

# Committee on Civil Justice UPDATE



MARCH 2008

- **Chief Justice**  
**Leah Ward Sears**  
Ex Officio
- **Anne W. Lewis**  
Co-chair
- **Teri P. McClure**  
Co-chair
- **Jill O. Radwin**  
Executive Director
- **Tracy Powell**  
Project Coordinator
- [www.gaccj.org](http://www.gaccj.org)

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## Legal Needs Study: The Latest

The Legal Needs Study being conducted by the Burruss Institute at Kennesaw State University has progressed nicely since the beginning of 2008. When Dr. Carol Pierannunzi, Director of the Burruss Institute, spoke to the Committee at the December 14 meeting of the full committee, the project was in the beginning stages, and there was not much more than the plans and methodology to report on. Fortunately, as the months have passed, the study has begun to yield results and provide us with data.

Each component of the study was in process by mid-February. The assessment's largest component, the public telephone survey, began slowly but has been progressing steadily. The staff in the telephone lab at Burruss have been placing

calls to low and middle-income Georgians and are compiling data concerning their legal needs. The quota for this section is 1200.

The attorney survey has been the first component to reach completion. The quota was met at the beginning of February, and even included some over sampling. Over 350 attorneys were surveyed in regards to their participation in, and thoughts on, pro bono work. Interpretation of the data and drafting of the reports began the week of February 18.

The web survey of court personnel and legal aid providers was the result of a great collaborative effort between staff and members of the Delivery Coordination and Needs Assessment subcommittee. A set of questions was finalized for each group, submitted to Burruss, and

are now in the process of being completed by participants. The surveys were made live on the Internet on February 20, and great results have been seen so far.

The focus groups of hard-to-reach populations and court personnel/legal aid providers began the second week of March. Burruss worked throughout February to confirm participants and set up meeting sites. The professionals that attend these groups will also have participated in the web survey component.

Filming for the video component of the study began the weekend of February 16. The finished product should run approximately 15 minutes.

This important project is on track to be completed by the summer.

## The Development of Legal Services

### *Poverty Law History tells Atlanta aid lawyers' tale*

Meredith Hobbs, *Fulton County Daily Report*

\*Reprinted with Permission

In 1964, when Robert F. Kennedy, then the U.S. attorney general, chastised an audience of lawyers at the University of Chicago School of Law for their failure to serve the poor, access to the legal system was a luxury—especially in the South, writes Kris B. Shepard in “Rationing Justice: Poverty

Lawyers and Poor People in the Deep South.”

With the establishment of a federal Legal Services Program later that year as part of President Johnson’s “war on poverty,” legal help for poor people in civil matters started to transform from ad

hoc charity work by scattered local legal aid societies to an institutionalized, federally funded system with the goal of providing comprehensive ...

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# Committee News

A quick look at what's been going on...

- **The full committee** met on Friday, December 14, 2007 at the State Bar of Georgia. The meeting agenda included subcommittee breakout sessions to work on Action Plans for objectives, an informational presentation from the Burruss Institute on the Legal Needs Study, and discussion regarding the formulation of a mission statement.
- **Charlie Lester** retired from full-time law practice with Sutherland Asbill & Brennan at the close of 2007. Charlie has made many contributions to the field and advocacy of pro bono services and his tireless work has certainly made a difference. An extensive article was featured in *The Daily Report*, and he was honored by his firm and colleagues at a reception held on January 28. Charlie will continue his work with the committee and his dedication to the Legal Needs Study.
- **The Lawyer's Foundation of Georgia** awarded the Committee a grant to be used for the Legal Needs Study. Executive Director Jill Radwin accepted the award on behalf of the committee at a reception held January 10 at the Richard B. Russell Federal Building.
- **A meeting of the subcommittee chairs** with co-chairs Anne Lewis and Teri McClure was held on Friday, January 25. The purposes of the meeting were to review action plans and discuss the agenda for the upcoming year.
- **Committee Advisor and GLSP Executive Director Phyllis Holmen** has been recognized by the Anti-Defamation League Southeast for her work, and was presented with the Elbert P. Tuttle Jurisprudence Award at the annual ADL Jurisprudence Luncheon on March 5.
- **Access to Justice State-by-State:** Committee staff have been working to compile information from each state regarding access to justice structures and initiatives. The concept was put forth at the December meeting. The desired result is a comprehensive table of all 50 states and the District of Columbia with information regarding initiatives, funding, pro bono requirements and incentives, as well as website links. The document will be provided to membership upon completion.
- **Charlie Lester** received two honors at the end of 2007. In October, he was honored with the Special Recognition Award by the Pro Bono Partnership of Atlanta at its Second Annual Volunteer and Donor Appreciation Reception. In November, Charlie was inducted into the Gate City Bar Association's Hall of Fame.
- **Cubbedge Snow Jr.** contributed a personal reflection to the *Georgia Bar Journal's* Feb. 2008 feature *What Being a Georgia Lawyer Means to You:* "...What I want to emphasize is a most unique and gratifying opportunity I have had in my practice. After being admitted in early 1952, my father Cubbedge Snow and I practiced together for over 33 years until his death in 1985. We tried cases together and argued about the law. He never stopped urging, in fact demanding, that I 'go to the library and find a case in point.' To make it even better, my son Cubbedge Snow III joined our firm in 1981 and for four years there were three Cubbedges. Telephone calls could be a problem, but that was nothing compared to the bonds of our closeness. My son and I continued together until I retired in 1999. What an absolutely satisfying relationship for nearly 50 years."

## Access to Justice in the News\*

\*Access to Justice Headlines information/source found at [www.atjsupport.org](http://www.atjsupport.org)

**The National Pro Bono Opportunities Guide**, a joint project of the ABA Standing Committee on Pro Bono and Public Service, the ABA Center for Pro Bono, and Pro Bono Net, is now available online. The guide is a useful resource for finding a suitable volunteer opportunity for your needs. It allows users to search each state for available pro bono services, and includes contact information, practice area, and other relevant facts. The guide was featured in an article in the January issue of the *ABA Bar Journal*, and may be accessed at [www.probono.net/aba\\_oppsguide](http://www.probono.net/aba_oppsguide)

**Hawaii's** Justice System saw much activity at the close of 2007. A study conducted by the Access to Justice Hui provided 10 recommendations to increase access to justice in the state by 2010, including the creation of a formal Access to Justice Commission. Hawaii is currently one of only four states without a formal Access to Justice entity. The state Supreme Court adopted a mandatory pro bono reporting rule, and also issued a waiver on bar dues and fees for attorneys who solely practice pro bono services.

**Massachusetts' Access to Justice Commission** in October 2007 issued a report on testimony from public hearings held over the course of 2006-

2007 regarding the barriers to access that low-income people in the state face when dealing with legal problems.

**Wisconsin State Funding for Legal Services** was signed into law at the end of 2007, and will commence on July 1, 2008. There are now only five states that provide no state funding for legal services (Alabama, Alaska, Idaho, South Dakota, Wyoming).

**Arizona** has completed its Legal Gap Study, outlining the states' legal needs issues with respect to geographic area and population group, and makes recommendations for improving the civil legal delivery system. Visit [www.azflse.org](http://www.azflse.org) for more.

In another innovative and progressive move for the state's ATJ campaign, the **State Bar of Texas** sponsored a contest to create a YouTube video based on the theme "Texans Capturing Justice for All." Winners were announced in January and were recognized at the Bar's quarterly meeting of the board of directors.

**Alabama** has increased its pro hac vice fee from \$100 to \$300, with the increase to go to legal aid funding. The state has also begun a mandatory IOLTA plan, accompanied by a comparability rule. These developments will be instrumental, as

Alabama has ranked 51st behind all other states and Puerto Rico in funding for legal services.

**Maine** issued a report in October 2007 conducted by the state's Justice Action Group (JAG) outlining issues and challenges facing Maine's low-income population in regards to civil legal needs. This was the first study conducted in the state since 1990. The report provides recommendations, priority strategies, and the strong suggestion of the creation of an Implementation Task Force to coordinate and realize the outlined goals. The report may be found at [www.mbf.org/justice.htm](http://www.mbf.org/justice.htm)

**Economic Benefit Materials** at the ABA ATJ Resource Center include reports on studies conducted in Nebraska, Massachusetts, and Minnesota. New resources are added as they become available. Access through the "Documents and Resources" page at [www.atjsupport.org](http://www.atjsupport.org)

**Montana's** Self-Help Law Program launched in January to provide assistance to pro se litigants with finding legal information, resources, and completing forms. The program is comprised of two self-help law centers, located in county courthouses, and both are committed to eventually providing services to other remote courthouses across the state. The program is funded by the budget of the Supreme Court's Self-Help Law Program.

# 2008 State of the Judiciary Address



Chief Justice Leah Ward Sears delivered the annual State of the Judiciary Address on Wednesday, February 13 in the House Chambers of the State Capitol. Members

**Chief Justice Sears delivers the annual address**

of the General Assembly, the Judiciary, and the Executive Branch were all in attendance to hear Justice Sears' third annual address. The speech focused on the importance of judges, the strengthening of families, the ever-evolving scope of issues facing all Georgian's today, and the accomplishments of Georgia's judiciary. The Chief Justice invited

each judge from around the state and from all levels of court to attend the important address, and over 100 of them were present (wearing their robes), in a great sign of judicial unity. The full text of the speech may be found at [www.gasupreme.us](http://www.gasupreme.us).



## Legislative Update 2008

The 2008 session of the Georgia General Assembly began on Monday, January 14. This is the second half of a two-year cycle, and the 40-day session is expected to conclude sometime in April. Major issues in front of the legislature this year include tax reform, transportation, and the state water crisis.

With respect to issues concerning access to justice, the legislature heard the budget request for the Appalachian Circuit Remote Access Family Law Information Center

pilot project last month. Both the Senate and House Appropriations Committees heard the request, and the only concern was brought forth by the House, as to whether or not there already existed a physical space for the office. The office has already been planned to be housed in the new Gilmer County Courthouse. This project is especially important because it will be able to provide access to information and forms, including remote access to those living in a mostly rural three county

circuit. This is in contrast to those in the urban and suburban areas of the state. The request is still pending as the legislature works on the budget.

The session marked its 30<sup>th</sup> legislative day on Tuesday, March 11. The 30<sup>th</sup> day is known as "Crossover Day," when a bill is required to have passed through one legislative chamber in order to be seen further during the current session, in hopes of completing the process and being signed into law.

## Looking Ahead: Conferences and Meetings

**The State Bar of Georgia will hold its Annual Conference on June 5-8 in Amelia Island, FL.**

The Committee has been assigned a three-hour time slot on June 5 from 9am-12 noon in which to make a presentation. The primary focus of this presentation will be the Legal Needs Study and the preliminary findings, but it will also include a discussion on the current

state of Georgia's civil legal delivery system and a panel discussion on what improvements can be made.

**The American Bar Association Equal Justice Conference** will be held May 7-9 in Minneapolis. This year's theme is "Pursuing Justice: Balancing Challenges and Opportunities." For more information, visit [www.abanet.org/legalservices/ejc](http://www.abanet.org/legalservices/ejc)

**The Committee on Civil Justice** will next meet in May. An official notice with date, time and location will be sent out soon.

The subcommittee chairs are asked to coordinate meetings of their group prior to the meeting of the full committee. Please be encouraged to communicate and continue work on achieving objectives and action plans.

# The Development

(continued from page 1)

legal services to all people who needed a lawyer but couldn't afford one.

"The phrase 'poverty law' and the notion that there was an area of law that you could go into and make a difference was a new thing. The civil rights movement and the role of attorneys in that awakened people to what lawyers could do," said Shepard, 34, in a recent interview.

In "Rationing Justice," which started out as Shepard's doctoral dissertation in history at Emory University and was published by LSU Press earlier this year, he chronicles this sea change in legal aid work in Mississippi, Alabama and Georgia and details the struggles of poverty lawyers to change laws and the way laws were applied that discriminated against the poor, people of color and women.

Shepard uses the very different histories of the two largest programs in the region, the Atlanta Legal Aid Society and North Mississippi Rural Legal Services, to shed light on the diverse currents of the poverty law movement in the Deep South. The nascent Mississippi program was rural with significant African-American leadership and a strong civil rights focus, while the longstanding Atlanta program was mostly white, supported by the local legal establishment and focused on urban issues such as substandard public housing and predatory lending.

Shepard, who is from North Carolina, was initially interested in the welfare rights movement in the South, one of the nation's poorest regions, which was developing at the tail end of the 1960s as the civil rights movement "changed and faded into the background." Proponents of welfare rights believed that government money for poor people's basic needs was a right—not a charity that government administrators could grant and take away at will for those whom they deemed deserving.

Welfare right piqued his interest in the broader work of poverty lawyers, who believed that poor people—who were disproportionately female and, in the South, African-American—had a right to the services of publicly funded lawyers to sue those treating them unjustly, whether exploitative landlords or discriminatory local agencies. This was a radical departure from the notion that legal aid meant pro bono help with domestic disputes at the discretion of the private bar—and it was particularly resisted in the insular region of the Deep South by many lawyers and politicians.

At the time, low-income people "were accustomed to being sued, and not suing," recalls a former legal aid attorney, Clarence Cooper, in the book.

"Through poverty lawyers the low-income clients of legal services programs asserted their interests within the American legal system and, in so doing, raised the possibility of profound social change," Shepard writes.

## Atlanta Legal Aid transforms

Atlanta Legal Aid was the only legal aid program in the South with an established presence prior to the advent of federal funding in 1965. Elsewhere in the South, "small legal aid societies appeared and disappeared sporadically in cities such as Mobile, Savannah and Birmingham," writes Shepard. The Atlanta group was started in 1924 under the leadership of a member of one of the city's leading firms, E. Smythe Gambrell, and by 1960 had a budget of \$50,000 and five staff attorneys. Its mission was serving needy individuals—not aggressive social and legal reform.

But by 1969, several green Atlanta Legal Aid lawyers were working with an activist group of public housing tenants called Tenants United for Fairness (TUFF) to pressure the Atlanta Housing Authority for better tenant living conditions. Then they started organizing rent strikes by tenants of rundown private complexes to pressure slumlords to make repairs after one, Steven Gottlieb, discovered an obscure 19th century Georgia case allowing a renter of commercial property to pay for repairs and deduct the expense from the rent.

By 1971, five years after receiving its first federal funding, Atlanta Legal Aid had a budget of about \$1 million and 44 staff attorneys in five offices. (Its budget is currently about \$9 million with 65 attorneys in five offices.)

These lawyers were part of "a new breed of lawyer," as Shepard calls the first chapter of his history. They were hired by the reform-minded Michael D. Padnos, who left the federal Office of Economic Opportunity to become Atlanta Legal Aid's director in 1967.

# of Legal Services

Padnos was “abrasively idealistic,” writes Shepard. “He sought to use the law as a means of social change, and he did so unapologetically, criticizing the Atlanta Housing Authority for abusing its residents, challenging the welfare department to abide by rapidly developing case law, including Supreme Court cases that broadened a recipient's entitlement to public assistance, and initiating educational campaigns to help low-income individuals recognize loan sharks and extortionate business practices.”

After shaking things up, Padnos left Atlanta Legal Aid in 1970. Now retired, he lives in France, where he grows olives and writes, but a number of the attorneys he hired are still working in the Atlanta legal community. A few are still at Atlanta Legal Aid, including Gottlieb, who has run the organization for the past 27 years. Another rent strike agitator, William J. Brennan Jr., heads its Home Defense Program and a third Padnos hire, David A. Webster, serves as senior counsel.

Many notable Atlanta lawyers crop up in Shepard's history—including Mary Margaret Oliver, a longtime member of the General Assembly who worked for the Georgia Legal Services Program, and Cooper, now a federal judge who was Atlanta Legal Aid's first African-American lawyer. Women and African-Americans were still shut out of established law firms in the 1960s and 1970s, and many gained entrée into the legal profession through legal services agencies, writes Shepard.

## Georgia Legal Services starts

In the late 1960s, support from the State Bar of Georgia led to the creation of the Georgia Legal Services Program to serve the state's rural counties. Four leaders of the State Bar's Younger Lawyers section, R. William “Bill” Ide III, A. James “Jim” Elliott, Elizabeth E. “Betsy” Neely and S. Phillip Heiner, began documenting the legal problems of the rural poor to build consensus within the bar for a statewide legal aid program. That meant combating the prevailing notion that private attorneys could provide any legal services the poor might need, writes Shepard, adding that the dearth of lawyers outside the state's cities and towns meant very few rural residents had access to legal counsel.

The four presented their report to the State Bar in 1968, which approved the idea under the leadership of its president, H. Sol Clark, a Savannah judge. The group secured \$200,000 in federal funding plus matching state funds to get the program going.

Georgia's governor at the time, Lester Maddox, was “intensely racist but an even more fervent supporter of the ‘common man,’” writes Shepard. “Lester ate it up. We told him it was for the little people [and we] got our money,” one of the program's founder recalls in the book.

By the end of 1971, the program had offices in Columbus, Gainesville, Macon, Savannah, Albany, Augusta, Brunswick and Dalton staffed by 13 attorneys, who circuit-rode to cover the surrounding countryside. It had grown to 60 staff attorneys by 1974.

The early 1970s, under President Nixon, were lean years for legal aid groups around the country as federal funding contracted and their mission of social reform became more contested, but the Democrat-controlled Congress's creation of the Legal Services Corp. in 1974 solidified legal aid nationally and increased federal funding.

The LSC's goal was “equal access to justice” for all Americans and its leaders set a concrete goal of two poverty lawyers for every 10,000 potential clients to provide “minimum access” to the nation's poor. More than 40 percent, many of them in the South, had no access to legal services at the time, Shepard writes. Before the LSC started funding programs in 1975, there was no legal aid at all in the southern half of Mississippi, outside of Jackson. Federal funding filled “huge holes in coverage” around the country and fueled the expansion of Atlanta Legal Aid, Georgia Legal Services and other developing programs.

By the late 1970s, there was “at least nominal access in virtually every corner of the United States,” Shepard writes. This was the golden era for legal services, which lasted until 1981, when Ronald Reagan took office, vowing to axe funding for the LSC.

Under Reagan, legal aid supporters in Congress accepted funding cuts to keep the program alive. There were further deep cuts in 1996, two years after Republicans, who opposed using tax dollars for legal services, gained control of Congress. The newly Republican Congress also imposed restrictions on legal aid groups receiving federal funding, banning, among other things, class actions, welfare rights cases, certain immigration cases and political lobbying and advocacy. (continued on next page)

# The Development of Legal Services *(continued)*

"I point out in the book that funding would need to be doubled to match today what there was in 1980, adjusted for inflation. And it's not a lot of money. The [LSC] program is funded at about \$350 million. That's not a big number for the federal government," said Shepard, a board member of Legal Aid of North Carolina. "Programs now would tell you that coverage is still very uneven and not sufficient. We've never actually reached the goal of providing counsel to everyone who needed it."

If a Democrat is elected president next year, legal aid could see funding increases, he said, but probably no lifting of the restrictions on recipient's activities. "There is a centrist bi-partisan coalition that's developed that would be very careful about upsetting the apple cart," he observed.

## From historian to lawyer

Shepard said his work on "Rationing Justice" showed him how lawyers have engaged in issues facing society—including many, like H. Sol Clark and Bill Ide, who were not legal aid lawyers. Compared to historians, he said, "the legal profession tends to be much more attuned to current issues and eager to be involved whether formally through politics or informally."

And so, after completing his doctoral studies at Emory in 2000, Shepard decided to become a lawyer, receiving his law degree from the University of Virginia in 2003. He is now a corporate attorney advising private investment firms at Robinson, Bradshaw & Hinson in Charlotte, N.C.

"The type of work I do has nothing to do with the book," he acknowledged, adding that by temperament he's a corporate lawyer, not a litigator. He said working with private equity clients is engaging and intellectually stimulating, since they typically invest in middle market companies with a lot of growth potential—the companies that are producing jobs and creating innovation in the economy.

He added that his firm encourages its lawyers to become involved in the public sphere. "Everyone I meet has an interest to be engaged and struggles to find a way to do that. The interest is there. I think it's built into the profession."

In addition to his work with Legal Aid of North Carolina, Shepard is on the board of the Levine Museum of the New South. He's also married, with two young children and a third on the way.

Shepard hopes his history of the American poverty law movement will show people that legal services programs are fundamental to American society and not "just another social program to aid the poor."

"I think it's much more than that, given the importance of the rule of law in our society and in any democratic society. If we talk about the rule of law but we have a system that effectively excludes a huge chunk of the population from being able to use the rule of law, then we've got a problem.

"There are a lot of societies around the world where you can see the breakdown of the rule of law. It can happen anywhere," he said.

*This article originally appeared in the January 2, 2008 edition of the **Fulton County Daily Report**, and has been reprinted with the permission of the Editor.*

## Quotation of the Month

"The most sacred of the duties of a government is to do equal and impartial justice to all its citizens"

— Thomas Jefferson

**Supreme Court of Georgia  
Committee on Civil Justice**

244 Washington Street, SW  
Suite 300  
Atlanta, GA 30334-5900

**Jill O. Radwin**  
Executive Director  
Phone: 404-463-1849  
Fax: 404-651-6449  
E-mail: radwinj@gaaoc.us

**Tracy Powell**  
Project Coordinator  
Phone: 404-463-0040  
Fax: 404-651-6449  
E-mail: powellt@gaaoc.us

Created in May 2005, the Committee on Civil Justice works to strengthen Georgia's civil justice system by developing, coordinating and supporting policy initiatives to expand access to the courts for poor and vulnerable Georgians.

**Vision Statement**

The cornerstone of a free society is a population that has faith that the legal system will assist people in their daily lives and that the judiciary will resolve disputes in a fair and impartial manner. We, the Committee on Civil Justice, envision Georgia as a state in which:

- Everyone is informed about and has meaningful access to a civil justice system that provides due process of law
- There is a statewide, broad-based, publicly known and supported, coordinated system for the delivery of civil legal assistance that:
  - empowers people of low income;
  - provides education, information, advice, tools, and quality legal representation; and
  - efficiently and effectively addresses legal needs and resolves or prevents legal problems

## Useful Links and Information

[www.gaccj.org](http://www.gaccj.org) — Georgia Supreme Court Committee on Civil Justice

[www.atjsupport.org](http://www.atjsupport.org) — American Bar Association Access to Justice Support Project

[www.ncsconline.org](http://www.ncsconline.org) — National Center for State Courts

[www.gasupreme.us](http://www.gasupreme.us) — Supreme Court of Georgia

[www.kennesaw.edu/burruss\\_inst](http://www.kennesaw.edu/burruss_inst) — A.L. Burruss Institute of Public Service & Research,  
Kennesaw State University

[www.legis.state.ga.us](http://www.legis.state.ga.us) — Georgia General Assembly

**\*\*\* Next full meeting of the Committee on Civil Justice \*\*\***

**May 2008**

Look for the official notice in coming weeks!

**Have something you'd like to share with the Committee? Suggestions or comments for this newsletter? [E-mail](mailto:tracy@gaoc.org) your contributions to Tracy!**