



**ILLINOIS STATE
BAR ASSOCIATION**

**AGENDA
MEETING OF THE
BOARD OF GOVERNORS
of the Illinois State Bar Association
I Hotel and Conference Center
Champaign, Illinois**

March 8, 2013

Thursday, March 7, 2013

- 1:30 – 4:00 PM - Strategic Planning Session
I Hotel & Conference Center
Quad Room
1900 South First Street, Champaign
- 5:00 – 6:15 PM - Reception
Home of President and Mrs. Thies
2109 Meadowlark, Urbana
- 6:30 – 7:45 PM - Dinner
Champaign Country Club
1211 South Prospect Avenue, Champaign
- 7:45 – 9:15 PM - Reception with Champaign County Bar Association
Champaign Country Club
1211 South Prospect Avenue, Champaign
**Entertainment: David Thies & vocalist Geoff Poor with special guest
ISBA Past President Loren Golden**

Friday, March 8, 2013

- 8:30 AM - Continental Breakfast
I Hotel & Conference Center
Quad Room
- 9:00 AM - Board Meeting Convenes
I Hotel & Conference Center
Quad Room
- 12:00 PM - Lunch
I Hotel & Conference Center
Quad Room

SPECIAL SETTINGS

- 9:30 AM - Special Committee on Fair and Impartial Courts
- Co-Chairs Judge Patricia Golden and Justice James Wexstten will report on the status of the Committee's activities. **(Information Agenda #95)**
- 10:00 AM - Federal Taxation Section Council
- Chair Leonard DeFranco will report on the activities of the Section Council. **(Information Agenda #41)**
- 10:30 AM - Special Committee on Impact of Law School Debt and the Delivery of Legal Services
- Co-Chair Justice Ann Jorgensen will present the final report of the Special Committee Activities. **(Information #97)**

ACTION AGENDA

1. MINUTES

Attached is a copy of the Minutes of the January 18, 2013 meeting of the Board of Governors.

3. PRESIDENT'S REPORT

5. BUDGET AND AUDIT

Paula H. Holderman, Chair

A. Attached are the Operating Statements for the period ending January 31, 2013

B. Chair Holderman will report on the March 6, 2013 meeting of the Budget and Audit Committee

8. ADMINISTRATIVE MATTERS

2015 Annual Meeting - Third Vice President Davi will make a recommendation for the site of the 2015 Annual Meeting.

SECTION COUNCILS

41. FEDERAL TAXATION

Leonard DeFranco, Chair (Sommario, Board Liaison)

Leonard DeFranco, Chair of the Federal Taxation Section Council will be present to report on the activities of the Section Council, including its annual federal legislative trip to Washington D.C. President Thies will formally commend the members of the Section Council for their legislative advocacy efforts. (Set for Special Session at 10:00 a.m.)

STANDING COMMITTEES

78. LEGISLATION

John Locallo, Chair (McCluskey, Board Liaison)

The Board will be requested to approve attached Legislative Proposal 98-4 (Police Officer Safety and Preserve Evidence). The Board had referred this matter back to the proposing section council for revisions. A representative of the Traffic Laws Section Council may be present to address the current version of the proposal.

83. PUBLIC RELATIONS

Ronald Guild, Chair (Kenol, Board Liaison)

The Board of Governors will be requested to consider recommendations for the 2013 Law Enforcement Awards. Please refer to attached memo and background material from the Standing Committee.

SPECIAL COMMITTEES

95. FAIR AND IMPARIAL COURTS

Judge Patricia Golden and Justice James Wexstten, Co-chairs

Judge Patricia Golden and Justice James Wexstten, Co-chairs of the Special Committee, will report on the status of the Committee's activities. (Set for Special Session at 9:30 a.m.)

97. IMPACT OF LAW SCHOOL DEBT ON THE DELIVERY OF LEGAL SERVICES
Justice Ann Jorgensen and Dennis Orsey, Co-chairs

Justice Ann Jorgensen, Co-chair of the Special Committee, will present the final report of the Special Committee. A copy of the report is attached. (Set for Special Session at 10:30 a.m.)

99. REVIEW OF COLLABORATIVE LAW
Joseph Bisceglia and John Locallo, Co-chairs

John Locallo, Co-chair of the Special Committee, will provide a status report on the work of this Special Committee.

INFORMATION AGENDA

2. CALENDAR

Attached is a copy of the Board meeting schedule for the remainder of the fiscal year and a preliminary schedule for 2013/14.

11. ELECTIONS

Attached is a copy of the 2013 Candidate's Report.

Board of Governors

March 8, 2013

**Agenda Item 1
Minutes**

**MINUTES
MEETING OF THE BOARD OF GOVERNORS**

**ISBA Chicago Office
20 South Clark Street; Suite 900
Chicago, Illinois**

January 18, 2013

Members Present: Thies, Holderman, Felice, Davi, Arquilla De Boni, Bracewell, Cornelius, Davis (conference call), Enright, Hartigan, Hurley, Karno, Kenol, Komie (conference call), Locallo, McCluskey, Nisivaco, Nyuli, O'Brien, Pacey, Sommario, Williams, Wojcik, and Wysocki

Also Present: Colleen McLaughlin, Chair, Assembly Agenda and Program Committee, Robert Craghead, Executive Director, Charles Northrup, General Counsel, Bailey Cunningham, Assistant Counsel, Douglas Barringer, Director of Administrative Services James Covington, Director of Legislative Affairs, Christopher Bonjean, Director of Member Communications and Janet Sosin, Director of Bar Services.

Members Not Present: Scott

President Thies called the meeting to order and presided throughout.

Action Agenda

1. Minutes

Motion duly made and seconded to approve the minutes of the October 19, 2012 meeting as submitted. Motion carried.

2. President's Report

President Thies reported on the continuing progress of the Special Committees on Fair and Impartial Courts and Impact of Law School Debt on the Delivery of Legal Services. He indicated that the Board would hear directly from both committees at the March, 2013 meeting of the Board. President Thies mentioned his plans to provide testimony to the American Bar Association Task Force on Future of Legal Education during the upcoming ABA Midyear Meeting in Dallas.

President Thies also reported on the activities of the Lawyers Feeding Illinois statewide program. Sixty teams had already signed up to participate. Although the LFI campaign formally starts on February 18, 2013, sufficient funds have already been donated to provide 135,000 meals, toward the ultimate goal of 1,000,000 meals. President Thies has actively pursued media opportunities to support the effort. Plans have been made for a Springfield media event, and President Thies thanked Board member Jennifer Hammer for her help. The Board viewed a promotional video on the project.

President Thies also reviewed important upcoming ISBA events and activities.

Executive Session

Motion duly made and seconded to go into executive session. Upon return to regular session, President Thies indicated that a subject relating to judicial campaigns had been discussed.

5. Budget and Audit

Director of Administrative Services Barringer presented the Operating Statements for the period ending November 30, 2012. He explained notable variances. The Operating Statements indicated that the Association was better than budget by \$29,000.

The Board also received the 2011 – 12 Audit that was reviewed and approved at the December, 2012 meeting of the ISBA Assembly.

6. Standing Committee on Scope and Correlation

Chair Richard Felice reported that the Scope and Correlation Committee had met on January 11, 2013. As a result of the meeting, the Scope Committee presented three recommendation for Board action:

A. Pro Se Rights and Rules of Conduct in Federal Court

The Scope Committee had recommended approval of the recommendations regarding Pro Se Practice in Federal Courts. Motion duly made and seconded to grant such approval. Motion carried.

B. Model Environmental Policy for Illinois Law Firms

The Scope Committee had recommended that the Model Policy be approved and posted on the ISBA website. Motion duly made and seconded to grant such approval and post the policy on the ISBA website. Motion carried.

C. Affiliated Bar Associations

The Scope Committee had recommended that the affiliated bar status be granted to the Bureau County, Chinese American and Washington County Bar Associations. Motion duly made and seconded to grant such approval. Motion carried.

Chair Felice also provided a status report on other matters reviewed by the Scope Committee which did not require Board action at that point.

10. Professional Ethics Opinions

General Counsel Northrup presented three Professional Conduct Advisory Opinions for the Board's consideration.

A. Opinion 13-01 (Fees and Expenses, Court Obligations) – Motion duly made and seconded to approve the opinion as submitted. Motion carried.

- B. Opinion 13-02 (Arbitration and Mediation, Conflict of Interest and Multiple Representation) – Motion duly made and seconded to approve the opinion subject to reformatting the opinion. Motion carried.
- C. Opinion 13-03 (Arbitration and Mediation; and Unauthorized Practice of Law) – Motion duly made and seconded to approve the opinion with the deletion of Footnote #2. Motion carried.

12. Executive Director’s Report

Executive Director Craghead provided a report that compared member professional concerns and popular member service programs in 1975 to those of the present.

He also reported on the usage of the new member benefit program, Free Online CLE, during its first two weeks of existence. There were 450 orders totaling 660 hours of credit.

13. Assembly

Colleen McLaughlin, Chair of the ISBA Assembly Agenda and Program Committee, provided a report on the responsibilities and procedures of the Committee.

78. Legislation

Director of Legislative Affairs Covington presented Legislation Proposal 98-4 (Police Officer Safety and Preserve Evidence) as proposed by the Traffic Laws Section Council. The Board discussed the merits of the legislation. Some concerns were raised, including attendant costs that the legislation would impose on municipalities, whether the legislation is consistent with state police practices and whether the legislation affords unreasonable flexibility for the actions of police officers. Motion duly made and seconded to refer the legislative proposal back to the Traffic Laws Section Council and Local Government Law Section Council with the request that the legislation be revised to address the issues raised by the Board. Motion carried.

131. American Bar Association

Past President Locallo, who also serves on the Executive Council of the National Conference of Bar Presidents, reported on the purpose and activities of NCBP. He indicated that the organization was a valuable resource for bar leaders.

President Thies provided a preview of the upcoming ABA Midyear Meeting.

133. Illinois Bar Foundation

The President of the Illinois Bar Foundation had requested that the Board approve recommendations for appointments to the IBF Board. Motion duly made, seconded and carried to approve the appointments to the IBF Board:

- A. First District – Jeff Patton and Sharon Eiseman, both of Chicago
- B. Second District – Susan Brazas, Rockford

C. Fourth District – Donald Tracy, Springfield

Information Agenda

2. Calendar

The Board received a copy of the 2012 – 13 Board meeting schedule.

133. Illinois Bar Foundation

The Board received information regarding the IBF Lawyers Rock Legends, an event scheduled for February 28, 2013.

Respectfully submitted,

John L. Nisivaco, Secretary

John E. Thies, President

Board of Governors

March 8, 2013

Agenda Item 5A
Budget - Operating Statements

**ILLINOIS STATE BAR ASSOCIATION
OPERATING STATEMENT AND BUDGET FOR
THE PERIOD OF JULY 1, 2012 THRU JANUARY 31, 2013**

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
Income	\$7,214,183	\$7,348,538	(\$134,355)	\$8,250,000
Expenses:				
Administrative	\$3,120,886	\$3,194,012	\$73,126	\$5,598,000
Publications	181,410	182,131	721	307,000
General Meetings and Travel	213,812	211,920	(1,892)	569,500
Program Expenses	790,296	751,148	(39,148)	1,292,500
Committee Expenses	92,297	98,107	5,810	233,000
Section Expense	116,692	148,617	31,925	358,000
Expense Subtotal	<u>\$4,515,393</u>	<u>\$4,585,935</u>	<u>\$70,542</u>	<u>\$8,358,000</u>
Extra Budgetary Authorizations:				
Future of the Courts Conference	\$0	\$0	\$0	\$10,000
Statewide Judicial Advertising Expense	6,325	6,325	0	8,200
TOTAL EXPENSE	<u>\$4,521,718</u>	<u>\$4,592,260</u>	<u>\$70,542</u>	<u>\$8,376,200</u>
Net Operating Surplus (Deficit)	<u>\$2,692,465</u>	<u>\$2,756,278</u>	<u>(\$63,813)</u>	<u>(\$126,200)</u>
Market Gain (Loss) on Long-Term Investments	\$283,789			
Net Surplus (Deficit)	<u>\$2,976,254</u>			

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
<u>INCOME</u>				
Membership Dues	\$5,553,606	\$5,610,000	(\$56,394)	\$5,750,000
Membership Campaign	13,705	13,705	0	50,000
Section Fees	425,473	437,489	(12,016)	445,000
IBJ Advertising	174,382	158,000	16,382	270,000
IBJ Subscriptions	4,060	4,060	0	13,000
Illinois Lawyer Now Advertising	12,874	12,874	0	24,000
Newsletter Advertising	21,271	21,271	0	36,000
Internet Advertising	29,659	16,400	13,259	34,000
Ill. Compiled Statutes	31,248	32,000	(752)	32,000
Ill. Courts Bulletin	9,080	10,600	(1,520)	17,000
Other Publications	779	2,400	(1,621)	4,000
Book Publications	75,034	95,000	(19,966)	150,000
Income from Investments	86,977	79,912	7,065	115,000
Lawyer Referral Fees	65,648	55,000	10,648	80,000
Public Info Material	2,005	2,005	0	3,000
Bank of America Royalties Program	41,033	41,033	0	75,000
Other Program Royalties	57,187	52,000	5,187	90,000
Other Income	1,082	1,082	0	2,000
Commercial Mailing Labels	11,075	15,099	(4,024)	24,000
CLE Programs	249,064	370,000	(120,936)	620,000
CLE Book Sales	1,768	3,500	(1,732)	8,000
CLE Electronic Sales	107,108	107,108	0	200,000
Fastcase Contribution from ISBA Mutual Insurance	90,000	90,000	0	90,000
Solo Small Firm Conference	134,835	100,000	34,835	100,000
Fred Lane's Programs	15,230	18,000	(2,770)	18,000
TOTAL	<u>\$7,214,183</u>	<u>\$7,348,538</u>	<u>(\$134,355)</u>	<u>\$8,250,000</u>

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
<u>ADMINISTRATIVE EXPENSES</u>				
Staff Salaries (Please note that \$35,000 was transferred from the Salaries Budget to the Legislation Budget pursuant to action of the ISBA Budget Committee on November 26, 2012)	\$1,884,877	\$1,946,000	\$61,123	\$3,125,000
Payroll Taxes	145,195	167,000	21,805	275,000
Indirect Payroll	194,077	220,334	26,257	577,000
Postage and Express	131,473	135,087	3,614	248,000
IT/Data Processing	72,514	72,514	0	170,000
Telephone	27,761	25,000	(2,761)	44,000
Staff Travel	55,102	45,000	(10,102)	110,000
General Office Machines	17,096	17,096	0	30,000
Paper and Envelopes	23,712	23,712	0	48,000
Utilities	56,135	52,509	(3,626)	114,000
Building Maintenance	43,634	42,436	(1,198)	80,000
Amortization & Depreciation	156,631	135,000	(21,631)	250,000
Outside Printing/Labeling	14,771	5,034	(9,737)	6,000
Pressroom	26,900	31,297	4,397	64,000
Mailroom	4,255	6,000	1,745	17,000
Insurance	63,265	54,562	(8,703)	70,000
Office Exp., Supplies, Library	30,374	28,094	(2,280)	42,000
Credit Card and Bank Service Charges	47,504	42,139	(5,365)	81,000
Election Expenses	0	0	0	17,000
Bar Center Taxes	24,035	24,035	0	48,000
Auditors	29,000	29,000	0	29,000
Legal Service	5,164	5,164	0	8,000
Chicago Office Expense	67,411	87,000	19,589	145,000
TOTAL	\$3,120,886	\$3,194,012	\$73,126	\$5,598,000

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
<u>PUBLICATIONS</u>				
Bar Journal	\$108,158	\$123,460	\$15,302	\$207,000
Unrelated Income Tax	20,271	5,000	(15,271)	10,000
Illinois Lawyer Now	12,140	12,140	0	23,000
E-Clips	15,900	15,000	(900)	27,000
Other Publications	1,410	3,000	1,590	5,000
Book Publications	23,531	23,531	0	35,000
TOTAL	<u>\$181,410</u>	<u>\$182,131</u>	<u>\$721</u>	<u>\$307,000</u>
<u>GENERAL MEETINGS and TRAVEL</u>				
Officers and Board	\$95,738	\$95,738	\$0	\$210,000
Officer Stipends	17,500	17,500	0	30,000
ABA Meetings	28,458	25,000	(3,458)	45,000
Annual Meeting	1,239	1,239	0	70,000
Midyear Meeting	5,943	5,943	0	90,000
Other	0	0	0	2,000
Admission Ceremonies	6,799	5,500	(1,299)	9,500
Assembly	39,607	50,000	10,393	97,000
Newsletter Editors Conference	0	0	0	1,000
Senior Counsellor Ceremonies	8,488	5,000	(3,488)	5,000
Regional Member Events	0	0	0	4,000
Great Rivers Conference	10,040	6,000	(4,040)	6,000
Washington, D.C. Admission Ceremony	0	0	0	0
TOTAL	<u>\$213,812</u>	<u>\$211,920</u>	<u>(\$1,892)</u>	<u>\$569,500</u>

PROGRAM EXPENSES	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
Academy of Illinois Lawyers	\$0	\$0	\$0	\$2,000
Affiliated Bar Association Grants	1,700	1,700	0	5,000
Allerton House Conference	0	0	0	0
Bar Leadership Conference	0	0	0	6,000
CLE Program Expense	159,697	159,697	0	400,000
ISBA Website and Internet Services	9,635	14,000	4,365	25,000
Judicial Evaluations Cook	1,727	1,727	0	5,000
Judicial Evaluations Downstate	4,133	4,000	(133)	4,000
Law School Programs	1,514	1,514	0	5,000
Lawyer Referral Service	12,915	12,915	0	15,000
LRE Mock Trial	0	0	0	0
Legislation Other (Please note that \$35,000 was transferred from the Salaries Budget to the Legislation Budget pursuant to action of the ISBA Budget Committee on November 26, 2012)	19,836	19,836	0	62,500
Membership & Marketing	14,355	14,355	0	30,000
Membership-Free CLE	4,385	0	(4,385)	0
Membership Publications	8,095	8,095	0	15,000
Membership Advertising	21,765	21,765	0	45,000
Fastcase Online Caselaw	119,996	125,000	5,004	125,000
Public Relations Other	19,700	16,000	(3,700)	33,000
Race Judicata Sponsorship	1,200	1,000	(200)	1,000
Cable TV Productions	12,565	12,565	0	23,000
Public Relations Consultant	41,790	40,537	(1,253)	70,000
Strategic Marketing Campaign	192,450	192,450	0	300,000
Solo and Small Firm Conference	138,846	100,000	(38,846)	100,000
Unauthorized Practice of Law	299	299	0	10,000
Young Lawyers Division	3,693	3,693	0	11,000
TOTAL	\$790,296	\$751,148	(\$39,148)	\$1,292,500

COMMITTEE EXPENSES	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
AR & DC Committee	\$1,639	\$1,639	\$0	\$4,000
Bar Services and Activities Committee	3,300	6,500	3,200	14,000
Budget & Audit	685	685	0	1,500
CLE Programs Committee	9,288	9,288	0	16,000
Corrections and Sentencing	3,274	1,394	(1,880)	5,500
Delivery of Legal Services	3,483	2,671	(812)	6,000
Disability Law Committee	4,540	2,500	(2,040)	5,000
Education, Admission & Competence	0	0	0	2,500
Government Lawyers Committee	2,156	2,156	0	4,000
IBJ Editorial Board	1,902	1,902	0	6,500
Investment Committee	91	91	0	500
J. A. Polls Committee	3,303	3,962	659	8,000
Judicial Evaluations Committee-Outside Cook	2,532	2,532	0	15,000
Judicial Evaluations-Cook	770	1,000	230	3,000
Law Office Management and Economics	2,280	2,681	401	6,000
Law School Committee	2,233	2,233	0	6,500
Law Related Education for the Public	2,238	2,238	0	6,500
Legal Technology	1,132	1,132	0	7,000
Legislation Committee	169	532	363	4,000
Mental Health	5,970	4,500	(1,470)	10,500
Mentoring Committee	0	0	0	2,500
Military Affairs	1,500	1,500	0	4,000
Racial & Ethnic Minorities and the Law	1,584	3,000	1,416	7,000
Other Committee Expense	778	778	0	2,000
Professional Conduct	4,834	3,483	(1,351)	6,000

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
<u>COMMITTEE EXP. CONTINUED</u>				
Public Relations	\$2,959	\$2,959	\$0	\$7,000
Scope & Correlation	0	0	0	500
Sexual Orientation and Gender Identity	4,277	5,000	723	10,500
Strategic Marketing for ISBA Members	2,540	2,540	0	5,500
Supreme Court Rules	0	0	0	500
Task Force on IL Lawyer Finder	0	0	0	3,000
Tone and Conduct Committee	0	0	0	500
Women and the Law Committee	2,096	2,096	0	6,000
Unauthorized Practice of Law	1,192	1,192	0	4,000
Diversity Leadership Council	3,924	3,924	0	10,000
Diversity Pipeline Committee	0	0	0	2,500
Special Committee on Solo Small Firm Conf.	0	0	0	500
S. C. on Lawyers Feeding Illinois	8,111	3,000	(5,111)	5,000
S. C. on Fair and Impartial Courts	2,878	7,000	4,122	10,000
S. C. on Impact of Law School Debt	3,752	7,500	3,748	9,000
S. C. on Recusal	887	4,500	3,613	5,000
TOTAL COMMITTEE EXPENSES	<u>\$92,297</u>	<u>\$98,107</u>	<u>\$5,810</u>	<u>\$233,000</u>

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
<u>SECTION EXPENSES</u>				
Administrative Law	\$1,276	\$750	(\$526)	\$3,500
Agricultural Law	5,961	5,961	0	13,500
Alternative Dispute Resolution	5,107	2,662	(2,445)	8,000
Animal Law	2,081	3,000	919	5,500
Antitrust & Unfair Competition Law	886	499	(387)	1,000
Bench & Bar	4,082	5,500	1,418	12,000
Bus. Advice & Fin. Planning	2,170	2,170	0	5,000
Business & Securities Law	584	2,622	2,038	6,500
Child Law	2,281	959	(1,322)	4,000
Civil Practice & Procedure	4,421	7,500	3,079	17,000
Commercial Banking & Bankruptcy	4,465	5,500	1,035	12,000
Construction Law	1,466	2,000	534	4,500
Corporate Law Department	1,495	2,000	505	5,000
Criminal Justice	4,318	7,000	2,682	14,500
Education Law	1,755	1,755	0	6,000
Elder Law	3,302	8,343	5,041	19,000
Employee Benefits	261	1,252	991	4,500
Energy, Utilities, Telecommunications, and Transportation	300	1,000	700	2,500
Environmental Law	5,663	2,825	(2,838)	8,500
Family Law	8,024	12,000	3,976	29,000
Federal Practice	2,257	2,500	243	6,000
Federal Taxation	1,838	3,000	1,162	7,500
General Practice Solo & Small Firm	4,092	4,092	0	9,000
Health Care	4,834	4,834	0	12,500
Human Rights	2,936	5,000	2,064	10,500
Insurance Law	1,747	2,402	655	4,500

	ACTUAL JANUARY 2013	BUDGET JANUARY 2013	BUDGET DIFFERENCE	BUDGET 2012/2013
<u>SECTION EXP. CONTINUED</u>				
Intellectual Property	\$1,564	\$1,564	\$0	\$3,000
International & Immigraton Law	221	1,500	1,279	4,000
Labor and Employment Law	3,258	3,258	0	7,000
Local Government	3,509	4,000	491	9,500
Mineral Law	2,068	3,000	932	5,500
Other	0	0	0	1,000
Real Estate Law	3,616	8,000	4,384	20,000
Senior Lawyers	5,969	3,500	(2,469)	7,500
State and Local Taxation	757	2,000	1,243	5,000
Tort Law	4,402	5,500	1,098	14,000
Traffic Laws and Courts	2,383	4,000	1,617	7,000
Trusts and Estates	2,978	4,128	1,150	12,000
Workers' Compensation	2,654	5,330	2,676	14,000
Young Lawyers Council	5,711	5,711	0	17,000
TOTAL SECTION EXPENSE	<u>\$116,692</u>	<u>\$148,617</u>	<u>\$31,925</u>	<u>\$358,000</u>

ILLINOIS STATE BAR ASSOCIATION
COMPARATIVE BALANCE SHEET

	January 31, 2013	January 31, 2012
Current Assets:		
Cash and Petty Cash	\$271,397	\$531,449
Certificates of Deposit	861,384	1,057,420
Money Market Investments	1,536,383	794,366
Accounts Receivable	59,510	75,562
Accrued Interest Receivable	127	14
Prepaid Expenses & Other Assets	70,291	141,635
Total Current Assets	<u>\$2,799,092</u>	<u>\$2,600,446</u>
Long Term Assets:		
Investments	\$3,781,647	\$3,852,158
Fixed Assets:		
Cost (Net of Depreciation)	\$2,605,473	\$2,609,313
Total Assets	<u><u>\$9,186,212</u></u>	<u><u>\$9,061,917</u></u>
Current Liabilities:		
Accounts Payable	\$440,264	\$379,219
ICB & LRS Deferred Income	20,292	21,461
Dues & Section Deferred Income	30,208	21,321
Other Deferred Income	81,541	135,854
Deferred Rent	190,890	93,768
Total Current Liab.	<u>\$763,195</u>	<u>\$651,623</u>
Designated Fund Balance		
Building Expansion Fund	\$1,448,924	\$1,448,924
Building Maintenance Fund	33,168	33,168
General Contingency Fund	858,700	858,700
Total Designated Fund Balance	<u>\$2,340,792</u>	<u>\$2,340,792</u>
Undesignated Fund Balance	\$6,082,225	\$6,069,502
Total Liabilities and Fund Balance	<u><u>\$9,186,212</u></u>	<u><u>\$9,061,917</u></u>

INVESTMENTS AS OF 1/31/2013
ILLINOIS STATE BAR ASSOCIATION

INSTITUTION	PURCHASE DATE	MATURITY DATE	INTEREST RATE	AMOUNT
GE CAPITAL RETAIL BANK DRAPER, UT	8/3/2012	3/4/2013	0.35	150,000
EVERBANK ISLANDIA, NY	5/28/2012	5/28/2013	0.75	106,309
NEXITY BANK/ALOSTAR BIRMINGHAM, AL	6/21/2012	6/21/2013	0.30	203,902
SECURITY BANK SPRINGFIELD, IL	6/24/2012	6/24/2013	0.70	201,173
DISCOVER BANK GREENWOOD, DE	8/1/2012	8/1/2013	0.55	200,000
FIDELITY INVESTMENT (Sweep Account)			0.01	0
CENTENNIAL BANK			0.65	249,552
BANK OF SPRINGFIELD			0.35	244,166
TRISTATE CAPITAL BANK			0.45	249,311
GOLDWATER BANK			0.58	203,488
INTERVEST NATIONAL BANK			0.43	5,396
BANK OF AMERICA			0.08	9,220
SECURITY BANK			0.25	28,323
EDWARD JONES			0.01	5,221
MERRILL LYNCH			0.01	4,983
NATIONWIDE BANK			0.30	24,270
MARINE BANK			0.20	10,723
CARROLLTON BANK			0.37	101,104
AIG BANK			0.79	200,342
STATE FARM BANK			0.70	200,284

Board of Governors

March 8, 2013

Agenda Item 78
Legislation



ILLINOIS STATE
BAR ASSOCIATION

MEMORANDUM

To: ISBA Board of Governors

From: Jim Covington

In re: ISBA Legislative Proposal No. 98-4 (House Bill 3202)

Date: February 28, 2013

This is a follow-up from the January Board meeting. Traffic Laws Section Council had requested that you approve their legislative proposal No. 98-4. It expands current Illinois law to require that traffic enforcement stops be audio and video recorded. Under current law, the Illinois State Police are required to do this recording, but it is discretionary with other law enforcement agencies.

At the January Board meeting, several governors questioned the clarity of the proposal. For example, when the recording should start and whether it was good policy to have two different statutes on the same subject. It was asked that the bill be rewritten to address those concerns. Traffic has done that by simply copying the current ISP statute but make it applicable to all other law enforcement agencies to resolve those concerns.

Attached is a position paper in support, Traffic Laws' initial supporting memo, the current ISP statute, and a copy of the bill.

Please don't hesitate to call me if you have any questions. Larry Davis at (847) 390-8500 and David Franks at (847) 854-7700 are also available to answer any questions that you may have before your meeting.

Thank you

House Bill 3202

Protect Officer Safety and Preserve Evidence

Under current Illinois law, a law enforcement officer may audio and video record events at an “enforcement stop” of a citizen in a police vehicle, or while using a taser or similar weapon.¹ These exemptions to the eavesdropping law were added in 2009 as a tool for law enforcement but to protect citizens as well.²

Since 2008 Illinois State Police officers have been **required** to audio and video record events **outside** the patrol vehicle while conducting an enforcement stop, when the patrol vehicle’s emergency lights are activated or would be activated except for the need to conceal the officer’s presence, or whenever an officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose.³

ISP officers must also record activities **inside** the vehicle when transporting an arrestee or when an officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose.

House Bill 3202 builds on both of these existing eavesdropping exemptions by simply expanding the ISP statute to require all law enforcement officers to do this—not just ISP officers. To preserve evidence at trial, it also includes recording any field sobriety tests, including the administration of a portable breath test, if the arrestee is charged with driving under the influence of alcohol or a similar provision under municipal law. Modeled after the Illinois ISP statute and a similar South Carolina statute,⁴ it has resulted in fewer trials and narrows the issues of those cases that do go to trial.

The General Assembly has already created a revenue stream for any new equipment that may be needed by this proposal—if it hasn’t already been purchased. Current law already requires the assessment of \$750 against any defendant who is convicted or receives supervision for DUI. The arresting law enforcement agency receives \$350 of this amount and \$400 goes to the State Police DUI Fund. These funds are required to be used for the enforcement and prevention of DUI crimes including the purchase of equipment to do so.⁵

¹ 720 ILCS 5/14-3(h), (h-5), (h-10).

² Rep. Lisa Dugan, sponsor of PA 96-670, during floor debate.

³ 20 ILCS 2610/30.

⁴ Section 56-5-2953. Incident site and breath test site video recording.

⁵ 625 ILCS 5/11-501.01(f)(g).

LEGISLATIVE PROPOSAL INFORMATION SHEET
98th GENERAL ASSEMBLY

TO: ISBA Section Council and Committee Chairs
FROM: Jim Covington
RE: Proposals for 2012-2013 ISBA Legislative Program

5. Briefly state the background and history of this proposal.

The impetus for this proposed legislation has been the State's failure to preserve evidence, particularly with respect to Driving Under the Influence investigations and arrests, defeating a Defendant's right to discovery and denying Defendant due process and equal protection of law. 20 ILCS 2610/30 addresses this issue by requiring the Illinois State Police to video and audio record contact with motorists. This Statute, however, imposes this duty only on the Illinois State Police. A review of case law reveals that the Courts have fashioned sanctions for the State's discovery violations, i.e., failing to preserve audio and video recordings when the State has been required to produce these media pursuant to a *subpoena duces tecum*, Rule 237 Request, or Order to Sequester and Preserve.

Courts have ruled that barring the Arresting Officer(s) from testifying about the events which should have been recorded, or which were recorded and subsequently lost or destroyed, would be an appropriate sanction proportionate to the violation. *People v. Kladis*, 960 N.E.2d 1104, 355 Ill.Dec. 933; *People v. Koutsakis*, 255 Ill.App.3d 306, 194 Ill.Dec. 272 (3rd Dist. 1993); *People v. Johns*, 336 Ill.App.3d 682, 271 Ill.Dec. 144 (1st Dist. 2002); *People v. Petty*, 311 Ill.App.3d 301, 244 Ill.Dec. 171 (2nd Dist. 2000); *People v. Camp*, 352 Ill.App.3d 257, 287 Ill.Dec. 336 (2nd Dist. 2004); *People v. Schambow*, 305 Ill.App.3d 763, 239 Ill.Dec. 525 (2nd Dist. 1999); *People v. Aronson*, 947 N.E.2d 325, 2011 Ill.App. LEXIS 227 (2nd Dist. 2011).

This proposed legislation addresses the issue of discovery violations, furthers the truth-seeking process, facilitates the flow of cases, and furthers the spirit and intent of both the Supreme Court's decision in *Kladis* and 20 ILCS 2610/30 by requiring all law enforcement agencies to

equip all squad cars and all evidentiary breathalyzer test sites with video and audio recording equipment, and requiring all law enforcement agencies to video/audio record, in their entirety, all DUI investigations and arrests.

In *Kladis* the Supreme Court concluded that “the routine video recording of traffic stops has now become an integral part of those encounters, objectively documenting what takes place by capturing the conduct and the words of both parties”. The Supreme Court held that this “important and relevant evidence” falls within the scope of materials held to be discoverable in *Schmidt*.

In *Kladis*, the Supreme Court held that the video recording:

.....is relevant and admissible evidence because it reveals what transpired during the traffic stop which serves to further the truth-seeking function at trial. **This evidence may be helpful to both the defendant and the State.** Indeed, the flow of cases actually going to trial may be eased upon allowing defendants and their counsel to review these recordings: those which reflect events favorable to the State may result in defendants willing to enter pleas which they otherwise may not have contemplated. This also advances the purpose of our DUI statutes to ensure that our roads remain safe from impaired drivers.
(Emphasis Added)

This proposed legislation creates an affirmative duty, on the part of law enforcement agencies, to create and maintain this vital component of discovery. This proposed legislation assists law enforcement agencies by creating a statutory duty to create and preserve this vital discovery, which will help law enforcement agencies to avoid the types of sanctions provided for in *Kladis*, i.e. barring the Arresting Officer(s) from testifying about the events which should have been recorded, or which were recorded and subsequently lost or destroyed.

(20 ILCS 2610/30)

Sec. 30. Patrol vehicles with in-car video recording cameras.

(a) Definitions. As used in this Section:

"Audio recording" means the recorded conversation between an officer and a second party.

"Emergency lights" means oscillating, rotating, or flashing lights on patrol vehicles.

"In-car video camera" means a video camera located in a Department patrol vehicle.

"In-car video camera recording equipment" means a video camera recording system located in a Department patrol vehicle consisting of a camera assembly, recording mechanism, and an in-car video recording medium.

"Enforcement stop" means an action by an officer of the Department in relation to enforcement and investigation duties, including but not limited to, traffic stops, pedestrian stops, abandoned vehicle contacts, motorist assists, commercial motor vehicle stops, roadside safety checks, requests for identification, or responses to requests for emergency assistance.

"Recording" means the process of capturing data or information stored on a recording medium as required under this Section.

"Recording medium" means any recording medium authorized by the Department for the retention and playback of recorded audio and video including, but not limited to, VHS, DVD, hard drive, solid state, digital, or flash memory technology.

"Wireless microphone" means a device worn by the officer or any other equipment used to record conversations between the officer and a second party and transmitted to the recording equipment.

(b) By June 1, 2009, the Department shall install in-car video camera recording equipment in all patrol vehicles. Subject to appropriation, all patrol vehicles shall be equipped with in-car video camera recording equipment with a recording medium capable of recording for a period of 10 hours or more by June 1, 2011. In-car video camera recording equipment shall be capable of making audio recordings with the assistance of a wireless microphone.

(c) As of the effective date of this amendatory Act of the 95th General Assembly, in-car video camera recording equipment with a recording medium incapable of recording for a period of 10 hours or more shall record activities outside a patrol vehicle whenever (i) an officer assigned a patrol vehicle is conducting an enforcement stop; (ii) patrol vehicle emergency lights are activated or would otherwise be activated if not for the need to conceal the presence of law enforcement; or (iii) an officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose. As of the effective date of this amendatory Act of the 95th General Assembly, in-car video camera recording equipment with a recording medium incapable of recording for a period of 10 hours or more shall record activities inside the

vehicle when transporting an arrestee or when an officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose.

(1) Recording for an enforcement stop shall begin when the officer determines an enforcement stop is necessary and shall continue until the enforcement action has been completed and the subject of the enforcement stop or the officer has left the scene.

(2) Recording shall begin when patrol vehicle emergency lights are activated or when they would otherwise be activated if not for the need to conceal the presence of law enforcement, and shall continue until the reason for the activation ceases to exist, regardless of whether the emergency lights are no longer activated.

(3) An officer may begin recording if the officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose; and shall continue until the reason for recording ceases to exist.

(d) In-car video camera recording equipment with a recording medium capable of recording for a period of 10 hours or more shall record activities whenever a patrol vehicle is assigned to patrol duty.

(e) Any enforcement stop resulting from a suspected violation of the Illinois Vehicle Code shall be video and audio recorded. Audio recording shall terminate upon release of the violator and prior to initiating a separate criminal investigation.

(f) Recordings made on in-car video camera recording medium shall be retained by the Department for a storage period of at least 90 days. Under no circumstances shall any recording made on in-car video camera recording medium be altered or erased prior to the expiration of the designated storage period. Upon completion of the storage period, the recording medium may be erased and reissued for operational use unless otherwise ordered by the District Commander or his or her designee or by a court, or if designated for evidentiary or training purposes.

(g) Audio or video recordings made pursuant to this Section shall be available under the applicable provisions of the Freedom of Information Act. Only recorded portions of the audio recording or video recording medium applicable to the request will be available for inspection or copying.

(h) The Department shall ensure proper care and maintenance of in-car video camera recording equipment and recording medium. An officer operating a patrol vehicle must immediately document and notify the District Commander or his or her designee of any technical difficulties, failures, or problems with the in-car video camera recording equipment or recording medium. Upon receiving notice, the District Commander or his or her designee shall make every reasonable effort to correct and repair any of the in-car video camera recording equipment or recording medium and determine if it is in the public interest to permit the use of the patrol vehicle.

(i) The Department may promulgate rules to implement this amendatory Act of the 95th General Assembly only to the extent necessary to apply the existing rules or applicable internal directives.

(Source: P.A. 95-1009, eff. 12-15-08.)

HB3202



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3202

by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-501.9 new
720 ILCS 5/14-3

Amends the Illinois Vehicle Code. Requires all law enforcement patrol vehicles to be equipped with video recording equipment by July 1, 2014. This equipment must be capable of recording at least 10 hours of video footage and recording sound with the use of a wireless microphone. Patrol vehicles with in-car cameras are required to record when (1) the officer determines an enforcement stop is necessary and shall continue until the enforcement action has been completed, provided that the recording shall include any field sobriety tests administered during a DUI stop, including the administration of a portable breath test; (2) the patrol vehicle emergency lights are activated or when they would otherwise be activated if not for the need to conceal the presence of law enforcement, and shall continue until the reason for the activation ceases to exist, regardless of whether the emergency lights are no longer activated and, in the event of an arrest may not conclude before the subject is transported and leaves the vehicle; (3) the officer reasonably believes recording may assist with prosecution, enhance safety, or for any other lawful purpose and shall continue until the reason for recording ceases to exist. Requires audio and visual recordings of all Illinois Vehicle Code related stops. For DUI related stops, requires video recording of any observation periods, test refusal, and test administration, including those not conducted at the scene of the stop. Requires officers to report any equipment malfunction. Makes any video recording made under this Section subject to the Freedom of Information Act and subpoenas, but allows the department to charge a \$25 fee for compliance with any video production request for the purpose of recouping administrative costs. Effective July 1, 2014.

LRB098 09259 MLW 39398 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by adding
5 Section 11-501.9 as follows:

6 (625 ILCS 5/11-501.9 new)

7 Sec. 11-501.9. Audio and video recording.

8 (a) Definitions. As used in this Section:

9 "Audio recording" means the recorded conversation
10 between an officer and a second party.

11 "Emergency lights" means oscillating, rotating, or
12 flashing lights on patrol vehicles.

13 "Enforcement stop" means an action by a law enforcement
14 officer in relation to enforcement and investigation
15 duties, including but not limited to, traffic stops,
16 pedestrian stops, abandoned vehicle contacts, motorist
17 assists, commercial motor vehicle stops, roadside safety
18 checks, requests for identification, or responses to
19 requests for emergency assistance.

20 "In-car video camera" means a video camera located in a
21 law enforcement patrol vehicle.

22 "In-car video camera recording equipment" means a
23 video camera recording system located in a law enforcement

1 patrol vehicle consisting of a camera assembly, recording
2 mechanism, and an in-car video recording medium.

3 "Recording" means the process of capturing data or
4 information stored on a recording medium to include both
5 audio and video as required under this Section.

6 "Recording medium" means any recording medium
7 authorized by a law enforcement agency for the retention
8 and playback of recorded audio and video including, but not
9 limited to, VHS, DVD, hard drive, solid state, digital, or
10 flash memory technology.

11 "Wireless microphone" means a device worn by the
12 officer or any other equipment used to record conversations
13 between the officer and a second party and transmitted to
14 the recording equipment.

15 (b) By July 1, 2014, all law enforcement agencies shall
16 install in-car video camera recording equipment in all patrol
17 vehicles. All patrol vehicles shall be equipped with in-car
18 video camera recording equipment with a recording medium
19 capable of recording for a period of 10 hours or more. In-car
20 video camera recording equipment shall be capable of making
21 audio recordings with the assistance of a wireless microphone.

22 (c) In-car video camera recording equipment with a
23 recording medium shall record activities outside a patrol
24 vehicle in the following circumstances:

25 (1) Recording for an enforcement stop shall begin when
26 the officer determines an enforcement stop is necessary and

1 shall continue until the enforcement action has been
2 completed, provided that, in the event the enforcement stop
3 involves an investigation for a violation of 625 ILCS
4 5/11-501 or a similar provision of a local ordinance, the
5 recording shall include any field sobriety tests
6 administered, including the administration of a portable
7 breath test pursuant to 625 ILCS 5/11-501.5.

8 (2) Recording shall begin when patrol vehicle
9 emergency lights are activated or when they would otherwise
10 be activated if not for the need to conceal the presence of
11 law enforcement, and shall continue until the reason for
12 the activation ceases to exist, regardless of whether the
13 emergency lights are no longer activated and, in the event
14 of an arrest may not conclude before the subject is
15 transported and leaves the vehicle.

16 (3) An officer may also begin recording if the officer
17 reasonably believes recording may assist with prosecution,
18 enhance safety, or for any other lawful purpose; and shall
19 continue until the reason for recording ceases to exist.

20 In-car video camera recording equipment with a recording
21 medium shall record activities inside the vehicle when
22 transporting an arrestee or when an officer reasonably believes
23 recording may assist with prosecution, enhance safety, or for
24 any other lawful purpose.

25 (d) In-car video camera recording equipment with a
26 recording medium capable of recording for a period of 10 hours

1 or more shall record activities whenever a patrol vehicle is
2 assigned to patrol duty.

3 (e) Any enforcement stop resulting from a suspected
4 violation of the Illinois Vehicle Code shall be video and audio
5 recorded. Audio recording shall terminate upon release of the
6 violator.

7 (f) In the event the subject of the enforcement stop is
8 charged with a violation of 625 ILCS 5/11-501 or a similar
9 provision of a local ordinance, the law enforcement agency
10 shall video and audio record the administration of the warning
11 to motorist pursuant to 625 ILCS 5/11-501.1, the 20-minute
12 observation period before the administration of any breath test
13 and the administration of a breath test pursuant to 625 ILCS
14 5/11-501.2 or the person's refusal submit to testing.

15 (g) Recordings shall be retained by the law enforcement
16 agency for a storage period of at least 90 days. Under no
17 circumstances shall any recording be altered or erased prior to
18 the expiration of the designated storage period. Upon
19 completion of the storage period, the recording medium may be
20 erased and reissued for operational use unless otherwise
21 ordered by the supervisor his or her designee or by a court, or
22 if designated for evidentiary or training purposes. Provided
23 that, in the event that the enforcement stop results in an
24 arrest for violation of 625 ILCS 5/11-501 or a similar
25 provision of a local ordinance, all recordings required
26 hereunder shall be retained until such time as the criminal

1 proceedings have terminated or as otherwise required by court
2 order, whichever is longer.

3 (h) Audio or video recordings made pursuant to this Section
4 shall be available under the applicable provisions of the
5 Freedom of Information Act. Only recorded portions of the audio
6 recording or video recording medium applicable to the request
7 will be available for inspection or copying. Such recordings
8 shall also be subject to subpoena where the law enforcement
9 stop has resulted in the filing of a criminal complaint.

10 The law enforcement agency shall ensure proper care and
11 maintenance of in-car video camera recording equipment and
12 recording medium and breath site video recording equipment and
13 recording medium as provided in paragraph (f) above. An officer
14 operating a patrol vehicle must immediately document and notify
15 a supervisor or his or her designee of any technical
16 difficulties, failures, or problems with the in-car video
17 camera recording equipment or recording medium or breath site
18 video recording equipment and recording medium. Upon receiving
19 notice, the supervisor or his or her designee shall make every
20 reasonable effort to correct and repair any of the and further,
21 determine if it is in the public interest to permit the use of
22 the patrol vehicle or breath test equipment.

23 (i) The law enforcement agency may assess the person
24 requesting any recording made hereunder a fee not to exceed
25 \$25.00 to recover the reasonable costs associated with
26 complying with the costs associated with complying with this

1 Section. Such fee may be waived where the requesting party is
2 found to be indigent by the Court.

3 (j) The Department of State Police may promulgate rules to
4 implement this Act.

5 Section 10. The Criminal Code of 2012 is amended by
6 changing Section 14-3 as follows:

7 (720 ILCS 5/14-3)

8 Sec. 14-3. Exemptions. The following activities shall be
9 exempt from the provisions of this Article:

10 (a) Listening to radio, wireless and television
11 communications of any sort where the same are publicly made;

12 (b) Hearing conversation when heard by employees of any
13 common carrier by wire incidental to the normal course of their
14 employment in the operation, maintenance or repair of the
15 equipment of such common carrier by wire so long as no
16 information obtained thereby is used or divulged by the hearer;

17 (c) Any broadcast by radio, television or otherwise whether
18 it be a broadcast or recorded for the purpose of later
19 broadcasts of any function where the public is in attendance
20 and the conversations are overheard incidental to the main
21 purpose for which such broadcasts are then being made;

22 (d) Recording or listening with the aid of any device to
23 any emergency communication made in the normal course of
24 operations by any federal, state or local law enforcement

1 agency or institutions dealing in emergency services,
2 including, but not limited to, hospitals, clinics, ambulance
3 services, fire fighting agencies, any public utility,
4 emergency repair facility, civilian defense establishment or
5 military installation;

6 (e) Recording the proceedings of any meeting required to be
7 open by the Open Meetings Act, as amended;

8 (f) Recording or listening with the aid of any device to
9 incoming telephone calls of phone lines publicly listed or
10 advertised as consumer "hotlines" by manufacturers or
11 retailers of food and drug products. Such recordings must be
12 destroyed, erased or turned over to local law enforcement
13 authorities within 24 hours from the time of such recording and
14 shall not be otherwise disseminated. Failure on the part of the
15 individual or business operating any such recording or
16 listening device to comply with the requirements of this
17 subsection shall eliminate any civil or criminal immunity
18 conferred upon that individual or business by the operation of
19 this Section;

20 (g) With prior notification to the State's Attorney of the
21 county in which it is to occur, recording or listening with the
22 aid of any device to any conversation where a law enforcement
23 officer, or any person acting at the direction of law
24 enforcement, is a party to the conversation and has consented
25 to it being intercepted or recorded under circumstances where
26 the use of the device is necessary for the protection of the

1 law enforcement officer or any person acting at the direction
2 of law enforcement, in the course of an investigation of a
3 forcible felony, a felony offense of involuntary servitude,
4 involuntary sexual servitude of a minor, or trafficking in
5 persons under Section 10-9 of this Code, an offense involving
6 prostitution, solicitation of a sexual act, or pandering, a
7 felony violation of the Illinois Controlled Substances Act, a
8 felony violation of the Cannabis Control Act, a felony
9 violation of the Methamphetamine Control and Community
10 Protection Act, any "streetgang related" or "gang-related"
11 felony as those terms are defined in the Illinois Streetgang
12 Terrorism Omnibus Prevention Act, or any felony offense
13 involving any weapon listed in paragraphs (1) through (11) of
14 subsection (a) of Section 24-1 of this Code. Any recording or
15 evidence derived as the result of this exemption shall be
16 inadmissible in any proceeding, criminal, civil or
17 administrative, except (i) where a party to the conversation
18 suffers great bodily injury or is killed during such
19 conversation, or (ii) when used as direct impeachment of a
20 witness concerning matters contained in the interception or
21 recording. The Director of the Department of State Police shall
22 issue regulations as are necessary concerning the use of
23 devices, retention of tape recordings, and reports regarding
24 their use;

25 (g-5) With approval of the State's Attorney of the county
26 in which it is to occur, recording or listening with the aid of

1 any device to any conversation where a law enforcement officer,
2 or any person acting at the direction of law enforcement, is a
3 party to the conversation and has consented to it being
4 intercepted or recorded in the course of an investigation of
5 any offense defined in Article 29D of this Code. In all such
6 cases, an application for an order approving the previous or
7 continuing use of an eavesdropping device must be made within
8 48 hours of the commencement of such use. In the absence of
9 such an order, or upon its denial, any continuing use shall
10 immediately terminate. The Director of State Police shall issue
11 rules as are necessary concerning the use of devices, retention
12 of tape recordings, and reports regarding their use.

13 Any recording or evidence obtained or derived in the course
14 of an investigation of any offense defined in Article 29D of
15 this Code shall, upon motion of the State's Attorney or
16 Attorney General prosecuting any violation of Article 29D, be
17 reviewed in camera with notice to all parties present by the
18 court presiding over the criminal case, and, if ruled by the
19 court to be relevant and otherwise admissible, it shall be
20 admissible at the trial of the criminal case.

21 This subsection (g-5) is inoperative on and after January
22 1, 2005. No conversations recorded or monitored pursuant to
23 this subsection (g-5) shall be inadmissible in a court of law
24 by virtue of the repeal of this subsection (g-5) on January 1,
25 2005;

26 (g-6) With approval of the State's Attorney of the county

1 in which it is to occur, recording or listening with the aid of
2 any device to any conversation where a law enforcement officer,
3 or any person acting at the direction of law enforcement, is a
4 party to the conversation and has consented to it being
5 intercepted or recorded in the course of an investigation of
6 involuntary servitude, involuntary sexual servitude of a
7 minor, trafficking in persons, child pornography, aggravated
8 child pornography, indecent solicitation of a child, child
9 abduction, luring of a minor, sexual exploitation of a child,
10 predatory criminal sexual assault of a child, aggravated
11 criminal sexual abuse in which the victim of the offense was at
12 the time of the commission of the offense under 18 years of
13 age, criminal sexual abuse by force or threat of force in which
14 the victim of the offense was at the time of the commission of
15 the offense under 18 years of age, or aggravated criminal
16 sexual assault in which the victim of the offense was at the
17 time of the commission of the offense under 18 years of age. In
18 all such cases, an application for an order approving the
19 previous or continuing use of an eavesdropping device must be
20 made within 48 hours of the commencement of such use. In the
21 absence of such an order, or upon its denial, any continuing
22 use shall immediately terminate. The Director of State Police
23 shall issue rules as are necessary concerning the use of
24 devices, retention of recordings, and reports regarding their
25 use. Any recording or evidence obtained or derived in the
26 course of an investigation of involuntary servitude,

1 involuntary sexual servitude of a minor, trafficking in
2 persons, child pornography, aggravated child pornography,
3 indecent solicitation of a child, child abduction, luring of a
4 minor, sexual exploitation of a child, predatory criminal
5 sexual assault of a child, aggravated criminal sexual abuse in
6 which the victim of the offense was at the time of the
7 commission of the offense under 18 years of age, criminal
8 sexual abuse by force or threat of force in which the victim of
9 the offense was at the time of the commission of the offense
10 under 18 years of age, or aggravated criminal sexual assault in
11 which the victim of the offense was at the time of the
12 commission of the offense under 18 years of age shall, upon
13 motion of the State's Attorney or Attorney General prosecuting
14 any case involving involuntary servitude, involuntary sexual
15 servitude of a minor, trafficking in persons, child
16 pornography, aggravated child pornography, indecent
17 solicitation of a child, child abduction, luring of a minor,
18 sexual exploitation of a child, predatory criminal sexual
19 assault of a child, aggravated criminal sexual abuse in which
20 the victim of the offense was at the time of the commission of
21 the offense under 18 years of age, criminal sexual abuse by
22 force or threat of force in which the victim of the offense was
23 at the time of the commission of the offense under 18 years of
24 age, or aggravated criminal sexual assault in which the victim
25 of the offense was at the time of the commission of the offense
26 under 18 years of age, be reviewed in camera with notice to all

1 parties present by the court presiding over the criminal case,
2 and, if ruled by the court to be relevant and otherwise
3 admissible, it shall be admissible at the trial of the criminal
4 case. Absent such a ruling, any such recording or evidence
5 shall not be admissible at the trial of the criminal case;

6 (h) Recordings made simultaneously with the use of an
7 in-car video camera recording of an oral conversation between a
8 uniformed peace officer, who has identified his or her office,
9 and a person in the presence of the peace officer whenever (i)
10 an officer assigned a patrol vehicle is conducting an
11 enforcement stop; or (ii) patrol vehicle emergency lights are
12 activated or would otherwise be activated if not for the need
13 to conceal the presence of law enforcement.

14 For the purposes of this subsection (h), "enforcement stop"
15 means an action by a law enforcement officer in relation to
16 enforcement and investigation duties, including but not
17 limited to, traffic stops, pedestrian stops, abandoned vehicle
18 contacts, motorist assists, commercial motor vehicle stops,
19 roadside safety checks, requests for identification, or
20 responses to requests for emergency assistance;

21 (h-5) Recordings of utterances made by a person while in
22 the presence of a uniformed peace officer and while an occupant
23 of a police vehicle including, but not limited to, (i)
24 recordings made simultaneously with the use of an in-car video
25 camera and (ii) recordings made in the presence of the peace
26 officer utilizing video or audio systems, or both, authorized

1 by the law enforcement agency;

2 (h-10) Recordings made simultaneously with a video camera
3 recording during the use of a taser or similar weapon or device
4 by a peace officer if the weapon or device is equipped with
5 such camera;

6 (h-15) Recordings made under subsection (h), (h-5), ~~or~~
7 (h-10), or (h-20) shall be retained by the law enforcement
8 agency that employs the peace officer who made the recordings
9 for a storage period of 90 days, unless the recordings are made
10 as a part of an arrest or the recordings are deemed evidence in
11 any criminal, civil, or administrative proceeding and then the
12 recordings must only be destroyed upon a final disposition and
13 an order from the court. Under no circumstances shall any
14 recording be altered or erased prior to the expiration of the
15 designated storage period. Upon completion of the storage
16 period, the recording medium may be erased and reissued for
17 operational use;

18 (h-20) Recordings of activities at an evidentiary breath
19 alcohol test site made under Section 11-501.9 of the Illinois
20 Vehicle Code;

21 (i) Recording of a conversation made by or at the request
22 of a person, not a law enforcement officer or agent of a law
23 enforcement officer, who is a party to the conversation, under
24 reasonable suspicion that another party to the conversation is
25 committing, is about to commit, or has committed a criminal
26 offense against the person or a member of his or her immediate

1 household, and there is reason to believe that evidence of the
2 criminal offense may be obtained by the recording;

3 (j) The use of a telephone monitoring device by either (1)
4 a corporation or other business entity engaged in marketing or
5 opinion research or (2) a corporation or other business entity
6 engaged in telephone solicitation, as defined in this
7 subsection, to record or listen to oral telephone solicitation
8 conversations or marketing or opinion research conversations
9 by an employee of the corporation or other business entity
10 when:

11 (i) the monitoring is used for the purpose of service
12 quality control of marketing or opinion research or
13 telephone solicitation, the education or training of
14 employees or contractors engaged in marketing or opinion
15 research or telephone solicitation, or internal research
16 related to marketing or opinion research or telephone
17 solicitation; and

18 (ii) the monitoring is used with the consent of at
19 least one person who is an active party to the marketing or
20 opinion research conversation or telephone solicitation
21 conversation being monitored.

22 No communication or conversation or any part, portion, or
23 aspect of the communication or conversation made, acquired, or
24 obtained, directly or indirectly, under this exemption (j), may
25 be, directly or indirectly, furnished to any law enforcement
26 officer, agency, or official for any purpose or used in any

1 inquiry or investigation, or used, directly or indirectly, in
2 any administrative, judicial, or other proceeding, or divulged
3 to any third party.

4 When recording or listening authorized by this subsection
5 (j) on telephone lines used for marketing or opinion research
6 or telephone solicitation purposes results in recording or
7 listening to a conversation that does not relate to marketing
8 or opinion research or telephone solicitation; the person
9 recording or listening shall, immediately upon determining
10 that the conversation does not relate to marketing or opinion
11 research or telephone solicitation, terminate the recording or
12 listening and destroy any such recording as soon as is
13 practicable.

14 Business entities that use a telephone monitoring or
15 telephone recording system pursuant to this exemption (j) shall
16 provide current and prospective employees with notice that the
17 monitoring or recordings may occur during the course of their
18 employment. The notice shall include prominent signage
19 notification within the workplace.

20 Business entities that use a telephone monitoring or
21 telephone recording system pursuant to this exemption (j) shall
22 provide their employees or agents with access to personal-only
23 telephone lines which may be pay telephones, that are not
24 subject to telephone monitoring or telephone recording.

25 For the purposes of this subsection (j), "telephone
26 solicitation" means a communication through the use of a

1 telephone by live operators:

2 (i) soliciting the sale of goods or services;

3 (ii) receiving orders for the sale of goods or
4 services;

5 (iii) assisting in the use of goods or services; or

6 (iv) engaging in the solicitation, administration, or
7 collection of bank or retail credit accounts.

8 For the purposes of this subsection (j), "marketing or
9 opinion research" means a marketing or opinion research
10 interview conducted by a live telephone interviewer engaged by
11 a corporation or other business entity whose principal business
12 is the design, conduct, and analysis of polls and surveys
13 measuring the opinions, attitudes, and responses of
14 respondents toward products and services, or social or
15 political issues, or both;

16 (k) Electronic recordings, including but not limited to, a
17 motion picture, videotape, digital, or other visual or audio
18 recording, made of a custodial interrogation of an individual
19 at a police station or other place of detention by a law
20 enforcement officer under Section 5-401.5 of the Juvenile Court
21 Act of 1987 or Section 103-2.1 of the Code of Criminal
22 Procedure of 1963;

23 (l) Recording the interview or statement of any person when
24 the person knows that the interview is being conducted by a law
25 enforcement officer or prosecutor and the interview takes place
26 at a police station that is currently participating in the

1 Custodial Interview Pilot Program established under the
2 Illinois Criminal Justice Information Act;

3 (m) An electronic recording, including but not limited to,
4 a motion picture, videotape, digital, or other visual or audio
5 recording, made of the interior of a school bus while the
6 school bus is being used in the transportation of students to
7 and from school and school-sponsored activities, when the
8 school board has adopted a policy authorizing such recording,
9 notice of such recording policy is included in student
10 handbooks and other documents including the policies of the
11 school, notice of the policy regarding recording is provided to
12 parents of students, and notice of such recording is clearly
13 posted on the door of and inside the school bus.

14 Recordings made pursuant to this subsection (m) shall be
15 confidential records and may only be used by school officials
16 (or their designees) and law enforcement personnel for
17 investigations, school disciplinary actions and hearings,
18 proceedings under the Juvenile Court Act of 1987, and criminal
19 prosecutions, related to incidents occurring in or around the
20 school bus;

21 (n) Recording or listening to an audio transmission from a
22 microphone placed by a person under the authority of a law
23 enforcement agency inside a bait car surveillance vehicle while
24 simultaneously capturing a photographic or video image;

25 (o) The use of an eavesdropping camera or audio device
26 during an ongoing hostage or barricade situation by a law

1 enforcement officer or individual acting on behalf of a law
2 enforcement officer when the use of such device is necessary to
3 protect the safety of the general public, hostages, or law
4 enforcement officers or anyone acting on their behalf;

5 (p) Recording or listening with the aid of any device to
6 incoming telephone calls of phone lines publicly listed or
7 advertised as the "CPS Violence Prevention Hotline", but only
8 where the notice of recording is given at the beginning of each
9 call as required by Section 34-21.8 of the School Code. The
10 recordings may be retained only by the Chicago Police
11 Department or other law enforcement authorities, and shall not
12 be otherwise retained or disseminated; and

13 (q) (1) With prior request to and verbal approval of the
14 State's Attorney of the county in which the conversation is
15 anticipated to occur, recording or listening with the aid of an
16 eavesdropping device to a conversation in which a law
17 enforcement officer, or any person acting at the direction of a
18 law enforcement officer, is a party to the conversation and has
19 consented to the conversation being intercepted or recorded in
20 the course of an investigation of a drug offense. The State's
21 Attorney may grant this verbal approval only after determining
22 that reasonable cause exists to believe that a drug offense
23 will be committed by a specified individual or individuals
24 within a designated period of time.

25 (2) Request for approval. To invoke the exception contained
26 in this subsection (q), a law enforcement officer shall make a

1 written or verbal request for approval to the appropriate
2 State's Attorney. This request for approval shall include
3 whatever information is deemed necessary by the State's
4 Attorney but shall include, at a minimum, the following
5 information about each specified individual whom the law
6 enforcement officer believes will commit a drug offense:

7 (A) his or her full or partial name, nickname or alias;

8 (B) a physical description; or

9 (C) failing either (A) or (B) of this paragraph (2),
10 any other supporting information known to the law
11 enforcement officer at the time of the request that gives
12 rise to reasonable cause to believe the individual will
13 commit a drug offense.

14 (3) Limitations on verbal approval. Each verbal approval by
15 the State's Attorney under this subsection (q) shall be limited
16 to:

17 (A) a recording or interception conducted by a
18 specified law enforcement officer or person acting at the
19 direction of a law enforcement officer;

20 (B) recording or intercepting conversations with the
21 individuals specified in the request for approval,
22 provided that the verbal approval shall be deemed to
23 include the recording or intercepting of conversations
24 with other individuals, unknown to the law enforcement
25 officer at the time of the request for approval, who are
26 acting in conjunction with or as co-conspirators with the

1 individuals specified in the request for approval in the
2 commission of a drug offense;

3 (C) a reasonable period of time but in no event longer
4 than 24 consecutive hours.

5 (4) Admissibility of evidence. No part of the contents of
6 any wire, electronic, or oral communication that has been
7 recorded or intercepted as a result of this exception may be
8 received in evidence in any trial, hearing, or other proceeding
9 in or before any court, grand jury, department, officer,
10 agency, regulatory body, legislative committee, or other
11 authority of this State, or a political subdivision of the
12 State, other than in a prosecution of:

13 (A) a drug offense;

14 (B) a forcible felony committed directly in the course
15 of the investigation of a drug offense for which verbal
16 approval was given to record or intercept a conversation
17 under this subsection (q); or

18 (C) any other forcible felony committed while the
19 recording or interception was approved in accordance with
20 this Section (q), but for this specific category of
21 prosecutions, only if the law enforcement officer or person
22 acting at the direction of a law enforcement officer who
23 has consented to the conversation being intercepted or
24 recorded suffers great bodily injury or is killed during
25 the commission of the charged forcible felony.

26 (5) Compliance with the provisions of this subsection is a

1 prerequisite to the admissibility in evidence of any part of
2 the contents of any wire, electronic or oral communication that
3 has been intercepted as a result of this exception, but nothing
4 in this subsection shall be deemed to prevent a court from
5 otherwise excluding the evidence on any other ground, nor shall
6 anything in this subsection be deemed to prevent a court from
7 independently reviewing the admissibility of the evidence for
8 compliance with the Fourth Amendment to the U.S. Constitution
9 or with Article I, Section 6 of the Illinois Constitution.

10 (6) Use of recordings or intercepts unrelated to drug
11 offenses. Whenever any wire, electronic, or oral communication
12 has been recorded or intercepted as a result of this exception
13 that is not related to a drug offense or a forcible felony
14 committed in the course of a drug offense, no part of the
15 contents of the communication and evidence derived from the
16 communication may be received in evidence in any trial,
17 hearing, or other proceeding in or before any court, grand
18 jury, department, officer, agency, regulatory body,
19 legislative committee, or other authority of this State, or a
20 political subdivision of the State, nor may it be publicly
21 disclosed in any way.

22 (7) Definitions. For the purposes of this subsection (q)
23 only:

24 "Drug offense" includes and is limited to a felony
25 violation of one of the following: (A) the Illinois
26 Controlled Substances Act, (B) the Cannabis Control Act,

1 and (C) the Methamphetamine Control and Community
2 Protection Act.

3 "Forcible felony" includes and is limited to those
4 offenses contained in Section 2-8 of the Criminal Code of
5 1961 as of the effective date of this amendatory Act of the
6 97th General Assembly, and only as those offenses have been
7 defined by law or judicial interpretation as of that date.

8 "State's Attorney" includes and is limited to the
9 State's Attorney or an assistant State's Attorney
10 designated by the State's Attorney to provide verbal
11 approval to record or intercept conversations under this
12 subsection (q).

13 (8) Sunset. This subsection (q) is inoperative on and after
14 January 1, 2015. No conversations intercepted pursuant to this
15 subsection (q), while operative, shall be inadmissible in a
16 court of law by virtue of the inoperability of this subsection
17 (q) on January 1, 2015.

18 (Source: P.A. 96-425, eff. 8-13-09; 96-547, eff. 1-1-10;
19 96-643, eff. 1-1-10; 96-670, eff. 8-25-09; 96-1000, eff.
20 7-2-10; 96-1425, eff. 1-1-11; 96-1464, eff. 8-20-10; 97-333,
21 eff. 8-12-11; 97-846, eff. 1-1-13; 97-897, eff. 1-1-13; revised
22 8-23-12.)

23 Section 99. Effective date. This Act takes effect July 1,
24 2014.

Board of Governors

March 8, 2013

Agenda Item 83

Public Relations – Law Enforcement Awards



Standing Committee on Public Relations

DATE: February 27, 2013
TO: ISBA Board of Governors
FROM: ISBA Standing Committee on Public Relations

RECOMMENDATIONS FOR ISBA LAW ENFORCEMENT AWARD

The Standing Committee on Public Relations has reviewed all of the nominations that were received for the 2013 ISBA Law Enforcement Award. The committee recommends that the award be given to the following individuals:

1. Darryl McPherson, United States Marshal, Northern District of Illinois State Bar Association
2. Chief George Filenko, Round Lake Park Police Department
3. Sheriff Jeff Doran, Carroll County Sheriff's Office
4. Officer Brad Rogers, Jacksonville Police Department
5. Sheriff Jim Vazzi, Montgomery County Sheriff's Office

A description of the Law Enforcement Award as well as the nomination materials on each person that was nominated is attached.



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD NOMINATIONS**

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 - E. JEFFREY DORAN**
 - F. DIRK BUTLER**
 - G. BRAD ROGERS**
 - H. LARRY EASON**
 - I. JIM VAZZI**

ILLINOIS STATE BAR ASSOCIATION

LAW ENFORCEMENT AWARD

PREAMBLE

We, The Illinois State Bar Association, in recognition of the fact that the adversarial nature of the Criminal Justice System often obscures the common interests of those involved; and

In further recognition of the fact that the law enforcement community and the Illinois State Bar Association share the ultimate goal of serving the public and insuring justice through fair and impartial enforcement of the law;

Find it appropriate to establish this **Law Enforcement Award** to be given by the Association to a sworn law enforcement officer, to express our appreciation for conduct that promotes justice and to distinguish those whose service to the public brings honor and respect to the criminal justice system.

ELIGIBILITY

Candidates for the Illinois State Bar Association Law Enforcement Award must be sworn law enforcement officers, employed full time by a law enforcement agency. Eligible candidates include agents and officers employed by federal law enforcement agencies, Illinois State Troopers and agents employed by law enforcement agencies of the State of Illinois, police officers employed by municipalities, elected Sheriff's and their sworn deputies.

CRITERIA

Recipients will be chosen based upon conduct that, in a substantial way, facilitates a better understanding of the criminal justice system, encourages respect for the law, or promotes justice. Examples of conduct that will be considered are as follows:

- Efforts on behalf of victims directed at minimizing the impact of crime.
- Efforts designed to prevent crime.
- Efforts to promote an understanding and the integrity of the criminal justice system.
- Professional or volunteer activities directed toward enhancement of the image of law enforcement and the criminal justice system.
- Professional or volunteer activities directed toward encouraging community involvement and interaction with law enforcement.
- Activities directed toward eliminating negative contacts between specific segments of society and the criminal justice system.
- Volunteer service to the community that sheds a favorable light on law enforcement and enhances the image of the criminal justice system with the general public.

NOMINATION

Nominations must be made in writing and submitted to the Illinois State Bar Association - Public Relations Committee. Nominations may be submitted by any member of the Illinois State Bar Association. Nominations should be submitted on the form provided by the Illinois State Bar Association.

SELECTION AND AWARD

Nominees will be screened and selected by the Standing Committee on Public Relations of the Illinois State Bar Association. The Board of Governors of the Illinois State Bar Association will select recipients(s) of the Award. Not more than one recipient will be selected from each Appellate District in the state of Illinois and the award will be given only when a suitable recipient has been identified. The nominator of each successful applicant will be notified and arrangements will be made to present the award. Each award recipient will receive a plaque from the Illinois State Bar Association, recognizing his or her accomplishments. Certificates may also be awarded to other nominees from the same Appellate District.



ILLINOIS STATE
BAR ASSOCIATION

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

1st DISTRICT

**DARYL MCPHERSON
UNITED STATES MARSHAL
FOR THE NORTHERN DISTRICT OF ILLINOIS**

**NOMINATED BY:
CHIEF JUDGE JAMES F. HOLDERMAN**



Law Enforcement Award

**ILLINOIS STATE
BAR ASSOCIATION**

NOMINATION FORM

NOMINATION SUBMITTED BY:

Chief Judge James F. Holderman

Name/Title

U.S. District Court for the Northern District of Illinois

Organization

E.M. Dirksen United States Courthouse / 219 S. Dearborn St., #2548

Address

Chicago IL 60604

City/State/Zip Code

(312) 435-5600

Daytime Telephone Number

NOMINEE:

Daryl McPherson

United States Marshal for the Northern District of Illinois

Name/Position

United States Marshals Service

Employing Agency

E.M. Dirksen United States Courthouse / 219 S. Dearborn St., 24th Floor

Address

Chicago, IL 60604

City/State/Zip Code

James Thompson, Acting Deputy Director

Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

(SEE ATTACHED)

Signature of Nominator

Date February 14, 2013

JAMES F. HOLDERMAN
219 S. DEARBORN ST., STE. 2548
CHICAGO, IL 60604
312-435-5600

February 14, 2013

**Via U.S. First Class Mail
and Electronic Mail
(jreynolds@isba.org)**

Illinois State Bar Association
Public Relations Committee
c/o Jamie Reynolds
424 S. Second St.
Springfield, IL 62701

**Re: Nomination of Darryl McPherson, United States Marshal for the Northern
District of Illinois, for the Illinois State Bar Association Law Enforcement Award**

Dear Nomination Committee Members,

It is my distinct honor to nominate United States Marshal Darryl K. McPherson for the 2013 Illinois State Bar Association Law Enforcement Award. Marshal McPherson has demonstrated exceptional leadership in his three years at the helm of the U.S. Marshals Service for the Northern District of Illinois, and his dedication to his profession and his community is simply unrivaled. Marshal McPherson is not only, in my opinion, an outstanding United States Marshal, he is truly an outstanding person, worthy of this prestigious award.

Background

Marshal McPherson was sworn in as the United States Marshal for the Northern District of Illinois on June 17, 2010. He has served with the U.S. Marshals Service in Chicago for thirteen years, since 1999, where he began as a Deputy U.S. Marshal and was later promoted to the position of Judicial Security Inspector. Marshal McPherson also received a Special Recognition Award from the Department of Justice in honor of his service as the lead Deputy Marshal assigned to the protection of Judge Joan Humphrey Lefkow.

Prior to his service in Chicago, Marshal McPherson served for two years as a Deputy U.S. Marshal in the Southern District of Alabama. He received his Bachelor of Science in Political Science from Spring Hill College in 1997, and is being honored as this year's recipient of the distinguished Gautrelet Award, presented annually to an alumnus "of high integrity who has demonstrated outstanding professional achievement."

Efforts on Behalf of Victims Directed at Minimizing the Impact of Crime

Minimizing the impact of crime on victims, or potential victims, is essential when the victims are children. As an active volunteer host for *Safe Families for Children*, Marshal McPherson and his family regularly volunteer their home as a loving sanctuary where parents can safely and voluntarily place their children in times of need, thereby preventing potential episodes of child abuse and neglect. Along with drug addiction, domestic abuse, and illness, Safe Families for Children also explicitly recognizes the debilitating effect that incarceration can have on the ability of a parent to care for his or her child. One of the goals of Safe Families for Children is to assist these young, indirect victims of crime by expanding the community safety net to provide parents in need with mentoring relationships and tangible support in times of crisis.

As the U.S. Marshal for the Northern District of Illinois, Marshal McPherson has also worked closely with the *Sex Offender Investigative Branch* to reinforce the relationship between the U.S. Marshals Service in Chicago and the National Center for Missing & Exploited Children (NCMEC). This partnership assists victims of crime by connecting them with NCMEC's extensive network of highly-trained professionals and other resources.

Efforts Designed to Prevent Crime

Under the leadership of Marshal McPherson, the U.S. Marshals Service for the Northern District of Illinois has devoted substantial resources to the prevention of crime—both locally and in coordination with other law enforcement offices nationwide.

As a Deputy U.S. Marshal, Marshal McPherson was one of the initial creators of the Northern Illinois Violent Fugitive Task Force, now known as the *Great Lakes Regional Fugitive Task Force* (GLRFTF), which combines law enforcement resources throughout the Northern District of Illinois to apprehend violent fugitive offenders. Now in its tenth year of operation, the GLRFTF continues to develop relationships with other law enforcement agencies and has expanded into one of the most successful fugitive apprehension teams in the Midwest. Removing violent and dangerous offenders from the streets significantly minimizes the risk that these individuals will commit additional crimes and victimize more individuals in the future.

During his work as a Judicial Security Investigator, Marshal McPherson recognized a specific need for shared information among law enforcement agencies in the Northern District of Illinois with respect to threats to judges and elected public officials. Marshal McPherson established the *Northern Illinois Threat Assessment Task Force* to combine the efforts of the U.S. Marshals Service for the Northern District of Illinois and the Cook County Sheriff's Office when investigating these threats. The shared county and federal database minimizes repetitive efforts and disseminates information between the two agencies to maximize productivity while detecting common potential threats. By increasing the amount of shared information between the two agencies, law enforcement officials from both agencies are in a better position to stop legitimate threats from becoming a reality.

Marshal McPherson also currently serves on the executive board, and is the chair of the finance committee for, the *High Intensity Drug Trafficking Areas* (HIDTA) program in Chicago. The HIDTA program was created by Congress in 1988 to provide assistance to federal, state, local, and tribal law enforcement agencies operating in areas determined to be critical drug-trafficking regions of the United States. Like the other initiatives described above, the aim of the HIDTA program is to facilitate cooperation among different law enforcement agencies and enhance law enforcement intelligence through shared information, with the aim of preventing future crimes.

As the head of the U.S. Marshals Service for the Northern District of Illinois, Marshal McPherson has also ensured that his Deputy U.S. Marshals actively participate in numerous additional programs aimed at preventing criminal activity, including:

- ***Operation Federal and Local Cops Organize Nationally*** (FALCON)
combining the resources of federal and local law enforcement on a national level to locate and apprehend offenders wanted for crimes of violence
- ***Sex Offender Compliance Checks***
routinely assisting local law enforcement in identifying known sex offenders and ensuring that they are complying with the requirements set forth in the Illinois Sex Offender Registration Act
- ***Operation Shield***
a combined effort between the U.S. Postal Service, U.S. Marshals Service, Illinois State Police, Cook County Sheriff's Office, Federal Protective Services, Immigration and Customs Enforcement, Federal Bureau of Investigations, and other law enforcement agencies to form a high visibility, multi-jurisdictional operation (including the assistance of K-9 explosive dogs to scout for potential threats) that provides a proactive approach toward terrorism and other threats to federal facilities
- ***Joint Terrorism Task Force*** (JTTF)
small cells of highly trained, locally based, passionately committed investigators, analysts, linguists, SWAT experts, and other specialists from dozens of U.S. law enforcement and intelligence agencies—including the staffing of a full-time Deputy U.S. Marshal from the Northern District of Illinois—aimed at information sharing and management of large-scale law enforcement projects involving multiple partners
- ***Chicago Strike Force***
seventy federal agents and local police officers working together in a first-of-its-kind drug-fighting headquarters based out of Chicago, bringing together the Drug Enforcement Administration, the FBI, the IRS, ATF, the Department of Homeland Security, Immigration and Customs Enforcement, the U.S. Marshals Service, Chicago and suburban police, and federal and state prosecutors

Efforts to Promote an Understanding and the Integrity of the Criminal Justice System

The best way to learn about the criminal justice system is to talk to personnel who work within the system. Under Marshal McPherson's leadership, the U.S. Marshals Service for the Northern District of Illinois regularly participates in two distinct programs aimed at promoting a better understanding of the criminal justice system among young people.

On an annual basis, the U.S. Marshals Service for the Northern District of Illinois presents a mock investigation and trial in conjunction with the *Young Men's Christian Association* (YMCA). This initiative allows for students to partake in a mock scenario from the inception of a criminal investigation up through the courtroom trial. Utilizing techniques in forensic science, students gather evidence and follow the journey towards identifying a subject, making an arrest, and bringing the suspect to trial. The U.S. Marshals Service then presents the children with a day in the life of a Deputy U.S. Marshal, conducting mock scenarios of prisoner transportation, prisoner production, and escorting the defendant to trial. The students present their case to a mock jury of their peers, and a verdict is obtained. Through this process, the students acquire a vast understanding of the criminal justice system and obtain an enhanced appreciation for the integrity and reliability required to perform law enforcement duties.

The U.S. Marshals Service for the Northern District of Illinois also participates in the *United States Marshal Shadow Program*, which partners a student of criminal justice with a Deputy U.S. Marshal for a day, providing the next generation of law enforcement with a memorable and in-depth depiction of the daily routine of a Deputy U.S. Marshal. This opportunity is also used to educate criminal justice students on the hiring process, and to explain the potential impact of their own conduct on background investigations.

Professional or Volunteer Activities Directed Toward Enhancement of the Image of Law Enforcement and the Criminal Justice System

Marshal McPherson regularly works to enhance the image of law enforcement and the criminal justice system by participating in *school presentations* with attendees ranging in age and experience from elementary school through college and law school, and he encourages his Deputy U.S. Marshals to do the same. These presentations consist of a full demonstration of the equipment utilized to conduct fugitive investigations, along with a brief description of the history of the U.S. Marshals Service, as the oldest federal law enforcement agency, as well as its many facets.

The U.S. Marshals Service for the Northern District of Illinois has also partnered up with other local police officers to take part in the *Shop with a Cop* program, building positive relationships between police officers and the children of the community. Children with social or economic needs between the ages of six and eleven are eligible to participate in this annual event.

Professional or Volunteer Activities Directed Toward Encouraging Community Involvement and Interaction with Law Enforcement

In addition to the above-described activities and programs, Marshal McPherson has also engaged with the wider Chicago-land community through his association with the *Union League Boys and Girls Club*, where he has served as chair of the Security Advisory Committee, merging his professional skills with his passion for volunteering. Marshal McPherson also serves as a Youth of the Year Judge on an annual basis, and has received the "From the Heart Award" for his ongoing commitment to the work of the Union League Boys and Girls Club. The mission of

the Boys and Girls Clubs of America is “to enable all young people, especially those who need us most, to reach their full potential as productive, caring, responsible citizens.” As a leader within the Union League Boys and Girls Club, Marshal McPherson sets an example of positive community interaction with law enforcement officials for both young people and adults, while also serving as a role model for his own staff on the importance of community involvement.

Under Marshal McPherson’s leadership, the U.S. Marshals Service for the Northern District of Illinois also actively participates in various community-based organizations that encourage positive community involvement and interaction with law enforcement, including:

- ***Just the Beginning Foundation***
a multiracial, nonprofit organization comprised of lawyers, judges, and other citizens dedicated to developing and nurturing interest in the law among young people from various socioeconomic, ethnic, and cultural backgrounds
- ***Lakeview Academy***
an alternative high school geared to students “who have fallen through the cracks,” offering a vital alternative for young people wanting to get a high school education
- ***Uhlich Children’s Advantage Network (UCAN) Chicago***
focused on youth who have suffered trauma, UCAN aims to build strong youth and families through compassionate healing, education, and empowerment

The U.S. Marshals Service works closely with the above organizations by providing special presentations, utilizing the vast array of Deputy U.S. Marshals within the Northern District of Illinois who can share their diverse personal experiences with the community. The U.S. Marshals Service works to promote constructive interactions by exemplifying a positive image of a law enforcement officer through demonstrating integrity, honesty, respect, and perseverance.

Activities Directed Toward Eliminating Negative Contacts Between Specific Segments of Society and the Criminal Justice System

In 2010, Marshal McPherson led the effort to form a national partnership between the U.S. Marshals Service and the Cal Ripken, Sr. Foundation’s ***Badges for Baseball Program***. Through this partnership, Deputy U.S. Marshals visit young baseball campers and present the various tools of law enforcement, including SWAT demonstrations, K-9 shows, presentations on the use of flash bangs and tasers, law enforcement escorts with lights and sirens, and even the use of a live helicopter. The Badges for Baseball program serves as a juvenile crime prevention initiative, where the concept is simple “pair cops and kids together to play and learn.” The aim of the nationwide program is to enhance the relationship between law enforcement officers and children in underserved communities with high rates of juvenile crime and related issues.

In a similar vein, Marshal McPherson has spearheaded his agency’s involvement with the local ***Opportunity Through Baseball*** initiative, where inner city youth and deputies of the U.S. Marshals Service enjoy a week long baseball camp Aurora, Illinois. The program includes bussing participating children from Chicago to Aurora, and back, on a daily basis.

Marshal McPherson has also made it a priority for deputies from the U.S. Marshals Service for the Northern District of Illinois, including himself, to get involved in ***Gang Resistance Education and Training*** (G.R.E.A.T.). G.R.E.A.T. is an effective gang and violence prevention program built around school-based, law enforcement officer-instructed classroom curricula. The program is intended as an immunization against delinquency, youth violence, and gang membership for children in the years immediately before the prime ages for introduction into gangs and delinquent behavior.

Under Marshal McPherson's leadership, the U.S. Marshals Service for the Northern District of Illinois also continues to participate in additional programs and activities geared towards eliminating negative contacts between specific segments of society and the criminal justice system, including ***Inner-City Youth Basketball***, in which personnel from the U.S. Marshals Service attend a Chicago basketball game with inner-city youth, and the ***James B. Moran Second Chance Reentry Program***, in which personnel from the U.S. Marshals Service and the U.S. Probation Office, along with judges from the Northern District of Illinois, attend monthly meetings with ex-offenders currently out on federal supervised release, with the goal of providing guidance and mediation services to assist these individuals in complying with the conditions of their release and successfully reentering society as law-abiding, productive citizens.

Volunteer Service to the Community that Sheds a Favorable Light on Law Enforcement and Enhances the Image of the Criminal Justice System with the General Public

In addition to the many programs listed above, Marshal McPherson has also led the U.S. Marshals Service for the Northern District of Illinois in getting involved in various additional community and charitable events that shed a favorable light on law enforcement and enhance the image of the criminal justice system with the general public, including the following:

- ***Toys for Tots***
a partnership with the U.S. Marine Corps Reserve Units to collect new unwrapped toys and distribute those toys as Christmas gifts to less fortunate children in the community, in hopes this message of hope assists them in becoming responsible, productive, patriotic citizens
- ***Readers Are Leaders Program***
a community-based program consisting of different leaders and role models coming to share story time with elementary school children
- ***UNO Charter Schools***
based in Chicago, UNO's eleven charter schools focus on assisting Hispanic children and families to assimilate into American society and attain academic and civic standards of excellence
- ***Fair Housing Testing Program***
a Department of Justice program in which individual volunteers pose as prospective buyers or renters of real estate for the purpose of determining whether a housing provider is unlawfully discriminating based on race, national origin, disability, or familial status

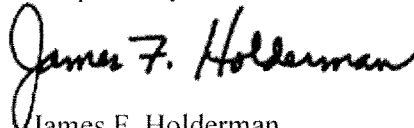
The U.S. Marshals Service from the Northern District of Illinois also has a strong history of supporting the *Special Olympics* through various initiatives. Under Marshal McPherson's leadership, the U.S. Marshals Service for the Northern District of Illinois regularly participates in the multi-agency Law Enforcement Torch Run for Special Olympics, generating awareness of and funding for the Special Olympics. Deputy U.S. Marshals have also participated in the Dunkin' Donuts Cop on Rooftop program, in which officers throughout the state spend their off duty day staking out Dunkin' Donuts rooftops to heighten awareness and raise donations for the Law Enforcement Torch Run for Special Olympics, as well as the annual Polar Plunge to raise money for Special Olympic Chicago.

Each of these programs, in addition to promoting a sense of community involvement and enrichment for each participating Deputy U.S. Marshal, also has the effect of enhancing the image of law enforcement officers and the criminal justice system with the general public.

Conclusion

In sum, U.S. Marshal Darryl K. McPherson is an outstanding person and would be an outstanding choice to receive the 2013 Illinois Bar Association Law Enforcement Award.

Respectfully Submitted,


James F. Holderman



ILLINOIS STATE
BAR ASSOCIATION

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

1st DISTRICT

**GARRY F. MCCARTHY
SUPERINTENDENT OF THE
CHICAGO POLICE DEPARTMENT**

**NOMINATED BY:
STEPHEN M. KOMIE**



ILLINOIS STATE
BAR ASSOCIATION

STEPHEN M. KOMIE

Board of Governors
1st District - Cook County

January 29, 2013

Mr. Ronald J. Guild, Chair
ISBA Public Relations Committee
Illinois State Bar Association
424 South Second Street
Springfield, Illinois 62701

Re: ISBA Law Enforcement Award Nomination

Dear Chairman Guild:

I wish to nominate the Honorable Garry F. McCarthy, Superintendent of the Chicago Police Department for the ISBA Law Enforcement Award. In support of the nomination I wish to bring to your attention the achievements of Superintendent McCarthy. Although, the Superintendent is a transplanted New Yorker, he has inspired the ranks of the Chicago Police Department to greater professionalism.

This was demonstrated to the world during the days of demonstrations in May of 2012 for the aborted G8 summit meeting followed by the actual meeting at McCormick Place of the NATO powers. On display for the whole world to see was the Chicago Police Department. The events attracted some of the most committed persons to civil disobedience that our city has known since the Democratic Convention of 1968. We can all remember due to the repeated playing in the media of the Chicago Police riot which was so much a part of the tumultuous events of 1968 Democratic Convention.

Superintendent McCarthy stood tall and supervised his men and women in confronting the demonstrators. He led by example with recognition of the First Amendment rights of the demonstrators to lawful speech and civil protest. On the other hand, he controlled his officers resulting in arrests of persons who violated the law while demonstrating to the world the successful control of Chicago Police officers by their superintendent.

Superintendent McCarthy's actions have brought praise and an example for other police departments in the proper management of lawful demonstrations and preservation of constitutional rights. He has shown it is possible to serve the public and insure justice through fair and impartial enforcement of the law.

Mr. Ronald J. Guild, Chair
January 29, 2013
Page 2

It is my belief awarding Superintendent McCarthy this award at a public place in Chicago will raise the image of the ISBA, providing a positive media event for the legal community, and the participation of bench and bar.

I urge your committee to recognize Superintendent McCarthy for his contribution to improving the image of the Chicago Police Department and promoting respect and fostering cooperation between law enforcement and the legal community.

Very truly yours,

A handwritten signature in cursive script that reads "Stephen Komie". The signature is written in black ink and is positioned below the typed name "Stephen Komie".



Law Enforcement Award

**ILLINOIS STATE
BAR ASSOCIATION**

NOMINATION FORM

NOMINATION SUBMITTED BY:

STEPHEN M. KOMIE / BOARD OF GOVERNOR

Name/Title

ISBA BOARD OF GOVERNORS

Organization

ONE N. LASALLE STREET, SUITE 4200

Address

CHICAGO, ILLINOIS 60602

City/State/Zip Code

312/263-2800

Daytime Telephone Number

NOMINEE:

GARRY F. McCARTHY / SUPERINTENDENT

Name/Position

CHICAGO POLICE DEPARTMENT

Employing Agency

3510 N. MICHIGAN AVENUE, 5TH FLOOR

Address

CHICAGO, IL 60653

City/State/Zip Code

Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

PLEASE SEE ATTACHED

Signature of Nominator _____

Date JANUARY 29, 2013

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
Attn: Jamie Reynolds
Illinois State Bar Association
424 South Second Street
Springfield, IL 62701-1779
jreynolds@isba.org

SPEAKER BIO

GARRY MCCARTHY

Chicago Police Department Superintendent

Garry Francis McCarthy was born on May 4, 1959. McCarthy and his two older brothers were raised in the Bronx, New York by his father, a World War II Marine and New York Detective and his mother, a nurse.

In 1981, McCarthy began a career in law enforcement with the New York Police Department. McCarthy's dedication and ambition quickly began to propel his career forward.

In November of 1985, he was promoted to Sergeant. Four years later he rose to the rank of Lieutenant. In October of 1992 he was promoted to Captain; in 1997 he was promoted to Deputy Inspector and within two years he rose to the rank of Inspector.

In 2000, McCarthy was promoted to his final rank with the New York Police Department where he served as Deputy Commissioner of Operations. This position illustrated his leadership and achievements while serving as the principal crime strategist for the department.

During this time, the department saw a significant decline in the homicide rate. That steady decline culminated in 2005 with its lowest murder rate since 1963.

McCarthy continued to demonstrate his strong leadership as a supervisor while commanding three separate precincts during a five year period and bringing about significant positive changes.

This recognition ultimately led McCarthy to a new assignment at the 70th precinct where he helped diminish a double digit crime rate as well as decrease the number of complaints against police officers. These accomplishments attracted both the attention and praise of the U.S. Attorney's Office. In September 2006, McCarthy was chosen to lead the Newark Police Department. Within his first year, the Department achieved a 9 percent reduction in murder. This marked the first reduction since 2002.

Along with this reduction, the Newark Police Department experienced additional improvements in efficiency and professionalism including a 17 percent increase in arrests since 2006 along with diminished complaints against police officers.

In 2011, McCarthy was chosen to be Superintendent of the Chicago Police Department by Mayor Rahm Emanuel. His nomination to this position was approved by the Chicago City Council on June 8, 2011.

As Chicago Police Superintendent, McCarthy works to reduce violence and crime by using proven crime fighting and prevention strategies that helped reduce crime in other cities including New York and Newark. Among these strategies is the CompStat program, which involves a weekly meeting with District Commanders to discuss how they are addressing crime in their districts and what their plan is to further reduce crime.



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

1st DISTRICT

**KEN KEITH
COOK COUNTY DEPUTY SHERIFF
RETIRED**

**NOMINATED BY:
JOSEPH FIORENTINO**

Hello ISBA,

I would like to nominate retired Cook County Deputy Sheriff Ken Keith for a ISBA Law Enforcement Award . Ken Keith has been making his community a better place to live for over 50 years. He was a Cook County Law Enforcement Officer. for 32 years. He also served in the military as a Army Ranger. He has been doing Martial Arts for 68 years, speaks Japanese and is the founder of Takeo-Ryu Dojo.

He has been volunteering to teach self defense to Cook County Deputies and Chicago Police Officers for almost all his life which he currently does now 3 days a week. He currently started a program that teaches self defense to senior citizens in the Chicago bronzville neighborhood every week.

He has taught a mother/daughter self defense class at the Berwyn YMCA. He taught a 8 week self defense class for the teachers and staff at Shoop Elementary school which he plans to return each year. He also helps sponsor a fund raiser each year which donates money to help buy supplies for the kids at Shoop Elementary where he was a graduate in 1949.

He has done demonstrations and taught self defense at Agassiz Elementary School and Peterson Elementary School in Chicago as well a gave a donation to the schools. He also talks to them about the importance of good grades and staying in school along with building self confidence and respect for others. He did a presentation and demonstration at Simeon High School in Chicago for the Chicago Public Schools Office of Family and Community Engagement. He also volunteers on Saturday to teach kids and adults self defense at the Westchesterfield Community center.

Myself and others are a better person today because we had the honor of meeting and learning under Master Ken Keith. I am enclosing articles and photo`s with my nomination.

Read more about Shihan Ken Keith at <http://takeoryudojo.com/>

Thank You,

2010 ISBA Law Enforcement Award

Joe Fiorentino

708 256-7458

Joeandheidi30@comcast.net

Ken Keith

8542 S. Ingleside

Chicago, IL, 60619



The Peace Center Presents
SPRING SELF DEFENSE COURSE

Four Saturdays March 12-April 2
1-3 p.m. **FREE TO THE PUBLIC**
PAV YMCA, 2947 S. Oak Park Avenue, Berwyn, IL

**Because the first step to inner peace
is personal safety**

In this 8-hour series you will learn:

- Protective behaviors and attitudes for avoiding violence.
- Verbal and physical self defense techniques with plenty of time for practice
- Danger signs and what perpetrators look for
- Street smarts, confidence, and self-trust
- Calming techniques

*Mothers and daughters are especially welcome.
Wear comfortable clothing.*



**Although there is no
charge for the course, you
MUST register in advance
to secure your spot!
708-749-0606 EXT 20
Leave message.**

Instructors:

Sensei Ken Keith (left) retired Deputy Sherriff and 5th Degree Black Belt
Joe Fiorentino (right), Deputy Sherriff, Black Belt, and Certified Defensive Tactics Instructor

**SELF DEFENSE TRAINING FOR
Adults and Senior Citizens
EVERY THURSDAY 10AM TO 12NOON
HANSBERRY CENTER
4034 So. State Street
Chicago, Ill. 60609**

Learn preventative and precautionary self-defense techniques while becoming physically and mentally fit.

**Ken Keith Master
(773) 344-2131**

Joe Fiorentino Sensei

“BE THE VICTOR, NOT THE VICTIM”

**Don't just learn martial arts – learn the art of
<> SURVIVAL <>**

Assisted by Takeo-Ryu students

Florence Oglesby – Jim Brown

Chicago Public Schools

Office of Family and Community Engagement

Cordially Invites You to Attend a Collaborative Parent Seminar

Date: November 17, 2012
Time: 9:00 a.m. to 1:00 p.m.
Location: Simeon Career Academy
8147 South Vincennes Avenue



CPS Parents and community members will have the opportunity to attend four current breakout sessions and visit a health and resource pavilion. The Breakout Sessions will include:

Shihan Ken Keith / Sensei Joe Fiorentino will discuss Martial Arts Training

- Overview: Parent Portal and new School Progress Report
- School Choice: Understanding Elementary Options
- The Bridge: High School Transition Planning
- Early Learning: Strategies and Assessments

For more information please contact your Network Face Managers:

Burnham Park Michael McGehee John Price 4655 S. Dearborn 773-535-8993 mmmcgehee@cps.edu	Far Southside K-12 Joseph Sobus Harrison Peters 11424 S. Western 773-535-2600 Jnsobus1@cps.edu	Rock Island Thyatiria Towns Karen Saffold 11424 S. Western 773-535-2895 tatowns@cps.edu	Skyway Chasda Martin LaTanya McDade 4655 S. Dearborn 773-535-8971 cmartin5@cps.edu	South Side Highschool Karl Kemp Sean Stalling 4655 S. Dearborn 773-534-0721 kkemp@cps.edu
---	--	---	--	---

Continental breakfast and lunch served for participants only



Master Ken Keith, Founder & Head Instructor



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[What Is Takeo Ryu?](#)

[Master Ken Keith](#)

[Classes](#)

[Photos](#)

[Videos](#)

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- [What Is Takeo Ryu?](#)
- [Master Ken Keith](#)
- [Takeo-Ryu Philosophy](#)
- [Classes](#)
- [Photos](#)
- [Videos](#)
- [Contact](#)

Instructors:

- [Sensei Joe Fiorentino](#)
- [Sensei Ted Nurse](#)
- [Sensei Lazerick Hudson](#)
- [Sempai Anthony Scott](#)
- [Kohai Tremayne Baker](#)

Students:

Administrative Assistant

Business Mgr.

Associates:

- [GM Willie Adams](#)
- [Sensei Albert Bobb](#)
- [Donald Jackson Jr., MD](#)
- [Sensei Carl Jackson](#)
- [Sharon E. Brooks-Jackson](#)
- [PORCELLI'S TRAINING CENTER](#)
- [POWER SOURCE](#)
- [MARTIAL ARTS](#)



Martial Arts & Self-Defense Instructor

MASTER INSTRUCTOR

66 Years of Martial Arts Training and Instruction in Disciplines: Jujitsu • Karate • Judo • Kung Fu

Inducted in the
United States Martial Arts Hall of Fame
July, 2011

Retired Cook County Deputy Sheriff
2012 Distinguished Service Award

Office of The Governor of the State of Illinois
Volunteerism and Community Service Certificate
of Appreciation

Korean War Veteran

Training & Certification

- [Kodokan Judo — Mudansha](#)
- [Shito-Ryu Karate — 2nd Degree Black Belt](#)
- [Takeo-Ryu Goshin Jitsu — 5th Degree Black Belt](#)
- [Praying Mantis Kung Fu — Red Sash](#)
- [Taiho Jutsu — 5th Degree Black Belt](#)

Certified by the American Federation of Jujitsu

Certified by Independent Martial Arts Federation

Instruction

Founder of the Takeo-Ryu Garage Academy training facility.

* 2012 Currently Teaching:
TAKEO-RYU GOSHIN JITSU
Takeo-Ryu Goshin Jitsu utilizes techniques



**TAKEO RYU GOSHIN JITSU
GARAGE ACADEMY THEME**

**"Each One Helps One...
Each One Teaches One!"**

WE ARE A TEAM!
Remember "TEAM" Stands For

**TOGETHER
EVERYONE
ACHIEVES
MORE**

We are "one team together"
and this is a WIN for
everyone.

Ken Keith Master



with emphasis on defense against armed or unarmed attackers.

*** 2012 Currently Teaching Classes:**
SENIOR CITIZENS SELF-DEFENSE
On-site at the Hansberry Square
(4034 South State Street) on Thursdays.

***2012 Currently Teaching Classes:**
**SELF-DEFENSE TECHNIQUES FROM SHITO-RYU
KARATE & YOSHIN-RYU**
JUJITSU To Children and Adults: at
THE WEST CHESTERFIELD COMMUNITY
ASSOCIATION every Saturday.

***2013 Currently Teaching Classes:**
>**SENIOR CITIZENS SELF-DEFENSE**
SUNDAYS 1p.m. til 2:30 p.m.

***2013 Currently Teaching Classes:**
>**WOMEN'S SELF-DEFENSE**
SUNDAYS 3P.M. til 4:30 P.M.

POWER SOURCE MARTIAL ARTS
3309 Vollmer R.d Flossmoor, IL. 60422
Andre Campos, Sensei

***2012 Taught Shito-Ryu Karate: CHICAGO BOARD
OF EDUCATION AFTER SCHOOL PROGRAM at
PARKER ELEMENTARY
SCHOOL on Tuesdays & Thursdays.**

**Seminars and demonstrations throughout the city
and suburbs:**

*** Taught Cook County Deputy Sheriffs self defense
tactics.**

*** Conducted a self defense course for mothers and
daughters at the Berwyn Y.M.C.A.**

*** Conducted a self defense class for the staff
members of John D. Shoop Elementary School.**

*** Conducted a self defense seminar for staff
members at Jefferson School.**

*** Co-sponsored student's Judo team at Peterson
Elementary School.**

*** Presented a self defense demonstration for staff &
students at Agassiz Elementary School.**

*** Organized a Judo team at John D. Shoop School—
the elementary school Master Keith graduated from
in 1949.**



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

2nd DISTRICT

**GEORGE FILENKO
CHIEF OF POLICE
ROUND LAKE PARK POLICE DEPARTMENT**

**NOMINATED BY:
MICHAEL G. NERHEIM**



Law Enforcement Award

ILLINOIS STATE
BAR ASSOCIATION

NOMINATION FORM

NOMINATION SUBMITTED BY:

Mike Werheim State's Attorney
 Name/Title
Lake County State's Attorney's Office
 Organization
18 North County Street
 Address
Waukegan, Illinois 60085
 City/State/Zip Code
847 377 3000
 Daytime Telephone Number

NOMINEE:

Chief George Filenko
 Name/Position
Round Lake Park Police Dept. & Commander Lake County Major Crimes Task Force
 Employing Agency
215 E. Main Street
 Address
Round Lake Park, Illinois 60073
 City/State/Zip Code
 Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

See Attached

Signature of Nominator

Date

2-7-13

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
 Attn: Jamie Reynolds
 Illinois State Bar Association
 424 South Second Street
 Springfield, IL 62701-1779



OFFICE OF THE
STATE'S ATTORNEY
LAKE COUNTY, ILLINOIS

MICHAEL G. NERHEIM
STATE'S ATTORNEY

February 14, 2013

Illinois State Bar Association
Law Enforcement Award Nomination Committee
424 South Second Street
Springfield, Illinois 62701-1779

Re: Law Enforcement Award

The Nomination Committee:

I would like to nominate Police Chief George Filenko for the Illinois State Bar Association Law Enforcement Award.

Chief George Filenko has dedicated his life to the protection of Illinois' citizens and fostering cooperation between law enforcement and the public. Through Chief Filenko's professional and volunteer activities, he has encouraged a proactive interaction between the police community and our villages' citizens. This interaction has resulted in community education, community involvement, and increased the public's understanding of the criminal justice system.

A brief review of Chief Filenko's professional and volunteer activities sheds light on his dedication to our communities:

Chief Filenko began his law enforcement career as a supervisor with the Northwest Central Dispatch Center (spanning seven communities) for two years. Subsequent to that, the Chief spent two years as a police officer in the Village of Golf. He then spent six years with the Hainesville Police Department, four of those years as Chief of Police.

Chief Filenko was then recruited by the Round Lake Park Police Department. He served as a Supervising Commander of that department for four years and was then promoted to Chief of Police and has held that position for the past seven years.

In addition to his duties with Round Lake Park Police Department, the Chief was asked to be a part of the Lake County Major Crimes Task Force, a cooperative task force covering over thirty-five Lake County Communities. While on the task force, he has served as an Investigator, Team Leader, and Assistant Commander. Two years ago, the Board of Directors installed the Chief as Commander of the Lake County Major Crimes Task Force.

**Lake County
Building**
18 N. County St.
Waukegan, IL 60085
(847) 377-3000
Fax (847) 360-1538

Child Support

18 N. County St.
Waukegan, IL 60085
(847) 377-3131
Fax (847) 360-1097

**Children's Advocacy
Center**

123 N. O'Plaine Rd.
Gurnee, IL 60031
(847) 377-3155
Fax (847) 360-6850

Civil Division

18 N. County St.
Waukegan, IL 60085
(847) 377-3050
Fax (847) 360-0661

**Felony Division
Drug Division
Cyber Division
Special Investigations**

18 N. County St.
Waukegan, IL 60085
(847) 377-3000
Fax (847) 360-1538

Felony Review Division
Robert H. Babcox
Justice Center

20 S. County St.
Waukegan, IL 60085
(847) 377-3025
Fax (847) 263-6179

Juvenile Trial Division
Robert W. Depke
Juvenile Justice Complex

24647 N. Milwaukee Ave.
Vernon Hills, IL 60061
(847) 377-7850
Fax (847) 634-8831

**Misdemeanor Division
Traffic Division**

18 N. County St.
Waukegan, IL 60085
(847) 377-3000
Fax (847) 625-7129

ISBA Law Enforcement Award

February 14, 2013

Page 2

In that position, the Chief has fostered cooperation between the task force and the general public, cooperation between all law enforcement agencies in Lake County, he has enhanced the cooperation among State and Federal Agencies, and he has increased the task force's involvement in aiding other Illinois task forces and communities. Chief Filenko has taken a global view of citizen protection through expansive aid to surrounding communities.

In addition to his law enforcement activities, his community outreach has been extensive:

- Past President of the Lake County Chiefs of Police Association
- Past President of Mano-A-Mano Community Resource Center (and a Current Executive Board Member)
- Chairman of the Lake County Chiefs of Police Gang Committee
- Past Chairman of the Lake Zurich Community Policing Committee
- Advisory Board of the Suburban Law Enforcement Academy
- Advisory Board of North East Multi-Regional Training (NEMERT)
- Board Member of CENCOM
- Foundation Fellow of the Lake Zurich Lions Club
- Advisory Board of Lake County Teen Court
- Member of the Round Lake Area Exchange Club

As you can see, Chief Filenko has concentrated his efforts in crime prevention, minimizing the impact of crime in our communities, promoting an understanding of the criminal justice system, and encouraging community involvement with all members of law enforcement. The Chief has done this through his position as a police officer and through his endless volunteer activities focused on fostering community understanding and community safety. All of those activities have enhanced the image of the criminal justice system with the general public.

I highly recommend Chief George Filenko for the 2013 Illinois State Bar Association Law Enforcement Award.

Sincerely,



MICHAEL G. NERHEIM
STATE'S ATTORNEY



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

2nd DISTRICT

**JEFFREY DORAN
SHERIFF
CARROLL COUNTY, ILLINOIS**

**NOMINATED BY:
BETSY L. SHAULIS**



Law Enforcement Award

ILLINOIS STATE
BAR ASSOCIATION

NOMINATION FORM

NOMINATION SUBMITTED BY:

Betsy L. Shaulis, President
Name/Title

Carroll County Bar Association
Organization

100 South Broad Street, Post Office Box 114
Address

Lanark, Illinois 61046
City/State/Zip Code

815-493-2334
Daytime Telephone Number

NOMINEE:

Jeffrey Doran, Sheriff of Carroll County, Illinois
Name/Position

Carroll County, State of Illinois
Employing Agency

301 North Main Street
Address

Mount Carroll, Illinois 61053
City/State/Zip Code

Jeffrey Doran, Sheriff
Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

Sheriff Doran's Office meticulously investigates complaints of criminal behavior in Carroll County and he effectively operates the County jail. His Office takes great pride in discharging emergency 9-1-1 dispatch personnel, and he ensures security for all County offices at the Carroll County Courthouse. Most importantly, Sheriff Doran and his staff work closely with other law enforcement agencies in the County to promote a safe place for citizens to live and work.

Signature of Nominator

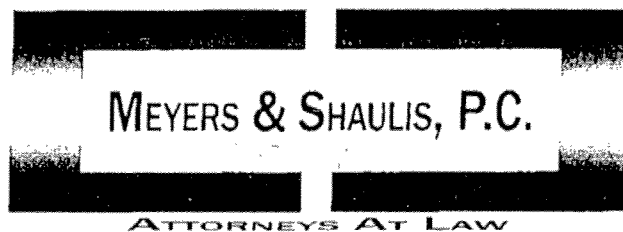
Betsy Shaulis

Date

Feb 15, 2013

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
Attn: Jamie Reynolds
Illinois State Bar Association
424 South Second Street
Springfield, IL 62701-1779



By email only to jreynolds@isba.org

February 15, 2013

ISBA Public Relations Committee
Attn: Jamie Reynolds
Illinois State Bar Association
424 South Second Street
Springfield, Illinois 62701-1779

RE: Law Enforcement Award & Nomination of Carroll County Sheriff Jeffrey Doran

Dear Jamie Reynolds:

Please find enclosed the Carroll County Bar Association's Law Enforcement Nomination Award Form, which nominates Carroll County Sheriff Jeffrey Doran.

Should you have any questions, please do not hesitate to contact me at 815.493.2334. Thank you.

Kind Regards,

Betsy L. Shaulis
Enclosure

Additional information in reference to Jeff Doran nomination:

Jeff is involved in the following **LAW ENFORCEMENT ACTIVITIES IN CARROLL COUNTY AND AROUND NORTHWEST ILLINOIS:**

1. Sheriff Doran is currently serves as Vice President of the Northwest Illinois Major Case Squad Organization, where he oversees major case management strategies for law enforcement entities in and around northwestern Illinois;
2. Sheriff Doran is currently an Executive Board Member and past Chairman of the Northwest Illinois Criminal Justice Commission, where he oversees and provides training for law enforcement officers in the five northwestern counties in Illinois;
3. Sheriff Doran is a past Board Member of Tyler's Justice Center in northwest Illinois, which is a child advocacy center for children that have been sexually abused; and
4. Jeff is a present Board Member of the TRIAD Organization in Carroll County, which is an organization that provides information and assistance to senior citizens in this County.

Jeff Doran is involved in the following **COMMUNITY ACTIVITIES IN AND AROUND CARROLL COUNTY & NORTHWEST ILLINOIS:**

1. He is presently serving on the Executive Board and is Past President of the Savanna Rotary Club;
2. He is presently serving on the Executive Board and is Past President of the Carroll County Substance Education Coalition, which provides education programs in all of the Carroll county schools;
3. He is an Executive Board Member of Sinnissippi Center, which is an organization that provides mental health and substance abuse services to individuals in northwestern Illinois; and
4. Jeff is currently the President of Great River Outreach, which is a faith-based organization that provides daily meals and oversees assistance programs for needy Carroll County residents.

Kind Regards,
Betsy L. Shaulis
MEYERS & SHAULIS, P.C.
President, Carroll County Bar Association



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

4th DISTRICT

**DIRK BUTLER
TROOPER
ILLINOIS STATE POLICE**

**NOMINATED BY:
THOMAS R. SIEGEL**



Law Enforcement Award

**ILLINOIS STATE
BAR ASSOCIATION**

NOMINATION FORM

NOMINATION SUBMITTED BY:

Thomas R. Siegel
Name/Title
Whitman, Barber + Siegel
Organization
203 East Broadway
Address
Monmouth, IL 61462
City/State/Zip Code
309 734 7926
Daytime Telephone Number

NOMINEE:

ISP Trooper Dirk Butler
Name/Position
Illinois State Police
Employing Agency
Unknown
Address
Illinois
City/State/Zip Code
Unknown
Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

Trooper Butler responded to an automobile accident that I was involved in. He was polite and professional and expressed concern for my well-being while doing his job.

Signature of Nominator _____

Date

1/30/13

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
Attn: Jamie Reynolds
Illinois State Bar Association
424 South Second Street
Springfield, IL 62701-1779



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

4th DISTRICT

**BRAD ROGERS
OFFICER
JACKSONVILLE POLICE DEPARTMENT**

**NOMINATED BY:
CHRIS REIF**



Law Enforcement Award

**ILLINOIS STATE
BAR ASSOCIATION**

NOMINATION FORM

NOMINATION SUBMITTED BY:

Chris Reif

Name/Title

Morgan County State's Attorney

Organization

Address

300 West State Street

City/State/Zip Code

Jacksonville, IL 62650

Daytime Telephone Number

NOMINEE:

Brad Rogers

Name/Position

Jacksonville Police Department

Employing Agency

200 West Douglas

Address

Jacksonville, IL 62650

City/State/Zip Code

Rodney Cox

Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

See Attached

Signature of Nominator

Date

2-18-13

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
Attn: Jamie Reynolds
Illinois State Bar Association
424 South Second Street
Springfield, IL 62701-1779

Illinois State Bar Association Law Enforcement Award

This officer has on numerous cases involving criminal activities went above and beyond in meeting with victims to discuss the impact of the crimes committed upon and them to attempt to reduce the negative consequences associated with their victimization. In one such case, two separate homes were broken into and in the second house a fight ensued between the defendant and a victim. The officer took the time to set up meetings with the victims and the State's Attorney Office at such times when he could be present along with the victim witness/coordinator. In addition, he took additional steps to allow them to meet with the defendant, who in this case happened to be a member of the armed services. The unique situation presented was the victims themselves, whose house had been broken into and who engaged in a fight with this defendant also had two children in the armed services. These meetings allowed the victims to understand the facts surrounding the case and hopefully to put them at ease that this was not an incident targeted specifically at them but on the contrary, an isolated incident that was the result of over indulgence of alcohol.

This officer has taken the time to meet with local colleges in assisting them in drafting handbooks to address search and seizure issues raised by the courts in rulings with respect to the finding of illicit drugs on campus. The officer brought the State's Attorney Office on board with the college to work towards a resolution that was in the best interest of all including the college and their students to ensure that drugs would not be tolerated on campus and they would not run afoul of constitutional provisions.

This officer has been requested by numerous individuals throughout the Morgan County community to meet with young children who are starting to experience troubles in their life as a result of drugs, alcohol, and/or improper peer influences. This officer on numerous occasions has gone out of the way to be a positive role model and leader of young children offering them advice and guidance when necessary. This officer also works with local community agencies including drug treatment providers, Department of Children and Family Services, mental health providers, etc. to assist defendants and victims in seeking out services to allow them to be more productive members of society. This officer has been asked to instruct at local college, high school, and grade school classes regarding crime, drugs, and its influence on our society.

Professionally this officer has been involved in investigations ranging from misdemeanors, financial crimes, and drug investigations all the way up to major sex offenses and homicide investigations. This officer's investigations have resulted in convictions from the most minor offenses all the way up to first degree murder sentences resulting in prison sentences up to and including seventy-five (75) years in the Illinois Department of Corrections.

This officer was vital in the original stages of implementing a child advocacy protocol in Morgan County. He assisted with the development and implementation of that protocol with law enforcement officers working in compliance with the Morgan County State's Attorney Office and other agencies involved with the Child Advocacy Center. This guidance and assistance has allowed multiple agencies to come together in investigating and regularly reviewing serious physical abuse cases directed towards

minors as well as sexual assault cases involving children. This groups regular meeting, investigation, and implementation of a protocol has resulted in numerous sex offender convictions including those that would have not came about without the assistance of this group.

This officer regularly meets with individuals in this community who have problems and/or concerns with how law enforcement and the criminal justice system operate. He regularly and routinely educates the community as to the public perception of the inadequacies of the criminal justice system. He is a regular advocate of the criminal justice system here in the United State of America and its success despite its appeared shortcomings. He informs numerous individuals of the entire process and how the process is much more complicated than a mere arrest for probable cause but, requires the adherence to not only the Illinois but the United States Constitution to successfully seek convictions. This officer understands that there are more than merely statutes but also case law, jury instructions, and other matters that come into play in successfully obtaining a conviction.

Perhaps most important this officer understands that not every case must result in an arrest and conviction and that many times justice can be more adequately served by a station adjustment which is allowed pursuant to statutes enacted by our legislature. Many times a productive member of society can be saved and prevented from becoming involved with the criminal justice system with a little guidance and incite for which this officer has. This officer has regularly and routinely turned lives around though being a positive role model and leader and listening to the problems and/or concerns of young adults and children who are facing cross roads in their life.



**ILLINOIS STATE
BAR ASSOCIATION**

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

5th DISTRICT

**LARRY EASON
CHIEF OF POLICE
VANDALIA POLICE DEPARTMENT**

**NOMINATED BY:
TRENT WEST**



Law Enforcement Award

**ILLINOIS STATE
BAR ASSOCIATION**

NOMINATION FORM

NOMINATION SUBMITTED BY:

Trent West, Attorney at Law
 Name/Title
 LAW Firm
 Organization
 210 S. Fifth - PO Box 276
 Address
 Vandalia, IL 62471
 City/State/Zip Code
 618-283-3210
 Daytime Telephone Number

NOMINEE:

Larry Eason - Chief of Police
 Name/Position
 Vandalia Police Department
 Employing Agency
 Fifth Street
 Address
 Vandalia, IL 62471
 City/State/Zip Code
 Chief of Police
 Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

Professional & efficient leader of
 police departments. Comes out his
 job duties with honesty & integrity.

Signature of Nominator

Date

1/30/13

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
 Attn: Jamie Reynolds
 Illinois State Bar Association
 424 South Second Street
 Springfield, IL 62701-1779



ILLINOIS STATE
BAR ASSOCIATION

**2013 ILLINOIS STATE BAR ASSOCIATION
LAW ENFORCEMENT AWARD**

5th DISTRICT

**JIM VAZZI
SHERIFF
MONTGOMERY COUNTY, ILLINOIS**

**NOMINATED BY:
KELLY D. LONG**



Law Enforcement Award

ILLINOIS STATE
BAR ASSOCIATION

NOMINATION FORM

NOMINATION SUBMITTED BY:

Kelly D. Long, Resident Circuit Judge
Name/Title
Fourth Judicial Circuit Court
Organization
Montgomery County Courthouse, 120 North Main St.
Address
Hillsboro, IL 62049
City/State/Zip Code
217-532-9601
Daytime Telephone Number

NOMINEE:

Jim Vizzi, Montgomery County Sheriff
Name/Position
Montgomery County
Employing Agency
140 North Main St.
Address
Hillsboro, IL 62049
City/State/Zip Code

Supervisor/Title

DESCRIPTION OF CONDUCT SUPPORTING NOMINATION:

(Continue on additional pages as necessary and include any supporting documentation)

See attached

Signature of Nominator

Kelly D. Long JW

Date

2/15/13

NOMINATIONS SHOULD BE RETURNED BY FEBRUARY 15, 2013 TO:

ISBA Public Relations Committee
Attn: Jamie Reynolds
Illinois State Bar Association
424 South Second Street
Springfield, IL 62701-1779

Jim Vazzi

Montgomery County Sheriff

140 North Main St.

Hillsboro, IL 62049

Dispatch (217) 532-9511

Office Manager (217) 532-9512

Fax (217) 532-6118

Jul (217) 532-9511

Employment

City of Nokomis Patrolman	05/76—01/80
Montgomery County Sheriff's Office Deputy	01/80—08/82
City of Nokomis Chief of Police	08/82—12/86
Montgomery County Sheriff's Office Sheriff	12/86—11/90
	12/90—11/94
	12/94—11/98
	12/98—11/02
	12/02—11/06
	12/06—11/10
	12/10—Present

Membership

- Illinois Sheriffs' Association Member
- Illinois Sheriffs' Association Past President
- Illinois Sheriffs' Association Secretary/Treasurer
- Southern Zone Sheriffs' Association Member
- National Sheriffs' Association Member
- Former Illinois Law Enforcement Training & Standards Board Member
- Former Illinois State Police Crime Lab Advisory Board
- South Central Illinois Drug Task Force Board of Directors
- Founding Member of the South Central Illinois Drug Task Force
- Creator of Macoupin/Montgomery County Crime Stoppers
- West Central Illinois Criminal Justice Council Board Member
- Co-Chairman of Region 8 Illinois Law Enforcement Alarm System
- Weapons of Mass Destruction Special Response Team
- Illinois Law Enforcement Alarm System State Board
- 4th Judicial Circuit Juvenile Justice Council
- Nokomis Lion's Club Past President
- Nokomis Masonic Lodge Member
- Hillsboro Moose Club Member
- Illinois Rifle Association Member
- Former Nokomis Sportsman's Club Member

Training

Over 600 Law Enforcement training hours

Board of Governors

March 8, 2013

**Agenda Item 97
Law School Debt Report**



Illinois State Bar Association

Special Committee on the Impact of Law School Debt on the Delivery of Legal Services

Final Report, Findings & Recommendations

February 20, 2013

**Special Committee
on the Impact of Law School Debt
on the Delivery of Legal Services**

Honorable Ann Jorgensen, Co Chair
Wheaton

Dennis J. Orsey, Co Chair
Granite City

Daniel R. Thies, Reporter
Chicago

Robert H. Alvine
Moline

Honorable Dennis J. Burke
Chicago

John J. Horeled
Crystal Lake

Elizabeth L. Jensen
Peoria

Annmarie E. Kill
Chicago

Mary L. Smith
Chicago

Honorable Ronald D. Spears
Taylorville

Joseph L. Stone
Chicago

Lois Wood
East St. Louis

Charles J. Northrup
ISBA Staff Liaison
Springfield

EXECUTIVE SUMMARY

I. EXCESSIVE LAW SCHOOL DEBT DECREASES THE QUANTITY AND QUALITY OF LEGAL SERVICES AVAILABLE TO THE PUBLIC

The average student graduates from law school today with over \$100,000 of law school debt. After adding accrued interest, undergraduate debt, and bar study loans, the debt burden of new attorneys frequently increases to \$150,000 to \$200,000, levels of debt that impose a crushing burden on new lawyers. But excessive debt is a problem not only for new lawyers. Lawyer debt also poses significant challenges to the rest of the legal profession and the public that the profession serves. To explore the extent of these challenges and consider appropriate recommendations, Illinois State Bar Association President John E. Thies created the Special Committee on the Impact of Law School Debt on the Delivery of Legal Services (“Special Committee”).

During the fall of 2012, the Special Committee conducted a series of statewide hearings inviting testimony from a wide-range of individuals as to their “front line” experiences with this problem. Based on this testimony and other research, the Special Committee has concluded that this law school debt crisis is having a serious and negative impact on the quality and availability of the legal services that the legal profession provides in this state. In short, the debt burden of new attorneys, combined with their lack of readiness for practice upon graduation and a difficult job market, is detrimental to the public’s ability to access quality legal services. In particular, the Special Committee documented the following effects of law school debt:

- **Small Law Firms Face Challenges Hiring and Retaining Competent Attorneys:** Many small law firms are unable to pay the salaries new attorneys need to manage their debt. As a result, turnover at such firms is high, forcing those firms to spend additional time and resources training new attorneys (compounded by the problem of inadequate readiness for practice upon graduation). To make up for the inadequate salary, some small firms expect associates to take additional work as a public defender, in the state’s attorney’s office, or in non-legal jobs, limiting the value that small firms can derive from them.
- **Fewer Lawyers are Able to Work in Public Interest Positions:** Attorneys with excessive debt are less able to take legal aid or government jobs which, in Illinois, have starting salaries between \$40,000 and \$50,000 per year. Public interest offices that raise their salaries to accommodate debt and attract talented lawyers are unable to hire as many attorneys, reducing the services these offices can provide. New attorneys who do work in public interest law often leave within three to five years, depriving public interest offices of experienced mid-level attorneys and requiring them to train new hires constantly, cutting into the quality of services they provide.
- **New Attorneys Have Too Much Debt to Provide Affordable Legal Services to Poor and Middle Class Families and Individuals:** Salaries among law firms primarily serving the legal needs of middle class individuals and families are also inadequate to support the debt loads of new attorneys. Indeed, 25% of all graduates of the class of 2011 in private practice in Illinois made less than \$50,000 in their first year after graduation, including most in downstate areas. Because debt makes it difficult for attorneys to survive at that salary level, young attorneys move quickly to higher paying legal sectors if possible, and, if not, many leave the profession. That exodus has contributed to the profession’s inability to meet what the Legal Services Corporation calls “an explosion in the demand for legal services” among middle class and poor Americans in recent years.

- **As Fewer Attorneys Find Sustainable Jobs in the Private Sector, More Attorneys Enter Solo Practice:** The number of new graduates entering solo practice has increased from 2.8% to 6% between 2007 and 2011. Many more enter solo practice after several years of unemployment or underemployment. Because of their debt loads, however, these attorneys are unable to adequately finance a new law practice. As a result, most struggle, and many consider leaving the law if they are unable to move on to other jobs. This group is also more likely to commit ethics violations and to be the target of malpractice suits.
- **Attorneys Report that Debt Burdened Lawyers are Less Likely to Engage in Pro Bono Work:** Financial pressures make it more difficult for attorneys to volunteer their time to provide pro bono services.
- **Debt Drives Young Attorneys Away from Rural Areas:** Already, rural areas of Illinois have significantly fewer lawyers per capita than more populated areas, because it is more difficult for lawyers to service significant debt in rural areas. This problem is likely to intensify, as 64% of lawyers in counties with fewer than 25,000 people are over 50, compared to only 45% of lawyers statewide. As lawyers age and retire in more rural environments, there will be fewer young attorneys to take their place.
- **Heavy Debt Burdens Decrease the Diversity of the Legal Profession:** Blacks and Hispanics are more likely to have law school debt, and their debt loads tend to be higher. As a result, high debt loads may drive minorities away from the profession, making it less reflective of the diversity of America and diminishing its ability to serve minority clients.
- **Threats to Professionalism:** The Special Committee heard much anecdotal evidence suggesting that attorneys with heavy debt loads may be more likely to commit ethics violations. The greatest pressures are on solo practitioners, who may take work beyond their level of competency, face financial pressures to prolong litigation, or terminate a representation inappropriately if a client has difficulty paying. Evidence from the Attorney Registration and Disciplinary Commission does not yet show an increase in ethics violations among lawyers with heavy debt loads. Nonetheless, this data may be a lagging indicator of a problem that is already developing.

II. EXISTING LOAN REPAYMENT PROGRAMS ARE INADEQUATE AND DO NOT SOLVE THE PROBLEM

Existing loan forgiveness programs, including the income-based repayment plan (IBR) that the federal government administers, provide some relief from the problems listed above. These programs are inadequate, however, for a variety of reasons. Many public interest attorneys are unwilling to enroll in IBR because, although it lowers an attorney's monthly payment, any interest unpaid at that payment level continues to accrue. Moreover, the attorney's debt will not be forgiven until ten years of service in public interest. Funding for public interest jobs is unstable, and an attorney who does not continue in public interest law may have her accrued interest capitalized, leaving the attorney in a worse position than before. In addition, IBR does not cover private loans, the program may penalize a lawyer for the earnings of the lawyer's spouse, a lawyer's credit score may still suffer while on IBR, and many attorneys do not expect funding for IBR to continue in a time of government austerity. In addition, some graduates were not aware of the intricacies of IBR and may not be taking advantage of all the features available to them.

III. THE NEED TO REFORM LEGAL EDUCATION TO ADDRESS THE REALITIES OF THE MARKETPLACE—THE PROBLEM GOES BEYOND COST

The Special Committee concluded that, given the dynamics discussed above, the training that law students receive in law school today is increasingly not worth its high cost—essentially creating a “perfect” storm. The problems with the current legal education model go beyond the difficult economic climate. In fact, the Special Committee received testimony that the tight job market facing recent law school graduates may have—at least in part—*resulted from* the inadequate training of law students for the jobs that are available. The majority of lawyers who testified indicated that new lawyers are not adequately prepared for practice, and that hiring partners have consequently become less willing to hire new lawyers, preferring instead those with a minimum of several years of experience. The inadequate “practice ready” skills of new graduates has apparently contributed to the reality that only 55% of the law school class of 2011 had full time, permanent jobs that required a JD nine months after graduation.

The purpose of the Special Committee does not include examining particular curricula or the law school cost structure in great detail. Nonetheless, the Special Committee’s research and the testimony at the hearings supports a number of conclusions about the preparedness of law school graduates:

- Law schools place an inordinate focus on academic scholarship. Although they are paid more, faculty today teach less and have fewer administrative responsibilities than several decades ago, all in the name of granting more time for scholarship. Although some scholarship is valuable, 40% of law review articles are never cited, and 80% are cited fewer than ten times. At the same time, the cost of one law review article is about \$100,000, a cost borne by law students and contributing to the unavailability of affordable legal services for the public.
- Law schools fail to provide adequate opportunities for law students to practice legal writing skills in the context of problems that might arise in a typical practice setting.
- Law students do not receive adequate feedback on their performance during law school.
- The faculty tenure requirements of most law schools, along with law schools’ focus on academic scholarship, deemphasizes practice experience as a qualification. As a result, many faculty lack the practice experience that would assist them in training the next generation of lawyers and judges.

Above all, law schools must focus on developing a model of legal education that can educate lawyers for practice at an affordable price. It is the Special Committee’s view that the practicing bar and organized bar associations can and must play a supportive role in any reform efforts, including by identifying creative new ways to help impart practical experience to young lawyers.

IV. Recommendations

Based on the testimony at the hearings and its own research, the Special Committee has developed a series of recommendations to mitigate the law school debt crisis and transform legal education to focus on educating lawyers for practice at an affordable price. The recommendations are divided into several categories:

A. Financing Law School

Law schools must control costs by eliminating unnecessary expenditures, including by avoiding excessive payments to universities hoping to profit from their law school. One way to force law schools to economize is to ensure that their primary revenue source, federal student loans, is contingent on their success in educating lawyers. Accordingly, the federal government should:

- **Place Reasonable Limits on the Amounts Law Students Can Borrow:** Congress and the Department of Education should place reasonable limits on the amount that law students can borrow from the federal government. Student loans should also be made dischargeable in bankruptcy so private lenders have the incentive to properly screen loan applicants based on the chance that the school they attend will prepare them to be successful in the job market. That way, law schools will have an incentive to restrain costs to the level that students can borrow. If a school fails to do so, most students will not be able to afford to attend, and the school will close.
- **Impose Outcome-Based Requirements for Federal Student Loan Eligibility:** Rather than allowing all accredited law schools to enroll students receiving federal student loans, Congress should restrict federal loan eligibility to schools whose graduates meet certain employment and debt-repayment outcomes. Such a program would model the Department of Education's current standards for for-profit and vocational schools. Under this program, law schools would face additional market pressure to train attorneys for practice at an affordable price, or they would lose their federal loan eligibility and likely go out of business.
- **Reallocate the Funds Available Through Loan Forgiveness Programs:** The federal government should ensure that funds available in the IBR program are targeted to attorneys most in need. For example, the program could save money by putting a cap on IBR aid for attorneys with a salary above a certain threshold. The money saved could be used to grant loan forgiveness to public interest attorneys on a yearly basis, rather than requiring a ten-year commitment, thus removing some of the uncertainty that prevents some lawyers from enrolling. The federal government should also extend the more generous IBR provisions for public interest attorneys to private sector attorneys willing to work in areas with unmet legal needs. Loan forgiveness for private sector attorneys could be contingent on performing a certain amount of pro bono work each year.

B. Revisions to the Accreditation Standards

Law schools must have the ability to experiment with new models of legal education to find the best ways to control costs while still delivering a quality education. The ABA Section of Legal Education and Admissions to the Bar should revise the standards for accreditation to allow appropriate flexibility. In particular, the Special Committee recommends that the Section:

- Allow adjunct faculty to play a greater role in legal education, including in the first year;
- Require that law schools provide debt counseling for all admitted students, before they commit to attend;
- Remove the requirement that all faculty engage in scholarship;
- Expand the credits a student can earn from distance education, and limit the requirements for a law school's physical plant, thus allowing law schools to experiment with alternative ways of delivering legal education; and
- Allow law schools to meet the requirements for library collection through digital access.

C. Reforms to Law School Curricula

Law schools themselves must transform their curricula to focus on educating lawyers for practice. Law schools should:

- **Focus on Practice-Oriented Courses:** Law schools should prioritize simulation courses, live-client clinics, and other courses that give students the opportunity to learn and apply legal principles in the context of real life problems. Every student should have the opportunity to benefit from such courses. At the same time, law schools should integrate practical exercises into traditional doctrinal courses so that students begin to learn to practice law from the beginning of law school.
- **Provide Fewer Exotic Courses:** Law schools should cut back on courses such as “Law and Literature” that focus exclusively on the academic study of law, with no practical application.
- **Provide More Writing Assignments and Constructive Criticism:** More law school courses should include writing assignments and opportunities for students to receive feedback on their work prior to the final exam.
- **Teach Law Office Management:** Law schools should prepare students to begin practice at graduation by teaching law office management.
- **Teach a Bar Review Course:** Law schools should provide bar review courses to students at no extra cost, removing a significant expense for most students in the summer after graduation.
- **Transform the Second and Third Years of Law School:** Law schools should use the second and third year of law school to help students transition to practice through apprenticeships in practice settings, practical courses, and teaching assistantships, rather than more traditional doctrinal courses. The Special Committee does not believe the third year of law school should be cut, as doing so would likely leave graduates even less prepared to practice than they are currently.

D. Reforms to Law School Faculty

To facilitate the above changes to curriculum, law schools should make the following reforms to their faculty and governance structures:

- **Change Tenure and Hiring Requirements to Put Less Emphasis on Scholarship:** Law schools should prioritize teaching ability and practice skills when hiring and granting tenure, rather than academic scholarship.
- **Include Practicing Judges and Lawyers on Hiring and Tenure Committees:** Experienced practitioners and judges should serve on law school faculty hiring and tenure committees to ensure that those committees consider the practice skills and ability to educate students for practice of potential faculty members.
- **Use More Properly-Trained and Supervised Adjunct Faculty:** Law schools should hire more adjunct faculty to lower their costs and provide students additional exposure to the practice of law before graduation.

- **Give Clinical and Legal Writing Faculty an Equal Say in Governance:** Clinical and legal writing faculty should have the same responsibilities with respect to law school governance as traditional faculty.

E. Reforms for the Illinois Supreme Court and Other State Supreme Courts

The Illinois Supreme Court and other state supreme courts should:

- **Consider Ways to Reduce the Cost of Becoming Licensed:** For example, supreme courts could allow qualified students could take the bar exam in February of their third year, thus avoiding the cost of studying for the bar exam after graduation, and reducing the delay before beginning work. Such a proposal should be careful not to restrict the time law students have in their third year to become practice ready. Alternatively, supreme courts should consider offering bar admission to qualified graduates of their state's law schools without a bar exam.
- **Gather More Information to Increase Transparency about Legal Education:** State supreme courts should require attorneys to report additional employment and salary information as part of their annual registration. This data would ensure that prospective law students have complete information about the employment outcomes that may await them after law school.
- **Monitor Ethics Problems:** State supreme courts should monitor potential ethics violations that may arise because of the excessive law school debt that many graduates are carrying.
- **Help Young Attorneys Gain Practice Experience:** State supreme courts should also give young attorneys and law students more opportunities to gain practical experience by broadening student practice rules and allowing practice management CLEs to count toward minimum CLE requirements. For example, in Illinois, the Supreme Court could relax Rule 711 to allow law student apprentices to gain more experience while working for a private law firm. Supreme courts should also encourage firms to give pro bono work to young attorneys by making pro bono work mandatory and allowing the pro bono work of young attorneys to count toward the requirement of the firm's lawyers.

F. Support from the Organized Bar

Bar associations must support law schools as they seek to transform legal education. Bar associations should:

- **Facilitate Firm Apprenticeship Programs:** Bar associations should support law firms that help to train new lawyers through firm apprenticeship programs, in which lawyers receive a smaller salary in return for additional training. For example, bar associations could develop a standard set of CLE programs for law firm apprentices to ease the cost of apprenticeships for law firms. These programs could also begin during the third year of law school and provide a cheaper way for third-year law students to receive credit toward graduation.
- **Partner with Law Schools to Provide Practice Experiences to Law Students:** Bar associations should assist law schools with identifying and training lawyers and judges who can be effective adjuncts or externship supervisors for law school programs.
- **Facilitate Pro Bono Work:** Bar associations should connect young lawyers with experienced attorneys across the state to work on pro bono projects, creating another avenue for young attorneys to gain valuable experience.

- **Facilitate the Sale of Rural Law Practices to Young Lawyers:** Bar associations should create a program to assist retiring lawyers who wish to sell their practice to a law student or young lawyer after a period of apprenticeship and training.
- **Provide Debt Counseling for Lawyers and Prospective Law Students:** Bar associations should provide debt counseling to young lawyers to assist them with managing their debt load. They should also partner with college pre-law advisors to help prospective law students understand and plan for the financial challenges of attending law school.
- **Provide Resources for Solo Practitioners and Small Firm Lawyers:** Bar associations should support small firms and solo practitioners by providing free and reduced CLE, access to Fastcase or other online research tools, an ethics hotline, mentorship programs, and networking opportunities.
- **Partner with Groups to Ensure Lawyers are Placed Where They Are Needed:** Bar associations should partner with law schools, local governments, economic development groups, legal recruiters, and others to ensure that lawyers are placed in geographic areas and practice areas where they are most needed.

INTRODUCTION

The challenges facing young lawyers because of the debt burden of attending law school and the catastrophic job market are receiving significant attention.¹ The average law school graduate now faces over \$100,000 of debt from law school at graduation, not including lingering undergraduate loans and money borrowed to study for the bar exam and assist with living expenses until a graduate's first job.² The pressures of that debt are only compounded by the austere legal job market that left almost 50% of graduates from the class of 2011 unemployed or underemployed.³ But that may not be the whole story. After removing clerkships with state trial courts (which are often temporary and unlikely to lead to other employment), positions funded by law schools, jobs that feature nominal salaries, solo practitioners, and graduates who have opened a law office together or are engaged in "eat what you kill" arrangements with private firms (in which the graduate earns money only for work she brings in herself), one scholar estimates that as few as one-third of the class of 2011 obtained employment "that a typical prospective law student would have considered a minimally satisfactory employment outcome."⁴

The consequences for lawyers of the worst job market in many years combined with crippling debt are obvious and well-documented.⁵ Young lawyers are facing unprecedented financial pressures that cause multiple distortions of their personal and professional lives. Many are unable to find employment that will allow them to hone their skills as attorneys during a

¹ See, e.g., MASS. BAR ASS'N, REPORT OF THE TASK FORCE ON LAW, THE ECONOMY, AND UNDEREMPLOYMENT (2012).

² A survey by *U.S. News and World Report* in early 2012 found that the average law school graduate had \$100,433 of debt upon graduation. Josh Block & Janet Lorin, *Law School Debt Exceeds \$100,000 Amid Jobs Shortage*, BLOOMBERG.COM, Apr. 18, 2012, <http://www.bloomberg.com/news/2012-04-18/law-school-student-debt-exceeds-100-000-amid-jobs-shortage.html>. The American Bar Association Section of Legal Education and Admissions to the Bar reports that 2011 public law school graduates had an average of \$75,728 of law school debt, and private law school graduates had on average \$124,950 of debt. Am. Bar Ass'n, *Average Amount Borrowed for Law School*, http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/avg_amnt_brwd.authcheckdam.pdf (last visited Jan. 28, 2013). As this report documents, many graduates leave school with significantly more debt, including many with over \$200,000.

³ Only 55% of the class of 2011 had full time, long term jobs for which a law degree was required nine months after graduation, while another 8% were in full time, long term jobs for which a law degree was preferred, and 4% were employed in professional positions for which a law degree conferred no advantage. Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J., June 25, 2012, available at <http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html> (reporting that 55% of the class of 2011 had full time, long term jobs nine months after graduation). In addition, 6% of 2011 graduates working in private practice reported that they were employed as solo practitioners, likely indicating they were unable to obtain any other employment. NALP, *Class of 2011 National Summary Report*, http://www.nalp.org/uploads/NatlSummChart_Classof2011.pdf (last visited Jan. 28, 2013).

⁴ Paul Campos, *The Crisis of the American Law School*, 46 U. MICH. J.L. REFORM 177, 198-202 & n.100 (2012).

⁵ See, e.g., BRIAN Z. TAMANAHA, *FAILING LAW SCHOOLS* (2012); Campos, *supra* note 4; Nathan Koppel, *Law School Loses Its Allure as Jobs at Firms Are Scarce*, WALL ST. J., Mar. 17, 2011, available at <http://online.wsj.com/article/SB10001424052748704396504576204692878631986.html>; David Segal, *Is Law School a Losing Game?* N.Y. TIMES, Jan. 8, 2011, at BU1; Matthew Shaer, *Law Schools Sued for Lying About Lawyering*, N.Y. MAG. (Feb. 1, 2012, 12:53 PM), available at <http://nymag.com/daily/intel/2012/02/law-schools-sued-for-lying-about-lawyering.html>. Several internet blogs have contributed to the outcry about the negative outcomes of legal education for many law graduates, including *Inside the Law School Scam*, *Above the Law*, *Scott Bullock*, *Loyola 2L*, *Nando*, *JD Underground*, *The Law School Tuition Bubble*, and others.

crucial period in their career, while others are locked into jobs that they dislike merely to pay the bills. Yet others work extra jobs in non-law fields to make ends meet. Lawyers now suffer from clinical depression at a rate 3.4 times higher than the general public and are twice as likely to commit suicide.⁶ According to Janet Piper Voss, the Executive Director of the Illinois Lawyers' Assistance Program, the number of law students the program counseled increased significantly a few years ago because of anxiety and depression related to financial issues and the difficulty of finding employment.

The debt burden is an inexorable force that ruins the credit scores of many young attorneys trapped in an endless cycle of forbearances, deferments, re-financings, and struggles to make even the minimum monthly payment. The financial plight of many young attorneys forces them to delay important life milestones, such as marriage, starting a family, or buying a house. In the worst cases, some young lawyers must leave the profession before their careers have even begun, either because their debt prevents them from joining the bar,⁷ or because they simply cannot find a way to make their monthly debt payments without taking a job outside the law. In short, the consequences for young lawyers are devastating.

The consequences for the public of the new economic realities of the legal profession have received less attention. Lawyers are members of a publicly recognized profession, with a responsibility to exercise the privileges afforded them for the good of their clients and of the public. As always, the chief concern of the bar must be to continue to make high quality legal services available to all people, and to protect the rule of law in our society. Common sense suggests that those objectives will be influenced by the significant economic disruptions facing new lawyers, and yet neither law schools nor the organized bar have focused on this crucial piece of the problem of law school debt.

President John E. Thies of the Illinois State Bar Association created the Special Committee on the Impact of Law School Debt on the Delivery of Legal Services ("Special Committee") to address that inadequacy. The Special Committee's charge was to document the effect of the law student debt crisis on the delivery of legal services in Illinois, and to propose solutions to address this problem.

The Special Committee is co-chaired by the Honorable Ann B. Jorgensen and Dennis J. Orsey. Other members of the Special Committee include: Robert H. Alvine (Moline); the Honorable Dennis J. Burke (Burr Ridge); John J. Horeled (Crystal Lake); Elizabeth Jensen (Peoria); Annemarie E. Kill (Chicago); Mary L. Smith (Lansing); the Honorable Ronald D. Spears (Taylerville); Joseph L. Stone (Chicago); Daniel R. Thies (Chicago); and Lois Wood (East St. Louis). The Special Committee had staff support from ISBA General Counsel, Charles J. Northup and Kim Weaver, Assistant to the Executive Director. The members of the Special Committee reflect a diverse and well respected group of experienced practitioners and active judges.

METHODOLOGY

During Fall 2012, the Special Committee held a series of five public hearings around the state.⁸ The hearings were publicized broadly through the ISBA newsletter *Illinois Lawyer Now*, local bar association, and e-mail blasts to ISBA members. In addition, a broad cross section of

⁶ Ted David, *Can Lawyers Learn to Be Happy?*, PRAC. LAW., Aug. 2011, at 29, 29.

⁷ A representative of the Illinois Board of Admissions to the Bar testified that thirteen July 2012 bar exam passers were denied a law license because of "irresponsibility in financial matters—chiefly delinquency in student loan payments. *See also* Susanna Kim, *Ohio Supreme Court Denies Law License for Grad with \$170,000 in Student Loans*, ABCNEWS, Jan. 18, 2011, available at <http://abcnews.go.com/Business/ohio-supreme-court-denies-law-license-law-grad/story?id=12632984#.UL1hhHd7uZQ>.

⁸ The five hearings occurred in Wheaton, Peoria, Fairview Heights, Champaign, and Chicago on October 23, October 24, November 15, November 16, and December 12, 2012, respectively.

the legal profession in Illinois received personal invitations to testify at the hearings, including the deans of Illinois and St. Louis law schools, state's attorneys and public defenders from each Illinois county, judges, prominent attorneys, recent law school graduates, and law students known to the Special Committee.

The Special Committee requested that those testifying address the impact of law student debt on the delivery of legal services, and particularly on the following:

1. Recruitment and retention of new lawyers in small- and medium-size firms;
2. Decisions by lawyers to open practices in small communities;
3. Recruitment and retention of new lawyers working for legal aid organizations;
4. The financial ability of new lawyers to open solo practices (and possible liability and ethical consequences resulting therefrom);
5. The availability of lawyers willing to perform pro bono services; and
6. The opportunities for new lawyers to advance from entry level positions in the profession.

Ultimately, the Special Committee heard live testimony from fifty-three individuals, including, among others, private attorneys in small, medium, and large firms, government attorneys, public defenders, legal aid lawyers, law students, judges, law professors, and deans. In addition the Special Committee heard testimony from representatives of the Illinois Attorney Registration and Disciplinary Commission ("ARDC"), the Illinois Board of Admissions to the Bar, and the Lawyers' Assistance Program. The Special Committee also received written submissions from about a dozen other lawyers and law students. In addition, the Special Committee performed additional research, as documented in the footnotes throughout this report, to assist in its understanding of the law school debt crisis.

REPORT

I. Debt Load of Recent Law School Graduates

As reported above, the average law school graduate now faces over \$100,000 of debt from law school at graduation.⁹ Among schools training lawyers to practice in Illinois, the costs of attendance and average debt levels of graduates are as follows:

⁹ See *supra* note 2.

Table 1: Law School Expenses and Average Debt of Graduates¹⁰

Law School	2011-2012 Tuition and Fees	2011-2012 Living Expenses	2011-2012 Total Annual Expenses	Average Debt of 2011 Graduates who incurred debt
Illinois				
University of Chicago	\$47,786	\$22,536	\$70,322	\$125,035
Chicago-Kent	\$42,030	\$21,098	\$63,128	\$109,769
DePaul	\$41,690	\$24,500	\$66,190	\$126,794
Illinois (Resident)	\$38,567	\$16,618	\$55,185	\$90,432
Illinois (Non-Resident)	\$45,567	\$16,618	\$62,185	\$90,432
John Marshall	\$38,180	\$23,849	\$62,029	\$136,486
Loyola (Chicago)	\$39,496	\$20,584	\$60,080	\$112,745
Northern Illinois (Resident)	\$18,688	\$17,226	\$35,914	\$61,530
Northern Illinois (Non-Resident)	\$33,311	\$17,226	\$50,537	\$61,530
Northwestern	\$51,920	\$23,500	\$75,420	\$139,101
Southern Illinois (Resident)	\$15,994	\$14,546	\$30,540	\$66,160
Southern Illinois (Non-Resident)	\$36,154	\$14,546	\$50,700	\$66,160
Wisconsin				
Marquette	\$37,570	\$19,230	\$56,800	\$117,094
Wisconsin (Resident)	\$19,683	\$18,030	\$37,713	\$66,987
Wisconsin (Non-Resident)	\$38,811	\$18,030	\$56,841	\$66,987
Iowa				
Drake	\$34,006	\$17,910	\$51,916	\$98,284
Iowa (Resident)	\$26,348	\$16,633	\$42,981	\$94,595
Iowa (Non-Resident)	\$46,056	\$16,633	\$62,689	\$94,595
Missouri				
Missouri - Columbia (Resident)	\$17,784	\$16,542	\$34,326	\$72,089
Missouri - Columbia (Non-Resident)	\$34,000	\$16,542	\$50,542	\$72,089
Missouri - KC (Resident)	\$16,730	\$18,060	\$34,790	\$91,338
Missouri - KC (Non-Resident)	\$31,772	\$18,060	\$49,832	\$91,338
Saint Louis University	\$36,175	\$23,456	\$59,631	\$120,000
Washington University	\$46,042	\$21,925	\$67,967	\$101,340
Indiana				
Indiana - Maurer (Resident)	\$28,130	\$22,882	\$51,012	\$90,070
Indiana - Maurer (Non-Resident)	\$45,602	\$22,882	\$68,484	\$90,070
Indiana - McKinney (Resident)	\$22,323	\$21,124	\$43,447	Unavailable
Indiana - McKinney (Non-Resident)	\$43,821	\$21,124	\$64,945	Unavailable

¹⁰ The average debt figures come from the website of *U.S. News and World Report*, at <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings>. The debt figures listed for public schools include both resident and non-resident students. The tuition and fees and the living expenses come from the 2013 *ABA LSAC Official Guide to ABA-Approved Law Schools* (2012), available on the LSAC website at https://officialguide.lsac.org/release/OfficialGuide_Default.aspx. The reported numbers are for full-time, single students living off campus.

Notre Dame	\$43,335	\$17,650	\$60,985	\$94,443
Valparaiso	\$38,086	\$12,760	\$50,846	\$118,487

As staggering as those average debt levels are, it is important to remember that they are merely *averages* of *law school* debt owed at graduation. Many students graduate owing significantly more. First, the numbers do not include interest that may accrue between the loan's issuance and graduation, which may add up to an additional 15% for graduates who do not make interest payments in law school.¹¹ Moreover, the numbers do not include undergraduate debt, which adds up to \$23,800 for the average bachelor's degree recipient who borrows at a public school,¹² and \$29,900 at a private school.¹³ On top of those numbers, one must add the \$15,000-\$20,000 that many law students borrow to pay for bar exam registration, bar study courses, preparatory materials, and living expenses during the summer after graduation.¹⁴ The result of it all is that debt burdens of upwards of \$150,000 or even \$200,000 were common among the recent graduates who testified before the Special Committee. Several older lawyers confirmed that nearly all of the young attorneys they know suffer from significant debt. The managing partner of one medium-sized firm in DuPage County noted that among the ten associates in his firm, all still carried law school debt ranging from \$75,000 to \$150,000. As one recent graduate said of her debt, "it's the house that I can't live in."

Indeed, the cost of attending law school has increased so quickly that even students with significant resources from other sources, including scholarships, savings, family contributions, and term-time or summer jobs, graduate with imposing debt levels. One third-year law student at the University of Illinois testified that she has worked two part time jobs during law school and collected \$93,000 of scholarship money, but will still graduate with approximately \$100,000 of debt. A 2012 graduate of Washington University similarly reported that despite a scholarship paying two-thirds of her tuition, she graduated owing \$143,000. A 2009 Loyola graduate had a scholarship paying two-thirds of her tuition and worked paying jobs during both summers of law school, but still had \$75,000 of debt at graduation. A 2010 John Marshall graduate received rental income during law school from a house that he had purchased with a gift from his grandmother, but left law school \$195,000 in the red. These stories indicate that even students with significant resources are often unable to negotiate three years of law school without borrowing heavily.¹⁵ Consequently, a remarkable 88.6% of all graduates in the class of 2008 graduated with at least some debt.¹⁶

Moreover, law school debt is not a short term issue for many graduates. Extended or income-based repayment plans allow borrowers to repay their debt over twenty-five years with

¹¹ Campos, *supra* note 4, at 205.

¹² Coll. Bd. Advocacy & Pol'y Ctr., Average Debt Levels of Public Sector Bachelor's Degree Recipients over Time, <http://trends.collegeboard.org/student-aid/figures-tables/average-debt-levels-public-sector-bachelors-degree-recipients-over-time> (last visited Jan. 28, 2013).

¹³ Coll. Bd. Advocacy & Pol'y Ctr., Average Debt Levels of Private NonProfit Sector Bachelor's Degree Recipients over Time, <http://trends.collegeboard.org/student-aid/figures-tables/average-debt-levels-private-nonprofit-sector-bachelors-degree-recipients-over-time> (last visited Jan. 28, 2012).

¹⁴ One recent graduate testified at the Urbana hearing that she had borrowed \$16,000 to study for the bar, resulting in payments of \$250 per month for ten years at 14% annual interest. Private lenders advertise bar study loan limits of \$12,000 to \$20,000. See Graduate Leverage, Bar Study Loans, <http://www.graduateleverage.com/BarStudyLoan.aspx> (last visited Jan. 28, 2012). The Dean of Northern Illinois University College of Law testified that economic uncertainty has led many students to take out larger bar study loans to bridge the gap to their first job, which may be months or even years away for students graduating with no immediate job prospects.

¹⁵ The annual tuition cost of each of the schools mentioned in this paragraph, along with other law schools in and around Illinois, is listed in Table 1.

¹⁶ JULIE MARGETTA MORGAN, CTR. FOR AM. PROGRESS, WHAT CAN WE LEARN FROM LAW SCHOOL? LEGAL EDUCATION REFLECTS ISSUES FOUND IN ALL OF HIGHER EDUCATION 8 (2011).

lower monthly payments. The lower payments, however, may not cover the interest accruing on the loan, so that even a borrower making on-time payments may see his loan balance increase over time.¹⁷ Any period spent in deferment, forbearance, or default may also cause a borrower's loan balance to increase from interest and penalties, and educational debt cannot be discharged in bankruptcy. Consequently, one graduate of Northern Illinois told the Special Committee that although he graduated in 1997 with \$100,000 of debt, he now owes \$160,000. A 2002 DePaul graduate was in a similar spot, after seeing her \$100,000 of debt at graduation increase over the last ten years.

Similar situations in which borrowers are unable to reduce their loan balances over time are likely to proliferate among recent graduates. The average debt of \$100,433 for 2011 graduates¹⁸ on a ten year repayment plan at a 7.3% interest rate (blending the 6.8% rate for Stafford loans and the 7.9% rate for Graduate PLUS loans)¹⁹ yields a monthly payment of \$1,181.70.²⁰ The median starting salary for the class of 2011 was \$60,000.²¹ The \$1,181.70 payment is about 23.6% of the median graduate's pre-tax income, an unsustainable level of debt that would likely force the median graduate into an extended or income-based payment plan. An article from the College Board, a popular source of information about student loans, advises that "[i]ndividuals with incomes near the median [of graduates with a bachelor degree, about \$45,000 per year,] should not devote more than about 10 percent of their [pre-tax] incomes to education debt repayment, and the payment-to-income ratio *should never exceed* 18 to 20 percent."²² The situation is obviously much worse for graduates below the median salary and with more than the average debt.

In sum, the debt burden of increasing numbers of young attorneys is staggering, and the financial effects linger for many years. Moreover, nearly all of the young attorneys to testify before the Special Committee reported that such large debt burdens inevitably alter their career paths.

II. The Effect of Debt on Legal Services Provided by Public Interest Attorneys

One of the most worrying consequences of the large debt burden is that fewer lawyers are willing or able to work on behalf of the public interest. There are a variety of mechanisms leading to that result. First, some attorneys feel that they are unable to take a public interest job following graduation because the salaries cannot support their debt loads without significant sacrifice. Joe McMahon, the Kane County State's Attorney, testified that lawyers in his office start at between \$40,000 and \$46,000 per year. Lois Wood, the director of the Land of Lincoln Legal Assistance Foundation (which provides legal aid in 65 counties in Central and Southern Illinois), indicated that new attorneys working for her make \$41,500. Downstate, one Assistant State's Attorney from Madison County testified that he started in 2009 making \$39,000. On the low end, a 2009 graduate of St. Louis University testified that she was offered \$33,000 per year

¹⁷ U.S. Dep't of Educ, Fed. Student Aid, <http://studentaid.ed.gov/repay-loans/understand/plans> (last visited Jan. 28, 2013).

¹⁸ See *supra* note 2.

¹⁹ See 20 U.S.C. § 1087E(b).

²⁰ See FinAid, Student Loan Calculator, <http://www.finaid.org/calculators/loanpayments.phtml> (last visited Jan. 28, 2013).

²¹ Press Release, NALP, Median Private Practice Starting Salaries for the Class of 2011 Plunge as Private Practice Jobs Continue to Erode (July 12, 2012).

²² SANDY BAUM & SAUL SCHWARTZ, THE COLLEGE BOARD, HOW MUCH DEBT IS TOO MUCH? DEFINING BENCHMARKS FOR MANAGEABLE STUDENT DEBT 12 (2006).

to work as a public defender in downstate Illinois, but turned down the job because it was not sufficient to make her loan payments.²³

Unsurprisingly, several attorneys testified that those starting salaries are woefully inadequate to finance the debt payments most graduates face. Indeed, using the College Board's advice that a graduate making about \$45,000 should not incur loan payments exceeding 10% of her pre-tax income, even a \$50,000 per year salary would support a debt load of only about \$36,000, between one-half and one-third of the average law school graduate's actual debt (to say nothing of undergraduate and bar-study loans). To look at the situation from the opposite direction, a graduate owing \$125,000 and making \$50,000 per year would put \$1,471 per month, 44% of his take home pay, to debt repayment, leaving only \$1,863 per month for other expenses.²⁴ Obviously any graduate with even average debt would face great challenges taking on a typical public interest salary, and many of those testifying reported that debt caused them not to do so.²⁵

Nonetheless, some graduates with significant debt take public service jobs out of law school, often at great personal sacrifice. One 2009 graduate was able to take a job at Land of Lincoln only after selling her home, downsizing into an apartment, taking on an additional night job, and ceasing payments to her children's college education fund. Another Land of Lincoln attorney stated that her two-year old son went without health insurance because of financial troubles, even though Land of Lincoln pays half the cost of dependent health coverage for employees. Several other public interest attorneys testified that they have delayed getting married, having children, saving for retirement, or buying a home because of their salaries.

²³ These numbers are slightly lower than the national medians for starting salaries for public interest attorneys, which in 2012 were \$43,000 for legal aid attorneys, \$50,500 for public defenders, and \$50,000 for prosecutors. See Press Release, NALP, New Public Interest and Public Sector Salary Figures from NALP Show Little Growth Since 2004 (Oct. 18, 2012). That discrepancy is consistent with NALP's comment that salaries in rural areas are somewhat lower than those in major metropolitan areas, and that salaries in the Midwest are somewhat lower than those on the coasts. *Id.*

²⁴ These calculations assume a 10-year repayment plan and a 7.3% interest rate.

²⁵ The testimony the Committee gathered is consistent with the results of a 2002 NALP survey, in which 66% of law students reported that debt prevented them from considering a public service career. EQUAL JUSTICE WORKS, NALP & THE PARTNERSHIP FOR PUBLIC SERVICE, FROM THE PAPER CHASE TO THE MONEY CHASE: LAW SCHOOL DEBT DIVERTS ROAD TO PUBLIC SERVICE 6 (2002); see also ABA COMM'N ON LOAN REPAYMENT AND FORGIVENESS, LIFTING THE BURDEN: LAW SCHOOL DEBT AS A BARRIER TO PUBLIC SERVICE 10 (2003) [hereinafter LIFTING THE BURDEN]. Similarly, a longitudinal study of law school graduates from the class of 2000 shows that lawyers going into private practice were more likely than other lawyers to have considered their ability to pay down their debt in choosing their first job. GITA Z. WILDER, LAW SCHOOL DEBT AMONG NEW LAWYERS: AN AFTER THE JD MONOGRAPH 19 (2007). Subsequent studies, however, have challenged the notion that debt actually drives students away from public service careers after finding that debt is not a significant factor in predicting the graduates who will take a job in the public sector. See, e.g., Christa McGill, *Educational Debt and Law Student Failure to Enter Public Service Careers: Bringing Empirical Data to Bear*, 31 LAW & SOC. INQUIRY 677, 679 (2006). Thus, some scholars have concluded that although many law students perceive that debt is driving their career decisions, their behavior does not always support that claim. See Todd A. Berger, *Jimmy Carter's "Malaise" Speech, Social Desirability Bias, and the Yuppie Nuremberg Defense: The Real Reason Why Law Students Say They Want to Practice Public Interest Law, Yet So Few Actually Do*, 22 KAN. J.L. & PUB. POL'Y 139, 151 (2012) (citing Robert Granfield & Thomas Koenig, *The Fate of Elite Idealism: Accommodation and Ideological Work at Harvard Law School*, 39 SOC. PROBS. 315, 315 (1992)); Carroll Seron, *The Urban Advantage: Comments on After the JD*, 36 SW. U. L. REV. 529, 534 (2007). The question may need to be revisited as debt burdens rise to levels that make living on public interest salaries increasingly challenging.

Such financial strain often forces young attorneys into higher paying jobs in the private sector after only a few years in public interest. A staff attorney at the Peoria office of Prairie State Legal Services, which provides legal aid to residents of thirty-six counties in Northern Illinois, stated that of twenty-five attorneys who had attended a training when she started and had been with Prairie State for fewer than two years, twenty-two had left five-years later. Joe McMahon, the Kane County State's Attorney, testified that young attorneys in his office frequently leave within three to four years. Most representatives of legal aid offices across the state shared a similar story.²⁶ As a result, they explained, the staff in most legal aid offices includes predominantly young attorneys within three or four years of bar admission, and attorneys with at least twenty years of experience who graduated before excessive debt became the norm and can afford to make a career in public interest.²⁷ Attorneys with five to fifteen years of experience, the workhorses of most private firms, are comparatively rare in public interest offices across the state.

These trends are inevitably detrimental for the delivery of legal services in Illinois. As debt levels increase, legal aid offices, public defenders, and governmental bodies will have increasing difficulty competing with the private sector to hire and retain qualified attorneys. Because turnover is so high among young attorneys, these offices must constantly train new lawyers, limiting the number of cases they can handle competently and efficiently. As the older generation of career public interest attorneys retires over the next fifteen to twenty years, fewer experienced attorneys will be available to take their place as the leaders of public interest organizations. No doubt some attorneys from the private sector will return to public interest after paying down their debt, but these attorneys will lack the lifetime of experience in public interest law of their older colleagues.

As one 2005 study of legal aid organizations in Illinois put it:

[I]t is clear that there is a simmering crisis in the area of staff attorney recruitment and retention. The combination of low salaries and high debt levels is making it almost impossible for many dedicated legal aid lawyers to stay in the field. The difficulties programs face in recruiting and retaining qualified staff members has a direct impact on the quality and quantity of services provided to clients. Low salaries and high debt can make it more difficult to attract the most qualified candidates for staff attorney positions. When staff members leave they take their experience and expertise with them, which means that a source of knowledge is lost to those who follow. High turnover leads to declining efficiency, which in turn leads to fewer clients receiving legal assistance. Every time an attorney departs, the workload increases for those who remain, at least until the position is

²⁶ National data confirms that public interest attorneys often leave their first job within a few years. Among the class of 2011, 38.7% of graduates working in public interest nine months after graduation reported that they were already seeking other employment at that time (compared to only 17.7% of new attorneys in private practice). NALP, CLASS OF 2011 JOBS & JDS: EMPLOYMENT AND SALARIES OF NEW LAW GRADUATES 112 (2012) [hereinafter JOBS & JDS].

²⁷ Again, those findings are consistent with the trends the ABA Commission on Loan Repayment and Forgiveness observed ten years ago. LIFTING THE BURDEN, *supra* note 25, at 10 (“Some who begin careers in public service, and who would like to remain, leave after a few years when they find their debts are too severely constraining on their hopes for making ends meet, much less raising children or saving for retirement. These lawyers leave just at the point when they have gained enough experience to provide valuable services to their employers and clients.”).

filled. Supervisors are forced to spend more time hiring and training new attorneys, and less time serving clients.²⁸

The problem has only grown since that time as debt levels increase.

To make matters worse, law school debt also directly limits the number of attorneys that public interest groups are able to hire. Lois Wood, the director of Land of Lincoln, stated that her board has chosen to raise the salaries of attorneys at Land of Lincoln to help them manage their debt, rather than hire additional attorneys. No doubt the managers of other public interest offices are making similar decisions, when their budgets allow, to improve hiring and retention.

The problem is particularly acute for legal aid offices providing legal services to low-income families. According to Wood, for example, there is now one legal aid attorney for every 9,300 people qualifying for legal aid in the counties Land of Lincoln serves,²⁹ a number that has increased in recent years and that she fears may increase further. The result is that low-income households in Illinois are represented by a lawyer for only one out of every six legal problems they encounter.³⁰

The debt burden of law school graduates is thus one cause of the “Justice Gap” that prevents legal aid agencies from serving a significant portion of the eligible population in the United States.³¹ Similarly, law school debt may contribute to the inability of cash-strapped governmental bodies and public defenders to hire a sufficient number of qualified attorneys.

In short, managers of public interest attorneys are caught between a rock and a hard place. Law school debt makes it unaffordable to work as a public interest attorney for any significant length of time, depriving public interest offices of their best young attorneys and draining their resources through the need to constantly train new hires. The more these offices raise the salaries of young attorneys to counteract these problems, however, the fewer attorneys they can hire. As a result, the provision of justice in America will suffer.

III. The Effect of Debt on Legal Services Provided by the Private Sector

A. Firms Serving the Legal Needs of Middle-Class Americans

²⁸ CHI. BAR FOUND. ET AL., THE LEGAL AID SAFETY NET: A REPORT ON THE LEGAL NEEDS OF LOW-INCOME ILLINOISANS 138 (2005) [hereinafter THE LEGAL AID SAFETY NET].

²⁹ The Legal Services Corporation (“LSC”) reports that, as of 2007, there was one legal aid attorney for every 6,415 people eligible for legal aid in the country as a whole. LSC, DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 20 (2009) [hereinafter DOCUMENTING THE JUSTICE GAP]. By 2011, that number had increased to approximately one legal aid attorney for every 8,357 people eligible for legal aid (assuming that the proportion of legal attorneys working for LSC-funded organizations stayed approximately the same between 2007 and 2011). See LSC, 2011 ANNUAL REPORT 4 (2012) (in 2011, 64.6 million Americans were eligible for legal aid and LSC-funded organizations employed 4,097 attorneys); DOCUMENTING THE JUSTICE GAP, *supra*, at 20 (in 2007, LSC-funded organizations employed 53% of all legal aid attorneys).

³⁰ THE LEGAL AID SAFETY NET, *supra* note 28, at 1-2.

³¹ The LSC’s report DOCUMENTING THE JUSTICE GAP, *supra* note 29, provides further information about the “Justice Gap.” The most striking statistic showing the inadequacy of the provision of legal services for the poor is that, in 2009, for every one client served by an LSC-funded organization in the United States, one person seeking help was turned away because of insufficient resources. *Id.* at 1.

As difficult as it is for debt-ridden young attorneys in public interest law, however, parts of the private sector are little better. Much of the public still believes that lawyers at private firms start at \$160,000 per year, an ample salary to handle even the highest debt loads. But that number is misleading, as only about 14% of 2011 graduates started at a job paying \$160,000.³² The median salary of 2011 graduates who found a job at a private law firm in Illinois was \$72,000, and the mean was \$92,870,³³ but even those numbers may be inflated.³⁴ In any case, the private sector starting salaries reported to the Special Committee were significantly lower, particularly from firms outside of Chicago, where starting salaries were often around \$50,000.³⁵ NALP's data confirms that anecdotal testimony, as follows:

Table 2: Salaries Among 2011 Graduates Working in Private Practice In Selected Cities in Illinois 9 Months After Graduation³⁶

City	Salary Median	Salary Mean	Number reported
Bloomington	\$48,250	\$46,583	6
Chicago	\$100,000	\$103,970	530
Peoria	\$55,000	\$47,850	8
Rockford	\$62,500	\$59,250	12
Springfield	\$47,500	\$49,667	6
Wheaton	\$50,000	\$50,625	8

Managing partners of smaller firms downstate confirmed that the economics of legal practice make it difficult to sustain paying associates more than \$50,000.³⁷ Outside of Chicago, therefore, starting salaries are little more than starting salaries for public interest attorneys.

Moreover, the higher salaries in Chicago and around the state often go to lawyers at firms serving large corporations and wealthy individuals. Among firms serving the everyday needs of the middle class through family law, estate planning, traffic law, real estate law, and the like,

³² JUDITH N. COLLINS, NALP RESEARCH, SALARIES FOR NEW LAWYERS: AN UPDATE ON WHERE WE ARE AND HOW WE GOT HERE 3 (2012), available at <http://www.nalp.org/uploads/0812Research.pdf>.

³³ JOBS & JDS, *supra* note 26, at 88.

³⁴ Lawyers in smaller firms are less likely to report their salaries to NALP. Because lawyers in small firms have the lowest salaries, the NALP salary data is likely skewed upward. On a national level for the class of 2011, NALP reports a median salary of \$85,000 and a mean of \$97,825 for all starting law firm salaries. *Id.* at 33-34. To account for the fewer salaries reported at smaller firms, NALP estimates an adjusted mean of \$87,241 and an adjusted median of \$65,000-70,000. *Id.* at 34. For an explanation of the effect and NALP's method for calculating the adjusted numbers, see *id.* at 124-25.

³⁵ Many attorneys testified that the salaries offered to them by private law firms were comparable to or less than what they could have made before attending law school. For example, one graduate of Southern Illinois University Business School testified that he had been offered a job at Target for \$46,000 per year, but could earn only \$50,000 per year at a law firm after graduating from St. Louis University School of Law.

³⁶ JOBS & JDS, *supra* note 26, at 99.

³⁷ One partner in a downstate firm estimated that to make it worthwhile to pay an associate \$40,000 per year, the associate must bring in \$120,000 in revenue each year. To earn that revenue, the associate would have to bill 100 hours of work each month at \$100 per hour. Rather than take the risk that an associate will not earn his salary, some partners have chosen to hire associates part-time for an hourly wage (around \$35 per hour), while expecting them to pick up extra work as a public defender or state's attorney for the government.

starting salaries tend to be at or below the \$50,000 level.³⁸ NALP's data on starting salaries among lawyers at smaller firms in Illinois (that is, those most likely to serve the legal needs of the middle class) again confirm that testimony:

³⁸ The Committee heard testimony from many recent graduates who were unable to obtain any jobs in the private sector or elsewhere paying more than \$40,000-\$45,000. That fact makes the academic debate about the effect of debt on graduates' choice between the public sector and the private sector, *see supra* note 25, somewhat misleading. There may be no significant difference in salary between the two sectors for the many graduates who are unable to obtain higher-paying jobs in the private sector. In addition, many graduates testified that jobs were so scarce that they would take any available job.

Table 3: Salaries Among 2011 Graduates Working in Private Practice in Illinois 9 Months After Graduation³⁹

Firm Size	25th Percentile	Median	75th Percentile	Mean	# reported
2 to 10	\$40,000	\$50,000	\$55,000	\$49,111	230
11 to 25	\$46,000	\$55,000	\$70,000	\$59,013	78
26 to 50	\$50,000	\$70,000	\$82,250	\$73,894	52
51 to 100	\$75,000	\$120,000	\$145,000	\$110,472	57
101 to 250	\$86,250	\$137,500	\$160,000	\$123,125	64
251+	\$160,000	\$160,000	\$160,000	\$151,573	185
All in Private Practice	\$50,000	\$72,000	\$160,000	\$92,870	668

According to that data, 25% of the class of 2011 who found jobs in private practice in Illinois, or 167 lawyers, made less than \$50,000 in their first year of work. In the absence of significant law school debt, those 167 attorneys could earn a comfortable, although not extravagant, living serving the legal needs of the middle class. As explained above, however, the debt burden of a typical law school graduate makes survival on less than \$50,000 per year difficult, if not impossible. As a result, one hiring partner of a medium-sized firm in DuPage County reported that associate retention has become increasingly difficult, as lawyers are always seeking to “trade up” to larger, better paying law firms, to deal with their debt. The rapid turnover presents some of the same challenges facing public interest offices.

Moreover, young lawyers in small and medium firms who cannot obtain higher paying legal jobs, along with those who cannot find any position in the private sector, may leave the profession in search of higher pay. Several lawyers testified to the Special Committee that many of their classmates had left the profession, rather than take a low paying job, and others explained that they were thinking about leaving the profession themselves if their financial situation does not improve.

There is no available data establishing how often attorneys leave the profession because of an inability to service their debt in legal jobs. On a national level, one estimate based on data from the Bureau of Labor Statistics and the ABA puts the discrepancy between the number of jobs available for lawyers today and the total number of law school graduates over the last forty years as high as 600,000.⁴⁰ No doubt some of those graduates have chosen voluntarily to make a career outside of the law (and some small percentage of them leave the law because they fail to pass the bar exam), but the anecdotal evidence provided to the Special Committee suggests that many of them have been forced out of the profession because of an inability to service their debt while working as a lawyer.

Some might find that result an unsurprising adjustment to market forces, arguing that there are too many lawyers and that the number of lawyers must decrease until supply matches

³⁹ JOBS & JDS, *supra* note 26, at 88-94.

⁴⁰ See Marc Gans, Not a New Problem: How the State of the Legal Profession Has Been Secretly in Decline for Quite Some Time 11 (June 24, 2012) (unpublished manuscript), *available at* <http://ssrn.com/abstract=2173144>. The estimate subtracts the number of attorney jobs reported in the Occupational Outlook Handbook, a publication of the Bureau of Labor Statistics based on surveys of employers, (about 800,000) from the total available pool of graduates of ABA-accredited law schools over the last 40 years (about 1,400,000).

demand.⁴¹ But as the Legal Services Corporation has documented, far from waning, recently “there has been an explosion in the demand for legal services” in the United States as the legal needs of millions of middle class and poor families go unmet each year.⁴² Because of debt, however, many of the lawyers who might otherwise meet those legal needs are instead leaving the profession in search of higher pay. Contrary to popular belief, there are not too many lawyers in America; instead, there are too many lawyers with student debt preventing them from providing affordable legal services to the middle class.

B. Solo Practitioners

As fewer attorneys find sustainable jobs in the private sector, an increasingly popular solution for law school graduates is to attempt to hang out their own shingle. Only 2.8% of 2007 law school graduates working in private practice were solo practitioners nine months after graduation, but for 2011 graduates that number had increased to 6.0%.⁴³ Many more may attempt this solution after several years of unemployment or underemployment, as did several lawyers testifying to the Special Committee. Among the testifying lawyers who had attempted starting their own practice, nearly all found it impossible to service their debt while maintaining a profitable practice.

The first challenge solo practitioners face is obtaining capital to open a practice. One lawyer provided an estimate to the Special Committee that puts the capital requirements of a solo practitioner in downstate Illinois at almost \$20,000 just to open a basic practice with no frills and no support staff.⁴⁴ Significant student debt makes it difficult to obtain a loan for that amount from a bank, and new lawyers often have few other sources of capital. The lawyers who testified before the Special Committee explained that they were able to open any practice at all only because of support from parents, a spouse, or another family member.⁴⁵ Even among lawyers who were able to acquire capital to start their own firm, most were unable to make many of the investments that older lawyers would consider essential, including office space, a legal assistant, malpractice insurance, and access to Westlaw or Lexis.

Assuming a lawyer can raise enough capital, the next challenge is earning enough to service the lawyer’s student loans. One attorney estimated that the annual expenses of a downstate

⁴¹ See, e.g., *id.* at 34 (arguing that the ABA should have stopped accrediting law schools sometime in the 1970s to bring the supply of lawyers in line with demand).

⁴² LSC, REPORT OF THE PRO BONO TASK FORCE 1 (2012). A 2002 survey found that 71% of U.S. households had experienced some event in the previous year that might have caused them to hire a lawyer, but that only 45% of those households actually did hire or plan to hire a lawyer. ABA SECTION OF LIT., PUBLIC PERCEPTIONS OF LAWYERS: CONSUMER RESEARCH FINDINGS 24-26 (2002). The top reason for the decision not to hire a lawyer was the cost, cited by 28% of those who decided not to hire a lawyer. *Id.* at 27.

⁴³ These numbers are available from the NALP website at <http://www.nalp.org/recentgraduates> (last visited Jan. 28, 2012).

⁴⁴ That estimate includes sufficient funds to draw a modest salary of \$1,500 for the first six months of practice, and to cover operating expenses for the first three months. Plainly a salary of \$1,500 per month is inadequate to service the typical graduate’s debt load, meaning that a student would have to ask for deferment or forbearance during this period. For a total breakdown of the costs of starting a solo practice, see Appendix A.

⁴⁵ For example, one lawyer was able to rent an office only after inheriting money from her grandmother. Another explained that he lived off of his wife’s salary while attempting to start a solo firm, and a third borrowed money from his parents. Several of those testifying lived with their parents while attempting to start a practice.

solo practice amount to about \$34,000 per year.⁴⁶ To make \$50,000 in profit each year (slightly more than the typical starting attorney in a public interest position and barely adequate to cover typical debt payments), such a solo practitioner would have to bring in \$84,000 in revenue. To earn that revenue requires billing and collecting about 840 hours of work at \$100 per hour.

By all accounts, achieving that level of revenue is difficult for young attorneys today. Compared to the typical billable hours of an attorney in a large firm, 840 hours sounds modest. But billing and collecting that amount is exceedingly challenging for a new attorney with limited experience and no support staff, who must spend large amounts of time finding clients, acting as a receptionist, managing the office, doing secretarial work, and performing collections (and most solo practitioners realize far less than 100% of their billings). Indeed, one solo practitioner testified that he could bill only about 20% of the time he spent working.

Accordingly, most young solo practitioners struggle. One 2009 graduate of Thomas M. Cooley Law School reported that in her fourth year of practice as a solo practitioner, she was able to net only \$20,000 to \$30,000 in profit, despite owing over \$200,000, and that most of the young solo practitioners she knew were in a similar situation. A 2003 graduate of Penn State Dickinson School of Law who owed \$150,000 was able to earn only \$15,000 each year, and was forced to live off of her husband's salary. Another 2007 graduate of St. Louis University stated that she was "unable to net a single penny" after subtracting her expenses. Many lawyers who attempted to start their own practice testified that they were forced to abandon the attempt after several months or years because of the difficulty. The conclusion is inescapable: Few solo practitioners are able to sustain a successful law practice after graduating with significant debt. In addition, the ethical challenges of significant debt are particularly acute for solo practitioners.⁴⁷ Like lawyers at small and medium firms, these lawyers are likely to leave the profession, rather than remaining to provide legal services to the poor and middle class.

C. Large Firms

Although the 14% of law graduates who make starting salaries of \$160,000 per year and other graduates working at large firms are generally able to service their loans, the debt burden is not without consequences for this group of lawyers. Most significantly, some lawyers report taking high-paying jobs at such firms out of necessity, even though they might prefer to work in a smaller setting or at a public interest job.⁴⁸

D. Pro Bono and Civic Engagement

Finally, several lawyers testified that the debt burden of attorneys in the private sector makes it harder for private attorneys to perform pro bono work. One lawyer in charge of organizing pro bono attorneys for Land of Lincoln in Springfield, for example, testified that, compared to several years ago, there were fewer volunteers in all but one county out of the ten counties his office serves. A partner in a DuPage County firm noted that the lawyers he knew had less time for pro bono because of the financial pressures facing them.

Despite that testimony, the limited data available does not suggest that the pro bono hours provided by Illinois lawyers are decreasing. The ARDC has required Illinois lawyers to report their pro bono hours since 2007, and the number of pro bono hours reported has increased by

⁴⁶ Again, a breakdown of the costs is available in Appendix A.

⁴⁷ See *infra* notes 63-66 and accompanying text.

⁴⁸ See *supra* note 25.

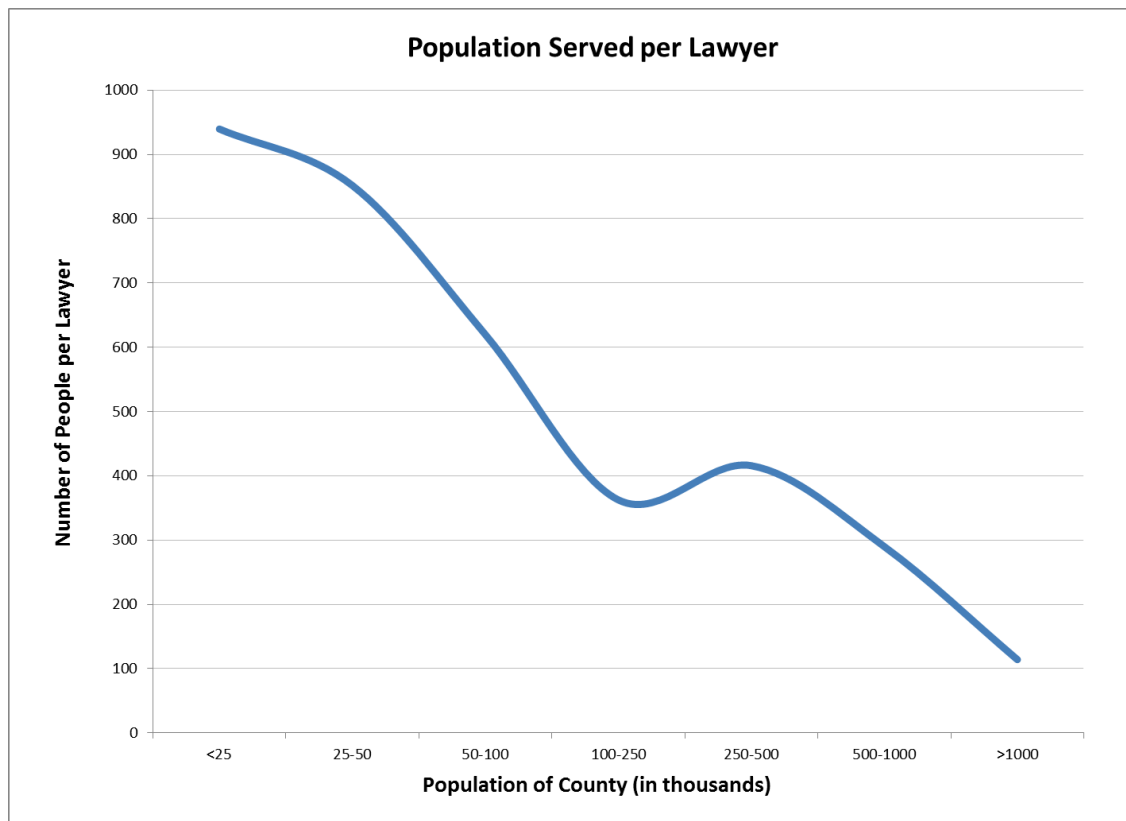
6.3% from 2007 to 2011.⁴⁹ Nonetheless, law school graduates already carried significant debt by 2007, so the effect of debt may already have asserted itself. Moreover, it is logical to assume that lawyers with fewer financial burdens would be more able to engage in pro bono services.

In addition, one attorney testified that she was less likely to join a bar association or other civic organization because her debt made the membership fees too expensive. Thus, law school debt is a likely contributing factor to the ongoing challenges bar associations face in attracting new members.

IV. The Effect of Debt on Legal Services in Rural Areas

Excessive law school debt is also dissuading young lawyers from taking jobs to serve the legal needs of rural areas of the state. One downstate law firm partner reported that small counties and towns in his area are slowly losing their lawyers as older practitioners retire, but younger ones fail to take their place. Several younger lawyers explained that debt is a significant factor driving people away from rural areas. One law student from Bloomington, for example, felt compelled to go to Chicago, because it was the only place he could hope to command a salary large enough to manage his debt. Other young lawyers had similar stories.

Data available from the ARDC from attorney registrations in 2012 confirms those anecdotal accounts. Consider the following graph of the number of people per lawyer in Illinois counties of various sizes:⁵⁰

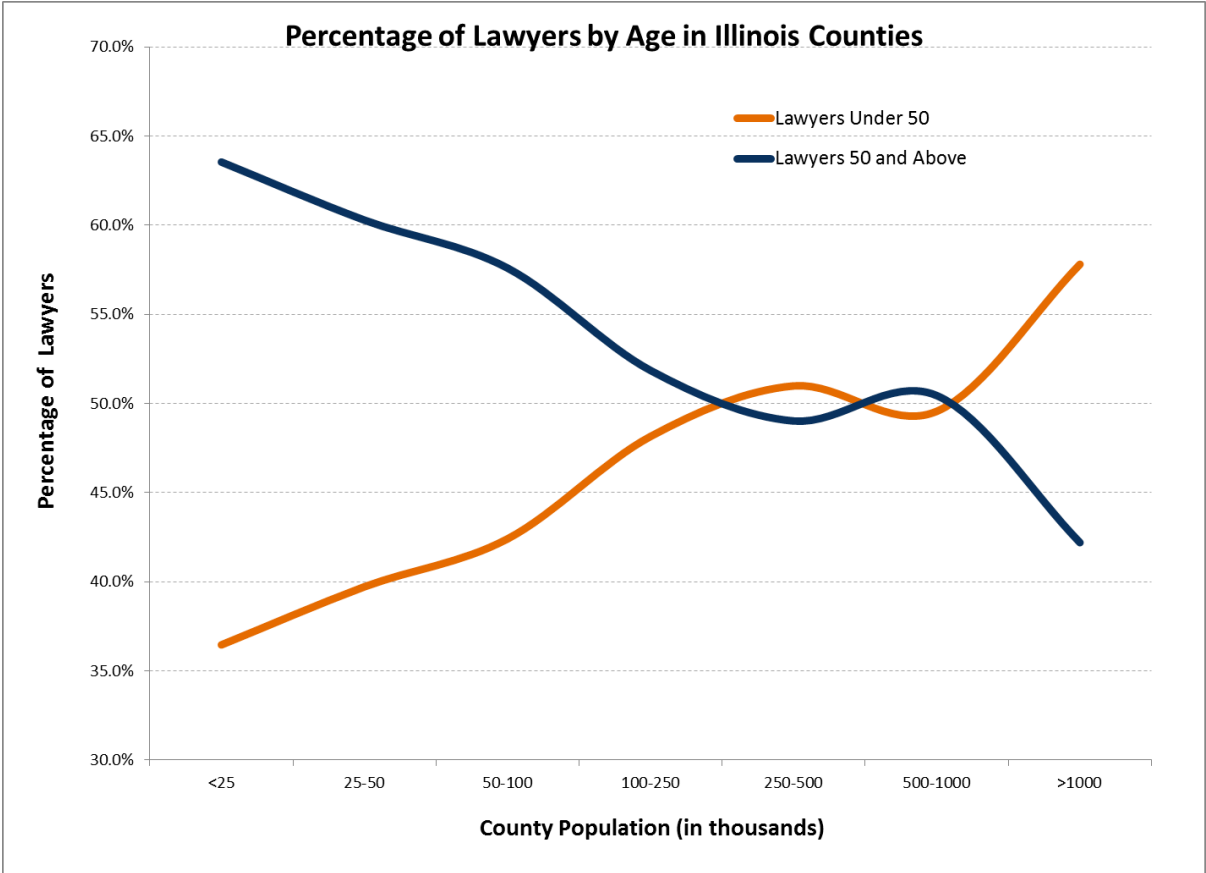


⁴⁹ See ILL. ATT'Y REGISTRATION & DISCIPLINARY COMM'N, 2011 ANNUAL REPORT 13 (2012) [hereinafter ARDC 2011 ANNUAL REPORT], available at <http://www.iardc.org/AnnualReport2011.pdf>.

⁵⁰ This data includes only Illinois lawyers reporting an Illinois address.

As the graph shows, the county with more than one million residents (that is, Cook County) has one lawyer for every 114 people. Counties with 500,000 to one million people have one lawyer for every 290 people, and the number of lawyers continues to decrease as county size decreases.⁵¹ At the bottom end of the spectrum, counties with fewer than 25,000 people have only one lawyer for every 940 people. At least compared to larger counties, therefore, smaller counties are underrepresented by lawyers.

The same ARDC data, moreover, shows that the lawyers in smaller counties are disproportionately older:



In Cook County, only 42% of all lawyers are older than 50. In counties with fewer than 25,000 people, by contrast, 64% of lawyers are older than 50.⁵² As those lawyers age and retire over the next fifteen years, there are fewer younger lawyers to replace them, so the ratio is only likely to worsen. To the extent that financial considerations drive younger lawyers to higher paying jobs in urban areas, law school debt is contributing to the dearth of lawyers serving rural Illinois.

V. The Effect of Debt on the Makeup of the Legal Profession—Law Will Become Less Diverse and More Exclusive

⁵¹ There is a dip for counties with a population between 100,000 and 250,000 which prevents the graph from being linear. That dip is largely the result of Springfield in Sangamon County, which, as the seat of state government, has a disproportionately large number of lawyers.

⁵² Statewide, 45% of lawyers are above 50.

Another effect of excessive law school debt is to create additional barriers to entry to the legal profession for minorities. Blacks and Hispanics receive a higher percentage of support for law school from loans and a lower percentage from family resources.⁵³ Consequently, blacks and Hispanics are significantly more likely to leave law school with debt than whites, and their debt loads tend to be larger.⁵⁴

The negative consequences of law student debt thus affect minority students to a greater degree than other lawyers. If this trend continues, minorities may be discouraged from applying to law school, and the legal profession may become even less representative of the diversity of all Americans.⁵⁵ If that happens, the legal profession will become increasingly homogenous, and minority clients may be less willing to place their trust in a legal profession to which they cannot relate by hiring a lawyer. Moreover, the legal profession will be less reflective of the unique experiences and insights of minority lawyers, further diminishing the quality of legal services.

VI. The Effect of Debt on the Quality of Lawyers

A. The Value Proposition of the Cost of Law School: Is It Buying the Training Lawyers Need?

A full evaluation of the consequences of law school debt (a function of law school cost) must also address the question of whether that debt is worthwhile. That is, are law schools using the tuition they collect to provide legal educations of sufficient value to allow graduates to find sustainable employment providing competent legal services to the public?

The first piece of evidence to consider is the dismal job market currently facing law graduates. As discussed above, only 55% of the class of 2011 had full time, long term jobs for which a law degree was required nine months after graduation, and perhaps as few as one-third of the class obtained minimally acceptable employment outcomes in that time.⁵⁶ For graduates of most law schools in and around Illinois, the numbers are similarly poor:

⁵³ WILDER, *supra* note 25, at 7 (reporting that among graduates of the class of 2000, blacks receive 57% of their support from loans and 9% from family, Hispanics receive 66% from loans and 15% from family, and whites receive 48% from loans and 21% from family).

⁵⁴ *Id.* at 9, 12 (reporting that among the class of 2000, the average debt was \$72,875 for blacks, \$73,258 for Hispanics, and \$70,993 for whites, and that 94% of blacks, 95% of Hispanics, and 81% of whites graduated with debt).

⁵⁵ Already, minorities make up a disproportionately smaller share of law school applicants (11.6% for blacks and 8.9% for Hispanics) than their share of the U.S. population (12.2% for blacks and 16.3% for Hispanics) would predict. *See* Law School Admission Counsel, Additional Gender/Ethnicity Information, <http://www.lsac.org/lisacresources/data/pdfs/additional-eth-gen.pdf> (last visited Jan. 28, 2013). In addition, minorities are significantly underrepresented in the legal profession as a whole, as 4.3% of the legal profession is black, and 3.4% is Hispanic. *Id.* (reporting data from 2010).

⁵⁶ Campos, *supra* note 4, at 198-202.

Table 4: Percentage of 2011 Graduates Reporting That They Obtained Full-Time, Permanent Jobs Requiring a JD 9 Months After Graduation⁵⁷

<i>Law School</i>	<i>Percentage</i>
Illinois	
University of Chicago	88.70%
Chicago-Kent	53.00%
DePaul	41.40%
Illinois	52.10%
John Marshall	45.90%
Loyola (Chicago)	54.20%
Northern Illinois	54.60%
Northwestern	78.70%
Southern Illinois	62.70%
Wisconsin	
Marquette	58.70%
Wisconsin	63.80%
Iowa	
Drake	63.20%
Iowa	66.70%
Missouri	
Missouri -Columbia	69.50%
Missouri - KC	61.70%
Saint Louis University	53.30%
Washington University	64.00%
Indiana	
Indiana - Maurer	66.20%
Indiana - McKinney	54.80%

Consistent with those numbers, the Special Committee heard testimony from a variety of lawyers who reported difficulty obtaining employment. For example, a 2008 graduate of the University of Detroit Mercy School of Law was unable to obtain employment, and so enrolled in an LLM at Chicago Kent in family law in 2009. Despite the extra training, including an externship with a family law firm and with a family law court, he was still unable to obtain employment after graduating in 2010. Desperate, he opened a solo practice, but was unable to earn a significant amount of money. Recently, he found employment at a family law firm. A 2009 graduate of Cooley law school noted that after three years of looking, the highest paying job offer she received was for \$20,000 per year.

Top graduates and leaders of the profession are not immune from the problem. One 2009 graduate of John Marshall Law School who graduated with \$150,000 of debt reported that her grades put her in the top 2% of her class after her second year and that she had interned for a

⁵⁷ The percentage includes graduates reporting that they are pursuing an additional graduate degree full time. The data is drawn from the ABA Section of Legal Education's data, available at <http://employmentsummary.abaquestionnaire.org/> (last visited 1/28/13).

state trial judge and a private law firm during law school (giving her what she thought were excellent credentials for her job search as a third-year student). Nonetheless, she did not obtain a job and, since 2009 she has had only one (unsuccessful) interview for a full time legal position. Now she works as a solo practitioner (bringing in \$5,000 a year) and as a part-time contract attorney, where she makes \$28/hour. Similarly, one member of the ISBA Young Lawyers Division Section Council has been unable to find any full time job since graduating in 2009.

From the hiring side, hiring partners of law firms report that attorneys seeking jobs are becoming increasingly desperate. Several hiring partners reported that they now regularly receive calls from recent graduates offering to work for nothing just to obtain training. One law firm partner from Peoria noted that he now receives twice as many applications for every open position as he did five years ago.

To be sure, at least part of the difficult job market is the result of the recent recession, and some improvement may occur if the economy picks up in future years. There are reasons to believe, however, that significant difficulties will remain. First, even before the recession, about 33% of graduates failed to obtain full time positions requiring a JD.⁵⁸ Second, the Bureau of Labor Statistics estimates that, even assuming no further recession, the economy will add only 73,800 legal jobs between 2010 and 2020.⁵⁹ Accounting for older attorneys leaving the profession, and assuming that the number of graduates stays constant over the period, only about 47.6% of graduates will obtain legal employment between now and 2020.⁶⁰ The economic recession alone is thus an inadequate explanation of the JD's current lack of value in the marketplace.

Instead, it appears that law schools are inadequately preparing many of their graduates to successfully practice as lawyers in today's economy. For example, Nancy Glazer, the founder of legal placement firm Legal Launch LLC, testified that in her experience, the greatest challenge law school graduates face in obtaining employment is the mismatch between the skills of graduating students and the requirements of practice areas in which there is demand for new attorneys. In particular, she noted ERISA, regulatory compliance, and sophisticated tax planning as three areas with significant demand for new attorneys, but for which law school graduates lack the skills to obtain employment. She thus noted that although the lateral market is hot in those areas, new lawyers lack the skills and training they need to compete for the available jobs and, as a result, employers often cannot fill their positions. Overall, her opinion is that much of the problem in the legal job market is not oversupply of lawyers, but inadequate training.

The refrain that law schools fail to adequately train new lawyers for practice echoed throughout the hearings. Most hiring partners to testify noted that they are more likely to hire lawyers with several years of experience, rather than new attorneys. One hiring partner from a medium sized firm in Peoria noted that law students often will work full time for free just to obtain experience. The Special Committee also heard from the co-chair of the DuPage County Bar Association New Lawyers Committee, who has spoken to a number of new lawyers and hiring partners in that capacity. According to her,

When we do have our monthly networking events we do a happy hour, and attorneys come to me who are looking to hire other attorneys. When trying to pair up these hiring partners with new attorneys, I always get the comment, "Why

⁵⁸ Campos, *supra* note 4, at 212-13.

⁵⁹ *Id.* at 213.

⁶⁰ *Id.*

would I hire a new lawyer for \$50,000, when I can hire a two-year experienced attorney for \$50,000. Give me a young attorney, not a new attorney. . . .” I thought it was interesting that even the most common entry-level position won’t let you work because you don’t have experience.

The inadequacies of law school training are particularly acute for young attorneys attempting to start their own practices. For example, one recent graduate who attempted to open a solo practice found the experience “totally overwhelming,” noting that he was unprepared not only to handle legal matters, but also to develop a business plan, bring-in business, and collect bills.

Much commentary has similarly noted the inadequacy of legal education to prepare graduates for practice.⁶¹ Consequently, there have been several influential calls in recent years to improve the training of lawyers with an eye to the skills they will need to be ready to practice.⁶² So far, however, the high cost of law school does not seem to ensure practice-readiness.

B. The Effect of Debt on Professionalism

The Special Committee also discovered a variety of ways in which the debt load of graduates may negatively influence the professionalism of lawyers and thus the quality of legal services that the bar provides to the public. A few lawyers testified that some young attorneys (and particularly solo practitioners) may be more likely to take cases outside their areas of expertise in an effort to secure business. Another noted that solo practitioners on the other side of cases appear to be less willing to settle cases or to resolve them cheaply, but instead will prolong them to increase their fees. Another young attorney with a solo practice in criminal defense noted that she frequently has to withdraw from cases if her client falls behind in paying her fee, because she cannot afford to do any work that is uncompensated. Another young solo practitioner noted that her practice environment was “cutthroat” because many young attorneys attempt to steal clients from each other.

Perhaps most troubling, at least one attorney testified that it is increasingly difficult to afford malpractice insurance, and that some small firms and solo practitioners are choosing not to purchase it because of the financial strain.⁶³ As debt burdens increase, more attorneys may forego malpractice insurance at great risk to themselves and their clients.

⁶¹ See, e.g., Jason M. Dolin, *Opportunity Lost: How Law School Disappoints Law Students, The Public, And The Legal Profession*, 44 CAL. W. L. REV. 219, 231-33 (2007); Jarrod T. Green, *A Play on Legal Education*, 4 PHOENIX L. REV. 331, 339 (2010); Alex M. Johnson, Jr., *Think Like a Lawyer, Work Like a Machine: The Dissonance Between Law School and Law Practice*, 64 S. CAL. L. REV. 1231 (1991); James Etienne Viator, *Legal Education’s Perfect Storm: Law Students’ Poor Writing and Legal Analysis Skills Collide with Dismal Employment Prospects, Creating the Urgent Need to Reconfigure the First-Year Curriculum*, 61 CATH. U. L. REV. 735 (2012).

⁶² See WILLIAM M. SULLIVAN, ANNE COLBY, JUDITH WELCH WEGNER, LLOYD BOND & LEE S. SHULMAN, *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) [hereinafter *CARNEGIE REPORT*]; ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, *REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP* (1992) [hereinafter *MACCRATE REPORT*].

⁶³ In 2011, 52.4% of attorneys registered in Illinois carried malpractice insurance. See ARDC 2011 ANNUAL REPORT, *supra*, note 49, at 14-15. That number is not a significant decline from previous years, however, and most of those who did not carry malpractice insurance are likely government attorneys, in-house attorneys, and attorneys not actively practicing. See *id.*

Those comments and others led the Special Committee to identify nine areas of the Illinois Rules of Professional Conduct in which debt may place additional pressure on lawyers to commit ethical violations or to act unprofessionally:

- 1) Rule 1.1: Competence – Lawyers may feel pressure to take cases outside their area of competence to increase income
- 2) Rule 1.3: Diligence – Lawyers may feel pressure to take on too many matters that prevent them from giving each the attention it deserves
- 3) Rule 1.5: Fees – Lawyers may charge fees that are unreasonable for the services they perform
- 4) Rules 1.7-1.11: Conflict of interest – Lawyers may feel pressure to take clients with whom they have a conflict of interest
- 5) Rule 1.15: Safekeeping Client Property – Lawyers may feel pressure to make inappropriate use of client funds or other client property in their control
- 6) Rule 1.16: Declining or Terminating Representation – Financial pressures may force lawyers to withdraw from a representation inappropriately
- 7) Rule 3.2: Expediting Litigation – Lawyers will have an incentive to delay resolution of disputes to increase their fees, rather than promoting the best interests of their clients
- 8) Rule 5.4: Professional Independence of a Lawyer – Lawyers will have an incentive to engage in practice configurations that will increase their profits, rather than preserving the professional independence of lawyers
- 9) Rule 7.2: Advertising – Lawyers will face pressure to violate advertising rules to increase their business

Despite the worries of many testifying attorneys, Jerome E. Larkin, the Administrator of the ARDC, testified that the ARDC has not noticed a significant number of debt-related complaints against attorneys in the last several years, nor has it noticed a disproportionate number of complaints against young attorneys (those with the heaviest debt loads). To the contrary, in 2011, lawyers in practice for fewer than five years made up only 3% of lawyers disciplined by the ARDC, although 15% of the lawyers in Illinois fall into that category.⁶⁴

Nonetheless, Larkin also testified that there is usually a lag of three to four years before most grievances appear in the statistics. Accordingly, if the economic challenges of the recent recession caused an increase in potential ethical violations by lawyers with significant debt, those complaints may still be coming. Moreover, the vast majority of lawyers disciplined in Illinois for ethics violations— 120 out of 165 lawyers in 2011⁶⁵—are solo practitioners. As the number of solo practitioners in the new job market increases,⁶⁶ the number of ethical complaints resulting from debt pressures may rise as well.

VII. The Inadequacy of Current Debt Forgiveness and Repayment Programs

Some might assert that existing debt forgiveness programs, including the Income-Based Repayment plan (“IBR”) enacted as part of the College Cost Reduction and Access Act of

⁶⁴ ARDC 2011 ANNUAL REPORT, *supra*, note 49, at 27.

⁶⁵ *Id.*

⁶⁶ *See supra* note 43 and accompanying text.

2007,⁶⁷ are sufficient to mitigate the problems outlined above. Borrowers have been able to take advantage of IBR since July 1, 2009. Under the program, borrowers who are experiencing “partial financial hardship” may reduce their student loan payments for their federal loans to a lower level based on income. Specifically, the IBR program caps monthly payments at 15% of a borrower’s discretionary income, defined as the difference between the borrower’s adjusted gross income and 150% of the federal poverty line, which is calculated according to family size.⁶⁸ For example, this report previously noted that a graduate owing \$125,000 and making \$50,000 per year would pay \$1,471 per month for debt repayment.⁶⁹ Assuming that graduate were single and enrolled in IBR, his monthly payment would drop to \$415.56.⁷⁰

If the IBR payment does not cover a debtor’s interest payments, however, interest continues to accrue on all federal unsubsidized loans.⁷¹ Assuming that our hypothetical graduate’s loans are all unsubsidized, about \$344.86 in interest will accrue each month that he is enrolled in IBR. That amount is not capitalized unless the borrower leaves IBR, but it does increase the balance that he must repay.

IBR also provides loan forgiveness for some graduates after a certain period. For a graduate working full time in a public service job, any remaining debt is forgiven after ten years of on-time payments,⁷² and the forgiven debt is not taxable. For all other graduates, any remaining debt is discharged after twenty-five years of repayment, but the borrower must pay income taxes on the amount forgiven. Those tax bills can run into the tens of thousands of dollars, particularly for graduates whose debt balances continue to grow because their payments do not cover the interest.

In October 2011, President Obama announced improvements to the IBR program to be implemented by executive order. Under the new program (called “IBR-A”), borrowers who began borrowing after October 1, 2007 and have at least one loan in 2012 or later, are eligible to make payments amounting to only 10%, rather than 15%, of their discretionary income.⁷³ In addition, those borrowers are eligible for loan forgiveness after twenty years, rather than twenty-five years. Loan forgiveness for public interest attorneys remains unchanged.

Both the IBR and the IBR-A loan repayment terms are exceptionally generous, and no doubt provide welcome relief from debt for some graduates. The attorneys speaking to the Special Committee all expressed dissatisfaction with IBR, however, and many of the public interest attorneys reported that they had opted not to enroll in IBR, despite heavy debt loads. There are a variety of reasons for the dissatisfaction with IBR in its current form. First, IBR does not cover private loans, including any bar study loans. Even among recent graduates (who have

⁶⁷ Pub. L. No. 110-84, 121 Stat. 784 (2007).

⁶⁸ All information about the IBR program is drawn from FinAid, Income-Based Repayment, <http://www.finaid.org/loans/ibr.phtml> (last visited Jan. 28, 2013) [hereinafter FinAid IBR Website].

⁶⁹ See *supra* note 24 and accompanying text.

⁷⁰ FinAid, Income-Based Repayment Calculator (15% Version), <http://www.finaid.org/calculators/ibr.phtml> (last visited Jan. 28, 2013).

⁷¹ Loans that are subsidized under the Stafford loan program (which are awarded based on need) do not accrue interest for the first three years of IBR payments. See FinAid IBR Website, *supra* note 68.

⁷² Only payments made on or after October 1, 2007, count toward this requirement.

⁷³ Keep in mind, however, that this reduction in payments makes it possible that some graduates will continue to accrue even more interest than under the 15% plan.

almost exclusively federal loans to cover school-year expenses),⁷⁴ that fact can create significant problems. One single mother of one was a 2011 graduate of Illinois who graduated with \$100,000 of total debt, including a \$16,000 bar study loan, and found a low paying job in public interest. Under IBR, she reported that her payments were only \$90 per month (suggesting an adjusted gross income of \$29,895). Her monthly payment for her private bar study loan, however, was \$250, raising her total debt payment each month to \$360, or about 18% of her take home pay.⁷⁵ She reports that she is now considering looking for another job in the private sector because that debt burden is unsustainable.

That story leads to the second problem with IBR: few graduates working in public interest expect to spend ten years in public interest, and they know that they are responsible for any interest that accrues while they are on IBR. As explained above,⁷⁶ most graduates leave public interest work after three to four years. Some, like the single mother above, find their public interest salaries too low, even with the benefit of IBR. Others fear that the funding for their positions may disappear before ten years. Funding for legal aid attorneys is notoriously insecure, relying on federal and state appropriations that can change with short notice. Some positions also exist only because of temporary grants, such as the one-year grants many law schools provide to employ recent graduates or the recent three-year grants from the Illinois Attorney General to allow the Illinois LSC-funded programs to hire attorneys to assist with mortgage foreclosures. There are no guarantees such grants will be renewed. Indeed, Lois Wood testified that 20% of Land of Lincoln's staff is wholly or partly funded by the foreclosure grant, and that she did not expect that grant to be renewed. Moreover, many government offices are facing budget cuts and the possibility of layoffs. In the face of these realities, some public interest attorneys choose not to sign up for IBR because they would rather continue to pay down their interest, rather than let it accrue and restrict their future career options.⁷⁷

Third, IBR payments are calculated after considering any income from a graduate's spouse if the graduate files a joint tax return. As a result, either IBR benefits are diminished or the graduate must forego the benefits of filing a joint tax return. Fourth, many attorneys testified that they did not expect the government to honor its promise of debt forgiveness twenty-five, twenty, or even ten years from now. In an era of government austerity, many graduates expected that the program would cease to exist before they were able to take advantage of it. Finally, many attorneys worried about the hit to their credit score during the period in which they are on IBR. As one public interest attorney testified, the first ten years of one's career are the period in which one expects to get married, buy a house, and have children, all things that become

⁷⁴ Since the advent of Graduate PLUS loans and the passage of the Health Care and Education Reconciliation Act of 2010, Pub L. No. 111-152, 124 Stat. 1029, which eliminated federal guarantees for all private student loans, most student lending for school-year expenses comes through direct federal loans. See Nick Anderson, *What would change if student lending legislation passes*, WASH. POST, Mar. 26, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/25/AR2010032503578.html>. As of 2011, 90% of all student lending came through federal direct loans. Michael Simkovic, *Risk-Based Student Loans*, 70 WASH. & LEE L. REV. (forthcoming 2013) (manuscript at 19 n.63), available at <http://ssrn.com/abstract=1941070>.

⁷⁵ After taxes, this graduate would take home about \$24,666, giving her monthly income of \$2,056. After her debt payment, she would have only about \$1,700 left to cover monthly expenses.

⁷⁶ See *supra* notes 23-31 and accompanying text.

⁷⁷ If significant interest accrues while a graduate works in public interest, that graduate could be significantly penalized if she leaves the IBR program and the accrued interest capitalizes after she takes a higher-paying private-sector job.

significantly more difficult with a large, unsecured, growing debt that makes obtaining any loans nearly impossible.

Some graduates also benefit from law school loan repayment assistance (“LRAP”) programs. By 2008, seventy-six law schools provided some form of an LRAP program, and those seventy-six schools provided over \$18 million per year to assist graduates with loan repayment.⁷⁸ Most of those programs have limited resources, however, and so impose strict eligibility requirements and low benefit levels. In fact, only six of the seventy-six schools provided 70% of the funds dispersed for loan forgiveness in 2008.⁷⁹ Based on that statistic, the remaining seventy LRAP programs provided on average only \$77,142 to all of their qualifying graduates combined, a negligible amount in light of the debt load facing many graduates. Moreover, law schools are likely to face significant budget pressures in future years, so LRAP programs are unlikely to expand significantly.

In addition, in 2009 Illinois passed a statewide debt forgiveness program called the Public Interest Attorney Assistance Act,⁸⁰ although it has not yet been funded.⁸¹ Other loan forgiveness programs are available, although not in sufficient quantities to alter significantly the landscape of student debt.⁸²

VIII. The Response of Law Schools

Many law schools have acknowledged the challenges that law school graduates face today because of their large debt. Some are also starting to recognize the impact of this problem on the delivery of legal services.

All law school deans from Illinois and the St. Louis area were invited to testify at the Special Committees hearings, and the deans of five law schools accepted the invitation. As those five deans pointed out, law schools in Illinois have responded to the difficult job market and their graduates’ lack of preparedness for practice with a variety of measures. For example Dean Jennifer Rosato of Northern Illinois highlighted the school’s focus on live client clinics, externships, and internships, including its “externship pipeline” to place students with alumni in government and legal aid jobs. As a result, she noted that Northern Illinois in 2011 placed 24.4% of its students who were employed in public interest and government jobs.⁸³

⁷⁸ Philip G. Schrag & Charles W. Pruett, *Coordinating Loan Repayment Assistance Programs with New Federal Legislation*, 60 J. LEGAL EDUC. 583, 588 (2011). Among Illinois law schools, Chicago, Chicago-Kent, DePaul, Illinois, Loyola, and Northwestern have LRAP programs. John Marshall, Northern Illinois, and Southern Illinois do not.

⁷⁹ *Id.* The six schools, none of which are in Illinois, are Yale, NYU, Harvard, Columbia, Stanford, and Georgetown.

⁸⁰ 110 ILCS 916/20.

⁸¹ CBF, Loan Forgiveness and Repayment Assistance Programs, <http://www.chicagobarfoundation.org/legislative-and-policy/loan-repayment-assistance> (last visited Jan. 28, 2013).

⁸² For example, the LSC provides a “limited number” of grants providing legal aid attorneys \$5,600 for three years to repay their loans. LSC, Loan Repayment Assistance Program (LRAP), <http://grants.lsc.gov/apply-for-funding/other-types-funding/lrap> (last visited Jan. 28, 2013). Each year for ten years beginning in 2007, the Chicago Bar Foundation (“CBF”) awards five loan repayment assistance fellowships of up to \$50,000 each to public interest law attorneys in Illinois. CBF, The CBF Sun-Times Public Interest Law Fellowship, <http://www.chicagobarfoundation.org/sun-times-fellowship> (last visited Jan. 28, 2013).

⁸³ See N. Ill. Univ. Coll. of Law, Employment Statistics, http://law.niu.edu/law/career/employment_stats.shtml (last visited Jan. 28, 2013). Nationally, 19.4% of employed graduates in the class of 2011 went into government and public interest jobs. JOBS & JDS, *supra* note 26, at 13.

Dean Bruce Smith of the University of Illinois College of Law noted the school's guarantee to new students that it will not raise tuition for those students during their three years of enrollment. In addition, despite its annual resident tuition of \$38,567, the school provides scholarship money to reduce the average student's bill to \$26,000 per year, and every student is guaranteed to retain his scholarship if he stays in good academic standing. Dean Smith also highlighted the school's commitment to working with the organized bar to address the challenges facing the profession, including its work with the Illinois Supreme Court Commission on Professionalism to place students with experienced mentors around the state.

Dean John Corkery emphasized John Marshall Law School's efforts to provide debt counseling to its students before, during, and after law school through Inceptia, a non-profit debt counseling firm. Tuition at John Marshall runs to about \$39,000 per year, Dean Corkery reported, a level comparable to its peer institutions in Chicago (Loyola, DePaul, and Kent). The Special Committee also heard about the school's efforts to bring prominent lawyers and judges to speak to every class in the law school about professionalism, thus integrating "Legal Profession" and "Ethics" courses with the curriculum.

Dean Cynthia Fountaine of Southern Illinois University School of Law noted the school's tuition (at \$15,994 for residents the lowest in the state) and its scholarship support (13% of the school's budget), leading to an average of \$66,160 of law school debt for its graduates. Dean Fountaine also testified that the school has led in the development of a "semester in practice" program that allows students to immerse themselves in a practice setting while in law school.

These initiatives are steps in the right direction. Despite those efforts, however, some of the deans explained that there is a limit to the reforms that law schools are willing and able to undertake. Dean Corkery, for example, noted that debt level is related to cost, and that law schools are engaged in an "arms race" to continue to improve. Some of that pressure comes from the *U.S. News & World Report* rankings, which credit schools for low (and expensive) faculty-student ratios, spending more money per student, and developing a strong reputation (which often depends on supporting academic scholarship, rather than teaching).⁸⁴ Now that law schools have invested significant resources in tenured faculty, Dean Corkery explained, those faculty are a fixed cost that cannot be cut without violating tenure agreements. Consequently, Dean Corkery rejected calls for more adjuncts to teach practical courses, as doing so would not decrease the cost of law school. Dean Corkery also noted that reducing law school to two years would not help, as he doubted that students could be made "practice ready" in such a short period.

Given the structural barriers to reform, one dean advocated for significant changes in the economic and regulatory environment of law schools. Dean Tom Keefe of St. Louis University School of Law explained that law schools need external incentives to reform, including restricting the availability of student loans and changes to the ABA accreditation standards.

IX. The Need for Reform

The Special Committee's task does not include providing a comprehensive review of the state of legal education. During the hearings, however, the Special Committee observed troubling signs that the current model of legal education is failing to educate lawyers who are

⁸⁴ See Robert Morse & Sam Flanigan, *Methodology: Law School Rankings*, U.S. NEWS & WORLD REP., Mar. 12, 2012, available at <http://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2012/03/12/methodology-law-school-rankings>.

competent and financially able to meet the legal needs of the citizens of this state. Moreover, absent significant reforms, the problem is only likely to intensify in future years.

Based on the Special Committee's research and the front-line information from the hearings, the Special Committee has come to several conclusions about the current model for educating lawyers. The root of the problem is the cost structure of the model of legal education that dominates all ABA-accredited law schools today.⁸⁵ Under that cost structure, tuition at private law schools has increased by a factor of four in real (inflation-adjusted) terms between 1971 and 2011, and resident tuition at public law schools has nearly quadrupled in real terms in only the last two decades.⁸⁶ The debt burden law students face today is a direct result of that cost structure.

But as argued above, law schools are not using the tuition law students pay to prepare them adequately for practice.⁸⁷ Instead, much of the tuition purchases additional academic scholarship through the employment and support of traditional tenured faculty members. The mechanisms of that support are many. First, the reputational element of the *U.S. News* rankings rewards schools for producing prolific and respected scholars. As a result, law schools require faculty to produce scholarship, and set up their responsibilities to create time and space for them to do so. Today, most law professors teach fewer than twelve credit hours each year (approximately three courses, or 1.5 courses per semester), and many teach fewer than ten.⁸⁸ In addition, most classes taught by traditional faculty members include little assessment beyond the final exam, thus sparing the professor additional grading and assessment responsibilities. Faculty members also enjoy such perks as summer research grants and sabbaticals.⁸⁹ Responsibilities that once fell on law professors, including admissions, career counseling, and financial aid, are now performed by additional support staff, further increasing costs.⁹⁰ Even as the salaries of law professors have risen, therefore, those professors have contributed less time to teaching law students.⁹¹

Considered by itself, of course, academic scholarship is not devoid of value. As Dean Smith of Illinois pointed out, certain prolific scholars produce valuable work that is cited by lawyers, courts, and other academics. A significant portion of academic work, however, is of questionable value. One study of 385,000 law review articles, for example, found that 40% of them were never cited in other articles and that 80% of them were cited fewer than ten times (including self-citations).⁹² Moreover, strong scholarship does not necessarily equate to strong teaching ability.

Even more concerning, however, is that the scholarship law professors are producing may not be worth the price tag we are paying for it. One estimate puts the cost of a single law review

⁸⁵ See Campos, *supra* note 4, at 183.

⁸⁶ *Id.* at 178. Campos identifies the *Id.* at 183-84. To that list, Brian Tamanaha adds an increase in merit scholarships for students with high GPAs and LSAT scores to boost a school's *U.S. News & World Report* ranking, the tendency of some universities to siphon money away from law schools to support less profitable programs, and reduced taxpayer funding for public law schools. See TAMANAHA, *supra* note 5, at 126-27. For an extensive discussion of the cost structure of law schools, and particularly the effect of law schools' focus on academic research and publishing, see *id.* at 39-68.

⁸⁷ See *supra* notes 56-66 and accompanying text.

⁸⁸ TAMANAHA, *supra* note 5, at 39-42; Campos, *supra* note 4, at 186.

⁸⁹ Campos, *supra* note 4, at 186.

⁹⁰ *Id.* at 184.

⁹¹ TAMANAHA, *supra* note 5, at 48-51. Tamanaha reports that law professor pay increased 45% between 1998 and 2008, on top of significant increases in the 1980s and 1990s. *Id.* at 48.

⁹² *Id.* at 56.

article at around \$100,000, the bulk of which is paid for by law school tuition.⁹³ The cost of academic scholarship directly increases law student debt which, as this report documents, has a detrimental effect on the legal services available to poor and middle-class American families. The costs of legal scholarship are born in significant part by the economically disadvantaged, who are least able to afford them.

Moreover, the focus on academic scholarship prevents law schools from focusing on the time-intensive instruction techniques that are necessary to educate new lawyers. Many lawyers testified at the hearings that law school did not provide them adequate tools to succeed, and that they needed more instruction in the skills that are required in practice. In particular, law schools do not provide adequate opportunities for law students to practice legal writing skills in simulated or real practical settings. Many law schools teach students to write a basic research memo and an appellate brief. Few, however, provide extensive instruction in drafting contracts, legislation, client letters, press releases, discovery requests or responses, wills, or other documents lawyers are called on to produce daily. Such writing assignments require time, and law professors often are too busy with their other responsibilities to implement them. For the same reasons, law professors rarely provide feedback to law students other than through a single final examination. As a result, most law students feel that law schools fail to provide them the opportunity to gauge their progress and to evaluate areas for improvement of their legal skills.

Any reform must therefore focus on reorienting law schools toward the education of lawyers for practice and away from the production of academic scholarship. Not all law schools need to change, of course. No doubt the most elite law schools can and should continue to produce useful scholarship, and, for the most part, their graduates will be able to continue to pay for it. The majority of law schools, however, must have the freedom to experiment with new models of legal education focused on educating lawyers for practice at a reasonable cost.⁹⁴

To be sure, many law schools have heeded calls to provide law students additional skills training and practical experience. A 2010 survey of law school curricula reveals that “[l]aw schools have increased all aspects of skills instruction, including clinical simulation, and externships,” and that 85% of respondent law schools offered in-house live-client clinics.⁹⁵ In addition, 30% offered off-site, live-client clinics, nearly all provided externship opportunities, and externship placement opportunities have increased without exception since 2002.⁹⁶ But the problem is that skills training has grown alongside traditional faculty and course offerings, rather than replacing them, so that the expansion of skills training has contributed to rising tuition. As one law review article notes:

Th[e] addition of a skills curriculum without cuts elsewhere has been one of the major drivers of tuition increases at law schools over the last several decades. For example, between 1977 and 1988, law schools’ expenditures on in-house clinical education rose by 92.5 percent, while the overall increase in law school expenditures was nearly twice as much, at 173.9 percent. Far from raising funds for skills education by decreasing other expenditures, therefore, law schools continued to increase funding in other areas by an even *greater* amount. A significant chunk of this increase in funding has gone to subsidize academic research, an enhancement that does little to improve the practical abilities of

⁹³ *Id.*; *see also id.* at 51-53.

⁹⁴ *See id.* at 172-77 (advocating for “a differentiated legal education system”).

⁹⁵ ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, A SURVEY OF LAW SCHOOL CURRICULA: 2002-2010, at 15-16 (Catherine L. Carpenter ed., 2012).

⁹⁶ *Id.* at 16.

students. In this way, law schools can pay lip service to skills training while maintaining a true emphasis on faculty research and writing and protecting their “prestige” score in the *U.S. News* rankings.”⁹⁷

Rather than merely adding practice-oriented courses on top of the existing cost structure, law schools must learn to integrate skills training with the traditional doctrinal curriculum.⁹⁸

Achieving that goal presents great challenges to law schools accustomed to the habits of the academy, rather than of law practice.⁹⁹ To address that barrier, the practicing bar can and must play a prominent role in reform by engaging with law schools and legal education. In previous generations, most lawyers were trained through the apprenticeship model, in which new lawyers developed the skills, practical wisdom, and judgment necessary to legal practice by working in close proximity with experienced lawyers. On both an individual and institutional level, the practicing bar can again create and support opportunities for experiential learning. The bar need not do this exclusively outside of law schools. To the contrary, the developing infrastructure of live-client clinics, simulations, and supervised externships at many law schools creates opportunities for the bar to partner with law schools to provide apprenticeship-like programs. The practicing bar can thus play an important role in facilitating the development of a new model of legal education.

RECOMMENDATIONS

The problems identified in this report are complex, and unlikely to be easily resolved. In particular, the Special Committee acknowledges the difficult plight of recent graduates and current law students. Reforms to the structure of legal education, no matter how effective, will not assist this group, who face great challenges as they begin their legal careers.

There are, however, a variety of measures that law schools, in cooperation with other stakeholders, including the ISBA and other bar associations, can take to ameliorate the debt crisis and to preserve the quality of the legal services the bar provides to the public. These recommendations will both help current young attorneys become successful practitioners despite their heavy debt burdens, and also will help reform legal education to make it more affordable while preserving or enhancing the quality of the training it provides to new attorneys. The recommendations are grouped into several categories.

I. Financing Law School

Law schools need to focus on cutting costs to make law school more affordable. At the same time, the system of financing legal education should reward law schools that are most effective in implementing successful reforms. The Special Committee recommends the following reforms to facilitate those changes:

1. Law Schools Should Not Transfer Excessive Funds to Universities

Law schools connected to universities should not be a source of funding that the university can tap to fund other programs. The existing ABA accreditation standards prohibit excessive transfers to a university.¹⁰⁰ Law schools should use the leverage that standard provides

⁹⁷ Daniel Thies, *Rethinking Legal Education in Hard Times: The Recession, Practical Legal Education, and the New Job Market*, 59 J. LEGAL EDUC. 598, 612-13 (2010) (footnotes omitted).

⁹⁸ *Id.* at 613-14; *see also* CARNEGIE REPORT, *supra* note 62, at 191-92.

⁹⁹ Tenure-track professors hired in the last decade have a median of three years of practice experience, and at top schools new hires have median practice experience of one year. TAMANAHA, *supra* note 5, at 58.

¹⁰⁰ *See* ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS, at std. 210(c) (2012) [hereinafter ABA STANDARDS]. (Citations to the *Standards* refer to the number of the standard or interpretation.) Standard 210(c) provides that “[t]he resources generated by a law school that is part of a university should be made available to

to ensure that they receive reasonable and direct benefits for any payments they make to a university, and that their payments are fair compared to those that other departments of the university make for comparable services.

2. Place Reasonable Limits on the Amounts that Law Students can Borrow

Although legal education is a regulated industry, the market has a significant role to play in law school reform. Already, applications to law school and law school enrollment are down significantly.¹⁰¹ As a result, law schools will face market pressure to attract applicants by improving the job prospects of their graduates and decreasing the cost of attendance.

The market pressure on law schools to keep tuition affordable is significantly blunted, however, by the generous lending policies of the federal government.¹⁰² To date, the federal government has allowed nearly any student¹⁰³ enrolled in a recognized educational program to borrow amounts limited only by the cost of attendance.¹⁰⁴ To remain eligible to enroll students receiving federal student loans, moreover, an institution need meet few requirements other than remaining accredited by a recognized accrediting agency.¹⁰⁵ As a result, the federal government will fully fund the education of any person who gets into law school, independent of the employment outcomes that the law school's graduates achieve and of their ability to repay the taxpayers' money.

The federal government could easily focus the market pressure to improve the value proposition of law school by placing reasonable limits on the availability of federal funds for law schools. For example, Congress and the Department of Education could identify a maximum amount that a student could borrow from the federal government for law school. Law schools would then have a strong incentive to keep the costs of attending reasonably close to that limit, because few law students would be able or willing to enroll in programs costing far in excess of the federal limit.¹⁰⁶

the law school to maintain and enhance its program of legal education.” *Id.*

¹⁰¹ A preliminary count showed 68,000 applicants to law school for fall 2012, down from a peak of 98,700 in fall 2004. Law Student Assistance Comm’n, LSAC Volume Summary [hereinafter LSAC Volume Summary], <http://www.lsac.org/lisacresources/data/lisac-volume-summary.asp> (last visited Jan. 28, 2013). Early projections suggest that the number of applicants will decline 20.4% further for fall 2013. Law Student Assistance Comm’n, Current Volume: Three-Year Summary, <http://www.lsac.org/lisacresources/data/three-year-volume.asp> (last visited Jan. 28, 2013). If that decline occurs, there will be around 54,100 applicants to law school in 2013, significantly fewer than the number of admitted students at any point in the last decade. *See* LSAC Volume Summary, *supra*. In addition, first-year enrollment stood at 44,481 for the fall of 2012, a decline of 9% from the fall of 2011 and about 15% below the peak in the fall of 2010. Press Release, ABA Sec. of Legal Educ. & Admissions to the Bar, ABA Section of Legal Education Reports Preliminary Fall 2012 First-Year Enrollment Data (Nov. 28, 2012).

¹⁰² *See generally* TAMANAHA, *supra* note 5, at 126-34, 177-81; Simkovic, *supra* note 74.

¹⁰³ The limited requirements include that the student is a U.S. citizen or on a path to citizenship, that the student remain in academic good standing, that the student not currently be in default on a federal student loan, that the student make restitution if she previously defrauded the federal student loan program, and that the student avoid drug offenses. *See* 20 U.S.C. § 1091; Simkovic, *supra* note 74, at 20-21.

¹⁰⁴ Law students can borrow under the federal graduate PLUS program, which allows students to borrow any amount up to “the student’s estimated cost of attendance, minus . . . other financial aid” the student has obtained, including aid under other federal loan programs. 20 U.S.C. § 1078-2(b).

¹⁰⁵ *See* Simkovic, *supra* note 74, at 21.

¹⁰⁶ Professor Tamanaha worries that this solution will merely cause law schools to enroll more students at a lower tuition rate, thus enabling them to make up the lost revenue. *See* TAMANAHA, *supra* note 5, at 179-80. That result seems unlikely in light of the plummeting applications to law school. *See supra* note 101. Law schools will not be able to expand their classes significantly without lowering the quality of incoming students, jeopardizing both their *U.S. News* ranking and, ultimately, their accreditation if their students are not qualified to complete law school and pass the bar examination. *See* ABA STANDARDS, *supra* note 100, at std. 501(b).

Obviously, private loans would still be available to students if they wanted to borrow above the federal lending limits.¹⁰⁷ To prevent law students from merely making up the additional cost above the federal limit in higher-cost private loans, this recommendation should be coupled with a reform to make student loans dischargeable in bankruptcy for students facing financial hardship (as that term was defined prior to the 2005 amendments to the bankruptcy code).¹⁰⁸ That way, private lenders will have an additional incentive to price private loans at a rate appropriate for the risk. Students attending schools that are unlikely to provide the education they need to be successful will then be priced out of the loan market. Those law schools will be forced to lower their costs and improve the education they provide, or else face closure.

3. Impose Outcome-Based Requirements for Federal Student Loan Eligibility

Another possibility is that the federal government could limit federal loan availability to schools whose graduates are unable to repay their debt.¹⁰⁹ Law schools failing such a standard would be unable to enroll students requiring federal loans to finance their education. Such law schools would then be forced to improve their employment outcomes, or they would close. In either case, the expensive training of unemployable law school graduates would cease, as taxpayer funds would be channeled only to effective schools.

Fortunately, the Department of Education has already developed such a standard for certain vocational and for-profit educational institutions through the “Gainful Employment” regulations promulgated in 2011.¹¹⁰ Programs subject to those regulations must meet two separate benchmarks in at least two out of every four years to remain eligible to receive student loans. The first benchmark requires at least 35% of a program’s graduates to reduce their loan principal by at least \$1 in a given period (so graduates in forbearance or deferment would not count).¹¹¹ The second benchmark requires that either the mean or the median graduate have debt payments of 12% or less of annual income or 30% or less of discretionary income.¹¹² If similar standards applied to law schools, many institutions would immediately feel pressure to lower the debt burden of their students, improve their training for the practice of law, or both.¹¹³ Without a blank check from the U.S. Treasury on which to draw, inadequate law schools would soon close.

A primary objection to such a proposal is that it would limit the accessibility of law school, particularly for minority and poor students. To be sure, it is likely that overall enrollment

¹⁰⁷ See *supra* note 74.

¹⁰⁸ For a cogent argument in favor of this proposal, see Note, *Ending Student Loan Exceptionalism: The Case for Risk-Based Pricing and Dischargeability*, 126 HARV. L. REV. 587 (2012).

¹⁰⁹ For several possible versions of this proposal, see TAMANAHA, *supra* note 5, at 177-81.

¹¹⁰ For a general description of the regulations, see Jean Braucher, *Mortgaging Human Capital: Federally Funded Subprime Higher Education*, 69 WASH. & LEE L. REV. 439, 465-72 (2012). The regulations can be found at 34 C.F.R. § 668.7 (2013). A court recently vacated the Gainful Employment rules for vocational and for-profit schools on the ground that the Department of Education’s rationale for the repayment benchmark was arbitrary and capricious. See *Ass’n of Private Colls. & Univs. v. Duncan*, 870 F. Supp. 2d 133, 154 (D.D.C. 2012). But the court also held that the regulations were promulgated pursuant to a reasonable interpretation of the agency’s power, *id.* at 149, leaving open the possibility that the Department of Education could reissue the regulations.

¹¹¹ See Braucher, *supra* note 110, at 467-68.

¹¹² *Id.* at 468.

¹¹³ Such a change would likely require congressional action, as current law does not define all graduate programs as programs that provide a “program of training to prepare students for gainful employment in a recognized occupation”—the statutory hook the Department of Education used to establish its authority to promulgate the Gainful Employment regulations. Compare 20 U.S.C. § 1001(a), with 20 U.S.C. § 1002(b)(1)(A)(i), and 20 U.S.C. § 1002(c)(1)(A).

would decline, leaving fewer law school spaces available for all.¹¹⁴ There is no reason to believe that minority enrollment would decline in relative terms, however, particularly in light of the accreditation requirement that law school pursue a diverse student body.¹¹⁵ Instead, the likely outcome will be less debt and better employment outcomes for all law school graduates, including minorities.

4. Reallocate the Funds Available Through Loan Forgiveness Programs

The federal government should reallocate the funds available in loan forgiveness programs, and in particular the IBR program, to better meet the debt burdens of new attorneys. For example, the federal government should consider limiting the loan forgiveness available for attorneys above a certain income level. A lawyer with \$200,000 of debt and an annual salary of \$145,000 will currently qualify for IBR, even though such a lawyer would have little difficulty managing that debt burden. These lawyers should not be included in the program.

The money saved by excluding such lawyers from the IBR program would enable other possible reforms, such as allowing borrowers to consolidate private loans into the federal loan program or improving the loan forgiveness terms for public interest attorneys. As mentioned above,¹¹⁶ one of the chief downfalls of the IBR program is that lawyers working in the public interest do not expect to remain in their jobs long enough to benefit from the loan forgiveness provisions. Rather than requiring ten years of service, the program could forgive a portion of a public interest lawyer's loans each year (perhaps with the amount increasing the longer the lawyer stays in public interest). The amount forgiven should be at least enough to cover any interest that accrues during the year. That way, public interest lawyers would no longer face the possibility that time enrolled in IBR will lead to an increased loan balance if financial concerns force them to enter the private sector. Such a program would diminish the tendency of public interest lawyers to leave for the private sector after only a few years because of financial pressures.

Finally, the federal government should extend the more generous IBR provisions for public interest lawyers to private sector lawyers willing to provide legal services in rural areas or with salaries below a certain threshold. These lawyers play a crucial role in supplying the legal needs of average Americans, and should be encouraged to work in these areas rather than fleeing to higher paying legal jobs or to jobs outside of the law. The debt forgiveness available to these private sector attorneys could be based on the amount of pro bono work the attorney performs each year, or on a commitment to work a certain number of years in an area with unmet legal needs.

II. Revisions to the Accreditation Standards

Although the ABA accreditation standards likely are not a significant driver of the cost of law school, some of the standards may stand in the way of the reform that is necessary to adequately educate lawyers for practice in an affordable way. A 2009 GAO report, for example, found that “the move to a more hands-on, resource-intensive approach to legal education and competition among schools for higher rankings appear to be the main factors driving the cost of law school, while ABA accreditation requirements appear to play a minor role.”¹¹⁷ But the report also concluded that “accreditation standards may limit experimentation with potentially lower-cost approaches.”¹¹⁸ Specifically, the report explained that certain accreditation standards may prevent schools from expanding the use of non-tenure track and adjunct faculty,¹¹⁹ developing

¹¹⁴ As the earlier part of this Report documents, however, such a change is necessary in light of the inability of many law school graduates to secure employment. *See supra* note 40 and accompanying text.

¹¹⁵ *See* ABA STANDARDS, *supra* note 100, at std. 212.

¹¹⁶ *See supra* notes 67-82 and accompanying text.

¹¹⁷ U.S. GOV'T ACCOUNTABILITY OFF., ISSUES RELATED TO LAW SCHOOL COST AND ACCESS 2 (2009). The GAO came to this conclusion largely through interviews with law school officials. *Id.*

¹¹⁸ *Id.* at 28.

¹¹⁹ *See* ABA STANDARDS, *supra* note 100, at std. 403(a) (requiring that full-time faculty “teach the major portion of the law school’s curriculum, including substantially all of the first one-third of each student’s

predominantly electronic libraries,¹²⁰ and delivering online or distance education.¹²¹ To that list, one might add standards that prevent law schools from deemphasizing faculty scholarship¹²² and from using a more modest, less expensive physical plant.¹²³

Beginning in 2008 and continuing until the present, the ABA Section of Legal Education and Admissions to the Bar has been undertaking a comprehensive review of the standards.¹²⁴ One of the overarching themes of the review is to amend the standards to require more outcome measures—that is, “accreditation criteria that concentrate on whether the law school has fulfilled its goals of imparting certain types of knowledge and enabling students to attain certain types of capacities, as well as achieving whatever other specific mission(s) the law school has adopted”—rather than “input measures”—that is “accreditation criteria that concentrate on whether law schools are investing the right types and amounts of resources (such as physical plant, number of faculty, and budget) to achieve the goals identified in the accreditation standards and the school’s missions.”¹²⁵ In theory, that approach should give law schools more flexibility to meet the accreditation requirements. Outcome measures should allow schools to use whatever means appropriate—including lower cost alternatives to the current model of legal education—so long as they achieve the specified objectives.

In some areas, that promise may be realized. For example, the current drafts under review by the Standards Review Committee propose granting equivalent security of position to traditional and clinical faculty, and the law library requirements are relaxed somewhat. Perhaps most significantly, the proposed standards no longer require a particular student-faculty ratio or assign less value to clinical faculty and adjuncts than to full time traditional faculty. In other areas, however, the current drafts maintain many of the restrictive standards listed above. For example, proposed Standard 404 still requires all faculty to “engag[e] in scholarship, as defined by each law school.” Proposed Standard 403 still requires full-time faculty to teach “substantially all” of the first year and more than half of all credit hours offered. Proposed Standard 311(e) relaxes the limits on distance education only slightly, now limiting the credits that a student can

coursework”); *id.* at ints. 402-1 & 402-2 (imposing requirements for a law school’s faculty-student ratio, but counting clinicians and legal writing instructors as .7 of a full-time traditional faculty member, and counting adjuncts as .2 of a full-time traditional faculty member); std. 405 (imposing security of position requirements for traditional faculty that exceed the requirements for clinical and legal writing faculty).

¹²⁰ *See id.* at std. 601(b) (requiring law libraries to have “sufficient financial resources to support the law school’s teaching, scholarship, research, and service programs”); *id.* at int. 601-1 (explaining that Standard 601 cannot be satisfied merely by providing electronic access); *see also id.* at std. 606 (listing requirements for a law library’s collection).

¹²¹ *See id.* at 306(d) (limiting a school to granting twelve hours of credit for distance education courses).

¹²² *See id.* at std. 401 (requiring that a law school’s faculty, including clinical and legal writing faculty, “possess a high degree of competence, as demonstrated by its . . . scholarly research and writing”); *id.* at std. 402(a)(3) (requiring that a law school employ sufficient faculty to meet the goals of its educational program, and establishing that determining a sufficient number depends on the “opportunities for the faculty adequately to . . . conduct scholarly research”); *id.* at std. 404(a) (requiring that a law school adopt policies regarding faculty scholarship).

¹²³ *See id.* at std. 702 (requiring adequate seating in the library for students and faculty); *id.* at std. 703 (requiring adequate onsite study space, including space for group work).

¹²⁴ Information about the standards review process is available on the Section’s website. ABA Section of Legal Educ. & Admissions to the Bar, Standards Review Committee, http://www.americanbar.org/groups/legal_education/committees/standards_review.html (last visited Jan. 28, 2013).

¹²⁵ ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REPORT OF THE OUTCOME MEASURES COMMITTEE 3 (2008), available at <http://apps.americanbar.org/legaled/committees/subcomm/Outcome%20Measures%20Final%20Report.pdf>.

earn through distance education to fifteen. The requirements for physical plant in proposed Standard 702 are just as onerous as the current standard.¹²⁶

As the standards review process proceeds, the ABA Section of Legal Education and Admissions to the Bar should delete or amend standards restricting the innovation necessary to allow law schools to cope with the law school debt crisis. In particular, the Special Committee recommends the following revisions:

1. Allow adjunct faculty to play a greater role in legal education, including in the first year.
2. Require that law schools provide debt counseling for all admitted students, before they commit to attend.
3. Remove the requirement that all faculty engage in scholarship.
4. Expand the credits a student can earn from distance education, and limit the requirements for a law school's physical plant, thus allowing law schools to experiment with alternative ways of delivering legal education.
5. Allow law schools to meet the requirements for library collection through digital access.

III. Reforms to Law School Curricula

Law school curricula will need to change to ensure that law schools are teaching the skills, values, and dispositions that lawyers need to be successful in practice. At the same time, the debt crisis requires that law schools cut out of their curricula any courses that do not promote that goal. In particular, the Special Committee recommends the following changes:

1. Focus on Practice-Oriented Courses

Law schools should prioritize simulation courses, live-client clinics, and other courses that give students the opportunity to learn and apply legal principles in the context of real life problems. Nearly every young lawyer to testify to the Special Committee indicated that they would have preferred to have more of these courses in law school if they were offered. Most law schools offer these courses, but few law schools offer sufficient numbers of them. Law schools should ensure that every student has an opportunity to benefit from practice-oriented courses.

In addition, traditional doctrinal courses, including first-year courses, should also include some practice-oriented component. For example, a contracts class could include an assignment on drafting a contract, while a torts class could include an exercise involving interviewing a prospective client about a recent incident. These types of exercises need to be integrated into every course so that students begin to learn how to practice law from the beginning of their law school experience. All courses could also benefit from inviting a lawyer practicing in that area of law to speak to the class. The organized bar can be an important source of support as law schools develop these programs.

2. Provide Fewer Exotic Courses

Integrating practical training into the traditional legal education curriculum is expensive. To expand the resources available for that task, law schools should cut back on exotic courses such as "Law and Literature" and any courses exclusively involving the application of a social scientific discipline to the law without reference to legal practice. Such courses certainly have some value, but they may be more appropriate in the relevant academic department of a university, rather than in law schools. Because of the debt crisis, these courses are a luxury that law schools cannot afford.

3. Provide More Writing Assignments and Constructive Criticism

¹²⁶ The information in this paragraph is gleaned from the minutes and agendas of the Standards Review Committee's meetings available on the Standards Review Committee website, *supra* note 124.

More law school courses should give students the opportunity to complete a writing assignment. Students should receive meaningful feedback on these assignments before the end of the semester and the final exam. Obviously, a single professor with a large class cannot always achieve this goal (and making every class smaller is too expensive). Law schools should thus experiment with making more extensive use of either third-year students or adjunct faculty to act as teaching assistants who can help professors to provide feedback. For third-year students, serving as a teaching assistant can become a required part of a revamped curriculum in the third year that will help prepare students for practice. These students would have the opportunity to further hone their own practice skills as they work closely with a professor and to critique other students' work.

4. Teach Law Office Management

More law schools should teach students how to run a law office, from managing a payroll to developing business, to setting up a business plan. These courses are a vital part of making students ready to practice at graduation, and are especially important for the increasing number of students who are entering solo practice immediately after graduation. The organized bar can be an important source of support for law schools developing such a course, providing materials and adjunct faculty members who are intimately familiar with the subject matter.

5. Teach a Bar Review Course

Law schools should teach a bar review course for credit at no extra charge to the students. This reform would cut down on the expense of studying for the bar during the summer after graduation.

6. Transform the Second and Third Years of Law School

Many lawyers and law students reported becoming disengaged during toward the end of their legal education, increasingly looking forward to practice and less interested in the courses available to them. Some have proposed eliminating the third year of law school, allowing new lawyers to practice sooner and immediately cutting the cost of law school by one-third. The Special Committee's view, however, is that cutting the third year of law school would provide less time for students become ready to practice law by graduation. That outcome will exacerbate the problem of inadequate training for new lawyers.

Instead of cutting the third year, law schools should look for new ways to use the second and third years of law school to help law students transition into practice. Rather than continuing with traditional instruction, the instructional setting could also shift away from the law school, potentially making law school much cheaper. For example, the second and third years could include time serving as an apprentice in a practice setting, such a law firm, public defender's office, government agency, or legal aid office. To make legal services more available to the public, apprenticeships could focus on practice settings providing legal services to the poor and middle class. The second and third years of law school could also include courses on law office management and other practical skills, taught through approved CLE provided by bar associations or at the law school. Finally, it could include working as a teaching assistant for professors teaching lower-level courses.

IV. Reforms to Law School Faculty

To facilitate the above curricular reforms, the Special Committee recommends that law schools make the following changes to their faculty structure and law school governance:

1. Change Tenure and Hiring Requirements to Put Less Emphasis on Scholarship

Law schools should not require as much scholarship as a requirement for hiring and tenure. Instead, they should focus on teaching ability, lawyering skills, and accomplishment as a practitioner or judge. This reform would free faculty to spend more time teaching, interacting with students, and providing meaningful feedback to students on practice-oriented assignments. Law schools could then require faculty to teach additional courses each year, cutting down on the number of professors they need to hire.

2. Include Practicing Judges and Lawyers on Hiring and Tenure Committees

Law faculty should be accomplished practitioners to ensure that they are able to educate the next generation of practicing lawyers. One way law schools can evaluate the lawyering skills of faculty candidates is to include respected lawyers and judges from the community on hiring and tenure committees. Practicing judges and lawyers can provide unique insight into the candidate's skills as a practitioner and will ensure that the law school hires faculty who are best able to educate law students for practice.

3. Use More Properly-Trained and Supervised Adjunct Faculty

The typical adjunct faculty member receives only a few thousand dollars per course. As a result, law schools can enjoy tremendous cost savings by using practicing lawyers and judges as adjunct faculty members.¹²⁷ At the same time, adjuncts are well-suited to integrate practical training into the classroom, and to help students transition into practice. To be sure, adjuncts may not have experience as teachers, and require training and oversight from traditional faculty members. If law schools are willing to invest in adjuncts and to integrate them into the classroom with traditional faculty, however, the benefits can be tremendous.¹²⁸ Bar associations can support law schools in this endeavor by identifying adjuncts and by providing CLE programs to help train adjuncts to be better teachers.

4. Give Clinical and Legal Writing Faculty an Equal Say in Governance

Currently, legal writing instructors and clinical faculty members often do not enjoy the same power in faculty governance as traditional doctrinal faculty. These faculty members are the most involved with educating lawyers with the skills that are necessary for practice. Clinical and legal writing instructors should be fully implemented into the governance structure of the law school, giving them the same say as traditional faculty on hiring, curriculum, and other important topics.

V. Reforms for the Illinois Supreme Court and Other State Supreme Courts

State supreme courts play an important role in regulating legal education and the profession. The Special Committee recommends that the Illinois Supreme Court and other supreme courts take the following steps:

1. Consider Ways to Reduce the Cost of Becoming Licensed

Supreme courts should investigate ways to license new lawyers at less cost to the lawyer and with less of a delay after law school. In particular, supreme courts should carefully consider the purpose of the current procedures for licensing attorneys, including the bar exam, and should evaluate whether the current procedures achieve that purpose.

There are several potential ways to achieve this goal. For example, the Arizona Supreme Court recently adopted a proposal to allow third-year students to take the Arizona bar exam in February before they graduate.¹²⁹ The proposal requires students to have only a limited number

¹²⁷ See Thies, *supra* note 97, at 619 (“Adjuncts are typically paid a flat fee for each course that they teach. While these fees vary, estimates usually run between \$1,500 and \$5,000, depending on the experience of the teacher, the quality of the school, the length of the course, and the number of students. Even assuming the higher number, a law school could hire twenty-five adjuncts for every full professor earning salary and benefits of \$125,000 a year.” (footnotes omitted)).

¹²⁸ *Id.* at 621 (“Schools should also take advantage of opportunities to integrate adjuncts into the classroom with full-time faculty. For example, Harvard Law School’s new Problems and Methods course for first-year students will include small groups of students working with an adjunct on a particular practice problem introduced in class by a full-time professor. Not only will the students benefit from this experience, but the adjuncts will have the advantage of observing the full-time professor at work, thus providing the school with an experienced pool of adjuncts to draw on later to teach other courses.”).

¹²⁹ Zoe Tillman, *Arizona Supreme Court to allow 3Ls to sit for the bar*, NAT’L L.J., Dec. 11, 2012, available at <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202581129343&slreturn=20130012160534>.

of credits left for graduation in their last semester and limits their course load leading up to the exam to ensure that they are not distracted from their studies. Such a system would enable students to begin work more quickly after graduation, and would limit the need for expensive bar study loans. In addition, some employers make job offers contingent on bar passage, or decline to extend an offer until after a student has passed the bar. This proposal would make it easier for students to secure those jobs by graduation. The downside of this proposal is that squeezing the bar exam into the third year leaves less time for students to gain the experience they need to become practice ready before graduation. Any such reform should carefully consider this downside and include measures to limit the impact on the quality of the training law schools provide.

Supreme courts should also consider alternatives to the bar exam as a means of ensuring that new lawyers are qualified to practice. For example, Wisconsin affords the “diploma privilege” to graduates of Wisconsin law schools, allowing them to become licensed without taking the bar exam. Supreme courts should consider affording a similar privilege to graduates of their state’s law schools, assuming the graduates took certain prescribed classes (including practice-oriented classes), maintained a minimum GPA, and met other requirements for bar admission (e.g., character and fitness requirements). Such graduates could be admitted to the bar at or shortly after graduation, with no additional cost.

2. Expand Data Collection about Law School Employment Statistics and the Financial Situation of Lawyers

Many attorneys who testified before the Special Committee complained about the availability of information about the employment outcomes of law school graduates. Some testified that they would have made different choices about attending law school if they had had more information. The availability of information about the employment outcomes of law school graduates improved substantially in 2011 when the ABA Section of Legal Education and Admissions to the Bar revised Standard 509¹³⁰ to require law schools to report additional detail about the breakdown of their employment outcomes and to post that information on the law school website.¹³¹ Under the new rule, schools must report the number of unemployed graduates, the number of graduates pursuing further education, and the number of graduates employed in jobs that require bar passage, jobs in which a juris doctor degree is preferred, professional jobs, and nonprofessional jobs.¹³² For each category, the school must report whether those graduates were in full-time or part-time jobs, and whether the jobs are permanent or temporary.¹³³

There are significant holes in the new data, however, in that the ABA does not require that the law schools report salary data. One reason for that omission is concern that too few students report their salaries to make the data meaningful and not misleading.¹³⁴ In addition, law schools currently provide only a snapshot of employment outcomes at nine months after graduation. No data is available regarding employment outcomes for law school graduates at other points in their career.

State supreme courts possess the authority to remedy these problems through their power to establish registration procedures for attorneys. For example, in Illinois the Illinois Supreme Court could amend its attorney registration rules to require the ARDC to collect and publish data on lawyers’ law school, graduation date, employment status, practice setting, salary, and outstanding educational debt. Lawyers would report this information each year on their registration form.

¹³⁰ See ABA STANDARDS, *supra* note 100, at std. 509.

¹³¹ Karen Sloan, *ABA Backs Off Making Law Schools Report Graduates’ Salaries*, NAT’L L.J., Mar. 19, 2012, available at <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202546229913>.

¹³² *Id.*

¹³³ *Id.*

¹³⁴ For an explanation of the distorting effects of this phenomenon on salary data, see *supra* note 34.

As a result the public would have access to information regarding employment outcomes and salaries for lawyers throughout their career, not only for the first year. The ARDC could report this information on a school to school basis, thus enabling prospective law students to get a complete picture of the employment outcomes at various schools, at least among the graduates who practice in Illinois. The data would also allow the ISBA and other entities to acquire a more accurate picture of the ways that debt is influencing the careers of attorneys and the quality of legal services that they provide to the public. If other state supreme courts also adopted a similar rule, the data on employment outcomes could become more complete across the nation.

3. Monitor Potential Ethics Problems

As described above, there is significant anecdotal evidence that young lawyers burdened with heavy debt, and especially solo practitioners, may be more likely to commit certain ethics violations. Although the current data from the ARDC do not bear out that concern, the ARDC should continue to monitor new data regarding ethics violations in Illinois, and should be ready to address the issue further should a problem develop.

4. Broaden Student Practice Rules

To ensure that law students have as many opportunities as possible to develop lawyering skills, state supreme courts should expand student practice rules. In Illinois, for example, the Illinois Supreme Court should amend Supreme Court Rule 711. Currently, Rule 711 allows law students to practice law under supervision only when they are providing services through a legal aid or government organization. If the rule also allowed law students to practice in private firms as part of an apprenticeship program, law firm apprentices would be able to benefit from a broader range of experiences.

5. Facilitate Pro Bono Work Among Young Attorneys

Underemployed young attorneys would benefit greatly from more opportunities to do pro bono work and to gain the experience that is vital to their professional success. To that end, state supreme courts could require registered lawyers to complete a certain amount of pro bono work each year. At the same time, supreme courts could allow firms to count the pro bono work of young lawyers under supervision of the firm toward the pro bono requirement of the firm's lawyers. That way, firms would have an incentive to hire young attorneys to do a portion of the firm's pro bono work, and the young attorney could gain experience preparing her to work for paying clients.

6. Allow Law Practice Management and Technology Related CLE to Count for Minimum CLE Requirements

Many lawyers lack the skills necessary to open or run their own law practice, yet those skills are vital, especially for the increasing number of attorneys opening solo practices. State supreme courts should allow CLE related to law practice management to count toward minimum CLE requirements.

VI. Support from the Organized Bar

Bar associations must play an active role in assisting the necessary transformation of law schools. The Special Committee recommends that bar associations do the following:

1. Facilitate Firm Apprenticeship Programs

One way for the organized bar to contribute to legal education is through apprenticeship programs in law firms. In such programs, the new lawyer takes a pay cut and spends only a portion of her time working on billable matters (often at a lower rate). The rest of her time could be spent in an educational program including classes, supervised work on pro bono cases, and shadowing older attorneys. A few law firms have developed such programs, but they have not

caught on more broadly, largely because of the significant cost to law firms.¹³⁵ In addition, the few firms that have taken such a step are almost all large corporate firms, as small firms lack the institutional resources to support such programs.

Bar associations should provide support for law firms developing apprenticeship programs. For example, bar malpractice insurance companies like ISBA Mutual could offer free or reduced malpractice insurance to cover the work of firm apprentices during their training period. Bar associations could also develop a standard set of CLE materials in a variety of practice areas that firms could use for apprenticeship programs, thus relieving the firms of the cost of developing their own. In addition, bar associations could organize panel discussions and networking events, allowing apprentices at small firms to gather to share ideas and resources. Bar associations would then relieve the burden on smaller firms to develop sufficient programming on their own to make an apprenticeship program worthwhile. Through such a program, young lawyers could learn the intricacies of the profession from older lawyers, just as in the traditional English Inns of Court.

If law firms and the organized bar cooperate with law schools, another possibility is that such apprenticeship programs could be integrated with the third year of law school. Law students could begin their apprenticeship placement during their third year, and could receive credit for some of the work and educational experience they receive at the law firm. During that third year, the student's tuition could be decreased (or a portion could be paid to the law firm in return for the training), and the student would benefit from any money she might earn from practicing law.¹³⁶ The apprenticeship could continue after graduation and perhaps develop into full-time employment.

2. Partner with Law Schools to Provide Practice Experiences to Law Students

Bar associations can also take a more active role in the training of new lawyers by providing resources and support to law schools attempting to integrate more practical training into their curricula. For example, bar associations could partner with law schools to provide externship placements. As part of the program, bar associations could train attorneys to provide effective externships at their firm or practice setting. Bar associations could also partner with law schools to identify and train new adjunct faculty members, thus facilitating the entrance of more practicing lawyers and judges into law schools.

3. Facilitate Pro Bono Work Among Young Attorneys and Law Students

Bar associations could also set up an online bulletin board on which lawyers could seek assistance from younger attorneys or law students for pro bono projects. Any attorney could sign up to work with the supervising lawyer (assuming no conflicts of interest), and could, even from a remote location, provide legal assistance on the project. The supervising attorney would review the work and remain responsible ultimately for the representation, but the younger lawyer would gain experience and the opportunity to learn from an older lawyer, in addition to a contact possibly leading to future employment.

4. Facilitate the Sale of Rural Law Practices to Young Lawyers

¹³⁵ See Karen Sloan, *Three Law Firms Claim Success With New Apprenticeship Model: With cost one concern, other law firms have not jumped on the apprenticeship bandwagon*, NAT'L L.J., June 15, 2010, available at <http://www.lawjobs.com/newsandviews/LawArticle.jsp?id=1202462701838&slreturn=20130021154005>.

¹³⁶ The ABA accreditation standards currently prevent students from earning money for any work for which they receive credit. See ABA STANDARDS, *supra* note 100, at int. 305-3. It is not clear if a student could earn money for the portion of the apprenticeship during which she serves paying clients, and also receive credit for the educational portion of the program. If the student could not draw a salary, the student could still benefit financially if law schools charged a student in an apprenticeship program less for the third year of law school.

Bar associations should partner with law schools to connect law students with aging lawyers in rural areas who are looking to pass their practice on to a new generation.¹³⁷ Such a program would assist older practitioners looking to retire, young lawyers looking for work, and communities facing diminished access to legal services. The program would begin by creating a clearinghouse to connect law students willing to buy a law practice with practitioners looking to retire. The students could serve as apprentices with the practitioners to gain experience and to assess whether a sale would work. The program could also facilitate access to accountants and business lawyers who could value the practice and help both sides assess the transaction, and it could also create a venture capital fund (with donations from the bar, alumni of the law school, and others) to loan money to students to buy the practice. Finally, it could allow the law students to buy the practice after graduation (and perhaps after an additional apprenticeship period) and operate it under the supervision of the prior owners, and with a commitment to continue to serve the local community.

5. Assist Pre-law Advisors to Provide Counseling for Prospective Law Students

Bar associations should provide debt and career counseling programs for prospective law students to decrease the number of lawyers who were unaware of the financial challenges of attending law school when they enrolled. Jamie Thomas Ward, the director of pre-law advising at the University of Illinois, offered to work with the ISBA to develop such programs and to assist with marketing them to her students. The ISBA and other bar associations should also seek to partner with pre-law advisors at other universities. Such a program should emphasize the costs and benefits of attending law school, and should encourage prospective law students to develop a realistic plan for managing their debt before they attend law school. Through interaction with lawyers, it should also provide prospective law students a realistic picture of what the practice of law is like today.

6. Provide Debt Counseling for Young Lawyers

Bar associations should also put on debt counseling programs for law students and young lawyers. Although there are a variety of loan forgiveness programs available today, many young lawyers are unaware of their options or of how to take advantage of those programs. Law schools provide some counseling of this type, but it tends to end after graduation, leaving young lawyers unaware of the current landscape.¹³⁸ Bar associations (and particular their Young Lawyers Divisions) should continue to provide information and resources for young lawyers.

7. Provide Resources for Solo Practitioners and Small Firm Lawyers

Bar associations must also provide key resources for solo practitioners and small firm lawyers who are too financially strapped to obtain them elsewhere. For example, the ISBA provides significant resources to its member solo practitioners and small firm lawyers, including free legal research on Fastcase, 15 hours of free CLE programs each year, access to an ethics hotline, networking opportunities, mentorship programs, and much more. Other bar associations should provide similar services to support young lawyers and solo practitioners, who increasingly lack access to these resources from any other source.

8. Partner with Groups to Ensure Lawyers are Placed Where They Are Needed

The Special Committee heard testimony from several attorneys indicating that despite the difficult job market, there are certain local regions and practice areas where attorneys are in demand. Bar associations should partner with law schools, economic development groups, local governments, and legal recruiters to ensure that young lawyers are placed where they are needed. Through such cooperation, law schools would also be able to obtain information about the types of courses that will be most beneficial to prepare law students for the current job market.

¹³⁷ This recommendation came from Dean Bruce Smith of the University of Illinois College of Law.

¹³⁸ In particular, lawyers who graduated before the late 2000s tend to be largely unaware of the nuances of the IBR program, which Congress established in 2007.

CONCLUSION

Many have recognized that the law school debt crisis imposes an unacceptable burden on young lawyers and law students. As this report makes plain, the burden does not stop there, but extends to the most vulnerable in our society in need of legal services. Because of excessive debt, too many poor and middle class citizens lack reliable access to affordable legal services. That reality makes the crisis more urgent than if it affected only lawyers. The high calling of public service has always galvanized the best from the bar, the bench, and the academy to promote justice, defend liberty, secure the rule of law, and ensure the highest quality legal representation to all. The law school debt crisis and the challenge of developing a new model of legal education presents yet another opportunity for the legal profession to work together for the common good.

Appendix A: Costs to Start and Run a Solo Practice in Downstate Illinois¹³⁹

Startup Costs

Computer, Printer & Copier	\$800
Phone	\$250
Second-hand Desk	\$200
Chairs (one executive and two client)	\$400
Office Supplies	\$200
\$1500 monthly salary for 6 months	\$9,000
Operating Expenses for 3 months	\$8,520
Total	\$19,370

Monthly Operating Expenses

Office Space Rental	\$600
Phones	\$190
Internet Access	\$40
Legal Research (Westlaw or Lexis)	\$500
Malpractice Insurance	\$300
Office Supplies	\$100
Liability Insurance	\$50
Medical Insurance (covering attorney and family)	\$700
Practice Management Software	\$60
Advertising	\$300
ISBA Membership for Atty in 3d Year Admission	\$6
Total Monthly Expenses	\$2,846

Total Yearly Expenses **\$34,152**

¹³⁹ These numbers are based on the estimate of one lawyer in downstate Illinois who provided this information to the committee.

Board of Governors

March 8, 2013

**Information Agenda Item 2
Calendar**



BOARD OF GOVERNORS MEETING SCHEDULE

2013

March 8 th (Friday)	Board of Governors I-Hotel, Champaign
May 17 th (Friday)	Board of Governors Eagle Ridge Resort & Spa Galena
June 20 th – 22 nd (Thursday – Saturday)	ISBA Annual Meeting Grand Geneva Resort & Spa Lake Geneva, Wisconsin

**2013 – 2014
Tentative**

July 19 th	Board of Governors ISBA Regional Office, Chicago <i>*afternoon meeting</i> Alumni Dinner TBD, Chicago
October 18 th	Board of Governors ISBA Regional Office, Chicago <i>*afternoon meeting</i> Illinois Bar Foundation Annual Gala Four Seasons Hotel, Chicago
December 12 th – 14 th	ISBA Midyear Meeting Sheraton Chicago Hotel, Chicago
February 21 st	Board of Governors Hyatt Lodge at McDonald's Campus, Oak Brook <i>*morning meeting</i>
May 2 nd	Board of Governors TBD, Chicago

Board of Governors

March 8, 2013

**Information Item 11
Elections – Candidate's Report**



**ILLINOIS STATE
BAR ASSOCIATION**

February 22, 2013

**2013
CANDIDATES REPORT
PETITIONS FILED BY THE REQUIRED DATE OF JANUARY 31, 2013**

(N.B.: Pursuant to the Policy and Procedures for Election approved by the ISBA Assembly, in those instances where there are more candidates than positions to be filed, nominees are listed on the ballot by the date of filing. Where two or more people filed on the same day, ballot positions were determined by lot. Ballot positions are listed next to the candidates' names.)

For Third Vice-President – 1 to be elected

Vincent F. Cornelius, Wheaton (1)
Carl R. Draper, Springfield (2)

For Board of Governors – Cook County – 4 to be elected

Deane Beth Brown, Chicago (5)
Al Durkin, Chicago (1)
Karen McNulty Enright, Chicago* (10)
Celia Gamrath, Chicago (3)
Mark L. Karno, Chicago* (6)
Pamela J. Kuzniar, Chicago (2)
Pamela Sakowicz Menaker, Wilmette (4)
Timothy E. Moran, Chicago (7)
J. Damian Ortiz, Chicago (9)
David Sosin, Orland Park (8)

For Board of Governors – Area 2 (Circuits 17, 19 and 22) – 1 to be elected

Cheri N. Greenlee, Rockford (2)
Elizabeth M. Rochford, Lake Forest (3)
Mark W. Simons, Waukegan (1)

For Board of Governors – Area 5 (Circuits 5, 6 and 11) – 1 to be elected

Keith E. Fruehling, Urbana

For Board of Governors – Area 7 (Circuits 1, 2 and 4) – 1 to be elected

Carey C. Gill, Carbondale

* Denotes Incumbent

For Board of Governors – Under Age 37 – Cook – 1 to be elected

Anna P. Krolikowska, Northbrook (1)
Dennis M. Lynch, Chicago (3)
John C. Wroblewski, Chicago (2)
Bridget Duignan, Chicago (4)

For Board of Governors – Under Age 37 – Outside Cook – 1 to be elected

Angelica Wawrzynek, Mattoon

For Assembly Circuit 1 – 2 to be elected

Sarah J. Taylor, Carbondale

For Assembly Circuit 2 – 2 to be elected

Luke A. Behme, Mt. Vernon

For Assembly Circuit 3 – 4 to be elected

Nikki Carrion, Edwardsville*
Ebony R. Huddleston, Godfrey
Dennis J. Orsey, Granite City
Anthony E. Rothert, Edwardsville*

For Assembly Circuit 4 – 1 to be elected

Ted Graham, Jr., Taylorville

For Assembly Circuit 5 – 1 to be elected

No petitions filed.

For Assembly Circuit 6 – 5 to be elected

Anthony A. "Tony" Bruno, Urbana
Thomas A. Bruno, Urbana*
Mark C. Palmer, Champaign

For Assembly Circuit 7 – 6 to be elected

Geri Lynn Arrindell, Springfield* (6)
Donald M. Craven, Springfield (3)
Nancy G. Easum, Springfield (1)
David P. Eldridge, Springfield (5)
Howard W. Feldman, Springfield* (2)
Edward J. Schoenbaum, Springfield (4)
Daniel K. Wright, Springfield* (7)

* Denotes Incumbent

For Assembly Circuit 8 – 1 to be elected

Jim Hansen, Quincy

For Assembly Circuit 9 – 1 to be elected

Stephanie S. Johnson, Lewistown*

For Assembly Circuit 10 – 5 to be elected

Richard A. Russo, Peoria*
Dick B. Williams, East Peoria

For Assembly Circuit 11 – 4 to be elected

Pablo Eves, Bloomington*

For Assembly Circuit 12 – 4 to be elected

Sean D. Brady, Joliet*
Michael R. Lucas, Joliet*

For Assembly Circuit 13 – 2 to be elected

George G. Leynaud, Peru*

For Assembly Circuit 14 – 3 to be elected

Amy L. Keys, Moline
Theodore G. Kutsunis, Rock Island*

For Assembly Circuit 15 – 1 to be elected

Heather McPherson, Freeport

For Assembly Circuit 16¹ – 5 to be elected

Steven A. Andersson, Aurora*	(4)
Susan W. Rogaliner, St. Charles*	(6)
Ryan P. Theriault, St. Charles	(3)
Colleen G. Thomas, Carpentersville*	(1)
Steven D. Titiner, Aurora	(5)
Rory T. Weiler, St. Charles	(2)

¹ Public Act 097-0585 created the 23rd Judicial Circuit by splitting the 16th Circuit. The 16th Circuit consists of Kane County; the 23rd Circuit consists of DeKalb and Kendall counties. Effective December, 2012.

* Denotes Incumbent

For Assembly Circuit 17 – 4 to be elected

Frank A. Perrecone, Rockford*
Donald L. Shriver, Rockford*
Donald P. Shriver, Rockford
Tamika R. Walker, Rockford

For Assembly Circuit 18 – 16 to be elected

Robert J. Anderson, Wheaton*
Dion U. Davi, Warrenville*
Kent A. Gaertner, Wheaton
Robert Handley, Downers Grove*
Henry D. Kass, Wheaton*
John F. Knobloch, Naperville*
Colleen McLaughlin, Wheaton*
Ronald D. Menna, Jr., Wheaton*
Sharon R. Mulyk, Glen Ellyn

For Assembly Circuit 19 – 11 to be elected

Robert O. Ackley, Mundelein
Gary L. Schlesinger, Libertyville
Timothy J. Storm, Wauconda*
Michael S. Strauss, Libertyville*

For Assembly Circuit 20 – 5 to be elected

Tom Speedie, Nashville*

For Assembly Circuit 21 – 1 to be elected

No petitions filed.

For Assembly Circuit 22 – 3 to be elected

Richard J. Curran, Jr., Crystal Lake*
James P. Kelly, Crystal Lake
Rhonda L. Rosenthal, Crystal Lake*

For Assembly Circuit 23² – 1 to be elected

Richard L. Turner, Jr., Sycamore

² Public Act 097-0585 created the 23rd Judicial Circuit by splitting the 16th Circuit. The 16th Circuit consists of Kane County; the 23rd Circuit consists of DeKalb and Kendall counties. Effective December, 2012.

* Denotes Incumbent

For Assembly Cook County – 39 to be elected

Michael Alkaraki, Chicago
Patrice Ball-Reed, Chicago*
Sam F. Cannizzaro, Chicago*
Anthony V. Casaccio, Chicago
Joseph Michael Cataldo, Glenview
Joel Chupack, Chicago*
Alice E. Dolan, Chicago
Sharon L. Eiseman, Chicago
John M. Fitzgerald, Chicago
Eugene F. Friedman, Chicago*
Russell W. Hartigan, Western Springs
Kenya A. Jenkins-Wright, Chicago
Michele M. Jochner, Chicago
Mark L. Karno, Chicago
Eli Korner, Chicago
Jeffrey G. Liss, Chicago
Joseph F. Locallo, III, Chicago*
Adam Margolin, Chicago
Pamela Sakowicz Menaker, Wilmette*
Julie A. Neubauer, Chicago
Daniel E. O'Brien, Chicago
J. Damian Ortiz, Chicago*
Alan Pearlman, Northbrook
Juanita B. Rodriguez, Chicago*
Gina M. Rossi, Chicago*
Daniel R. Saeedi, Chicago*
Deborah Jo Soehlig, Chicago*
Letitia "Tish" Spunar-Sheats, Chicago*
Sarah E. Toney, Chicago
David J. Vander Ploeg, Chicago*
Ryan C. Walsh, Chicago
John A. Wasilewski, Palos Heights*
Alexander White, Des Plaines
Cory White, Chicago
Mary M. Williams, Chicago
Bryan J. Wilson, Chicago
Erin Wilson, Chicago
Mark E. Wojcik, Chicago