
Columnist and Author

- Interaction with legal services providers and discussions on the latest trends
- Special discounted fees for bar association leaders and ABA members

See www.equaljusticeconference.org for more information.

Mark Your Calendar Now!



STATE BAR OF TEXAS

Texas Lawyers Care

P. O. Box 12487

Austin TX 78711-2487

NON PROFIT ORGANIZATION

U. S. POSTAGE

PAID

PERMIT NO. 1804

AUSTIN, TEXAS

LegalFront

The Newsletter of
Texas Lawyers Care

Emily Jones Director

Melissa L. Shearer Editor

Chris Beasley Graphic Designer

Lynette Blenkinsop Graphic Artist

News, comments, photographs,
letters and suggestions are welcome.

Texas Lawyers Care

P. O. Box 12487

Austin, TX 78711-2487

(512) 463-1463, Ext. 2155

(800) 204-2222, Ext. 2155

Fax (512) 477-8302

E-mail: tlcmail@texasbar.com

2005 Calendar

For more information about events, call Texas Lawyers Care at 800-204-2222, ext. 2155 or e-mail tlcmail@texasbar.com.

January 15, 2005

Texas Bar Foundation grant deadline

February 1, 2005

Solicitation begins for SBOT Pro Bono / Legal Services Awards (Frank J. Scurlock Award, Pro Bono Award, J. Chrys Dougherty Legal Services Award, W. Frank Newton Award)

March 2, 2005

Nomination deadline for Pro Bono / Legal Services Awards

March 30-April 1, 2005

2005 Poverty Law Conference
Austin

April 10-16, 2005

National Crime Victims Week

April 27-28, 2005

ABA Day in Washington
Washington, D.C.

May 5-7, 2005

ABA / NLADA Equal Justice Conference
Austin

May 16-20, 2005

Texas Trial Academy
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.