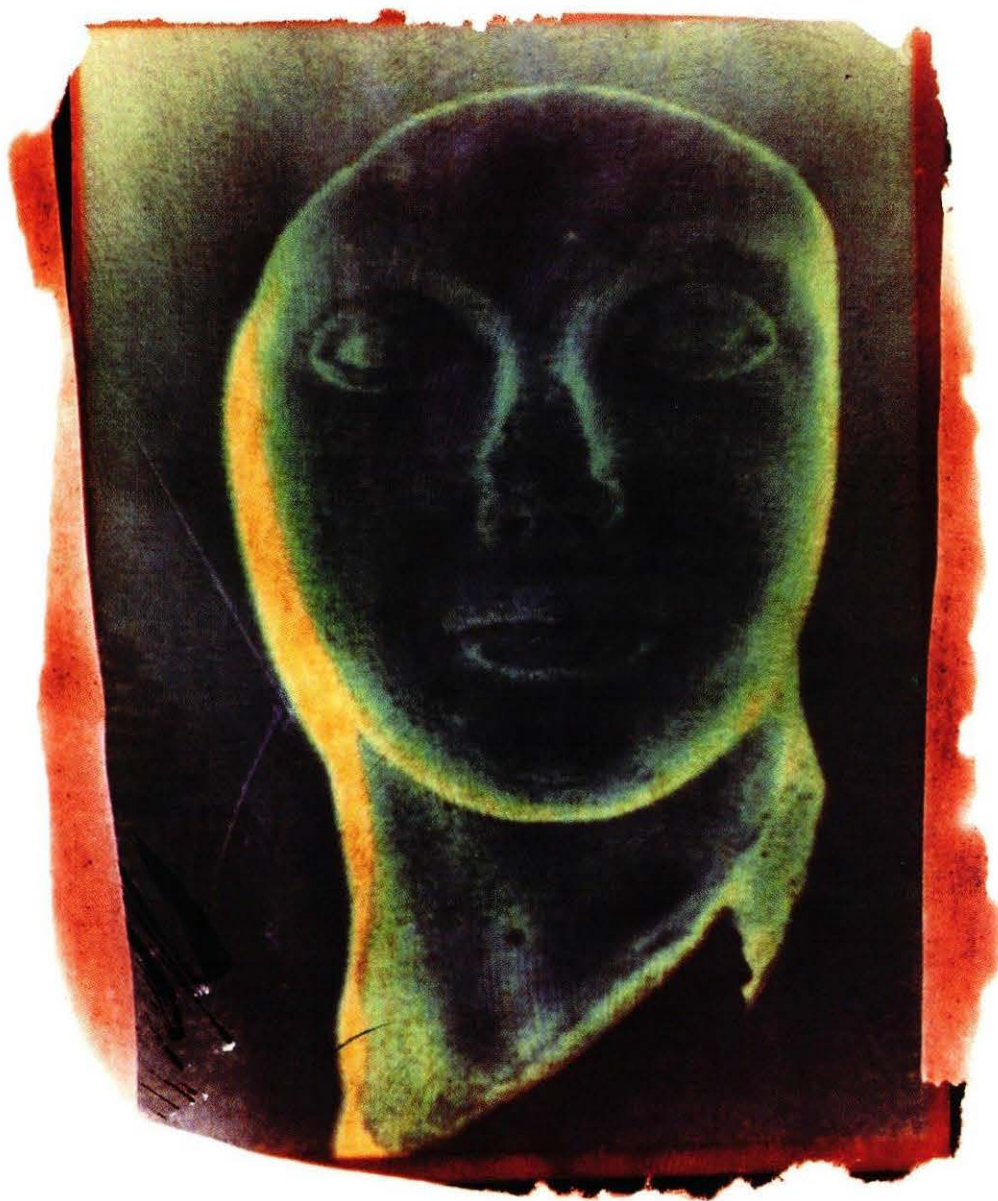


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Vol. 49 No. 8, August 1995

*The official publication of the Washington State Bar*



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# Washington State Bar News

Vol. 49 No. 8, August 1995

*The official publication of the Washington State Bar*

## FEATURES

Into the Labyrinth, Part II: Restructuring the State Bar Association

REFINING LAWYER DISCIPLINE IN WASHINGTON: A MULTIFACETED APPROACH—  
THE FINAL REPORT OF THE JOINT TASK FORCE ON LAWYER DISCIPLINE OF THE  
WASHINGTON STATE SUPREME COURT AND WASHINGTON STATE BAR ASSOCIATION

*abridged by Lindsay T. Thompson*

Here's what state bar leaders are recommending WSBA do about an ABA team's study of how lawyers are disciplined for misconduct in Washington.

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*Diane Butler, Section Editor*

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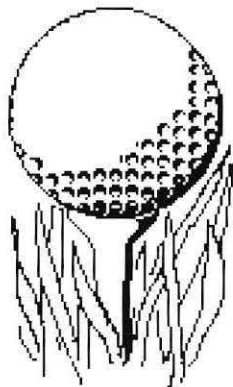
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Washington artist Carolyn R. Krieg created Head of the Goddess, II, in 1993, as part of her Relic series. Mixed media: computer, Polaroid, color printing applications.

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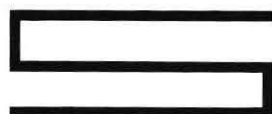


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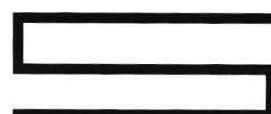
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*Readers are invited to submit letters of reasonable length to the editor. They should be typed on letterhead and signed. The editor reserves the right to select excerpts for publication or edit them as may be appropriate.*

## More on Tort Reform

Editor:

The recent *Bar News* contained a letter from Gregory C. Sisk which commented on my tort reform article in the April 1995 issue. I was honored that the preeminent scholar on this issue took the time not only to review the article, but to comment upon it. Professor Sisk's words are particularly noteworthy as there is very little on tort reform that has not been directly stated, implied, or predicted by his voluminous works on the act.

Professor Sisk notes a minor disagreement with one of my comments on the remaining vitality of the right to contribution. To the extent that the selected sentence may be read as Professor Sisk does, I cannot agree with him that it is an "overstatement"—it's just plain wrong. Professor Sisk correctly notes that when a case proceeds to trial, and a judgment is actually entered against multiple defendants, and the trier of fact has found the plaintiff to be free of fault, the defendants have (procedural) joint and several liability. And if a defendant has to pay more than its share of the judgment, clearly a post-judgment right to contribution exists in this context. Read alone, the quote from my article implies otherwise, and I regret any confusion. However, the comment should be read in conjunction with the immediately preceding sentence, which indicates the numerous limitations on this right, most significantly in the context of settlement.

Professor Sisk accurately notes that in this limited context, the right of contribution survives. I would only add my view from the trenches that even in this narrow band of cases, defendants who are solvent or who have insurance coverage will likely pay their percentage of the judgment regardless of whether or not another defendant could be legally forced to pay the entire amount. And in those cases in which

one must pay an insolvent defendant's share, a contribution action against such a defendant is of little value.

In closing, I agree that the sentence standing alone is not accurate. Hopefully, anyone who has attempted to distill such a complex issue as the Tort Reform Act into a several-page primer will appreciate that semantic unclarity can occur. I appreciate Professor Sisk's thoughtful comments, and encourage others to join the debate.

STEWART A. ESTES  
Seattle

## Hey, What About Us?

Editor:

I received another publication—update—from the Bar Association concerning Legal Services Corporation's problem with funding. The enclosure was written in nearly panicked prose.

While I agree that Legal Services is worthwhile and should remain funded, I would think the Bar Association would do well to take a little care of its own; To Wit: Take a position against the Republican National Party's Draconian measures to restrict access to the injured victims of personal injury and security fraud. Republican proposals have included doing away with the contingent-fee system.

If you want to restrict access to justice, that would be the most effective way to bar the courthouse doors to the vast majority of people in this country.

I am a little tired of this Bar Association jumping on pet causes like this (legal services), while it does not seem to ever do anything for its members or the ordinary guy in the street who needs to have a lawyer working for him.

Why on earth do we have a Bar Association that will not protect its membership or even the basic court system?

Apparently, the inner-workings of the Bar are so dominated by the insurance industry, or other people who have no conception of what goes on daily in the judicial system, that they could care less or are hostile to the vast majority of its membership.

TOM G. CORDELL  
Moses Lake

## Law Firms for Sale?

Editor:

In March 1995, the Oregon State Supreme Court approved a new disciplinary rule allowing lawyers to sell their practice as a going business. Oregon is apparently the tenth U.S. jurisdiction to adopt a version of the American Bar Association's Model Rule 1.17.

In Oregon, an attorney who now intends to quit or relocate may sell the practice. By the Oregon rule, an attorney can sell the practice to two or more buyers, unlike the ABA rule.

I believe it would be helpful to the Washington State Bar Association members if we could have a report of the status

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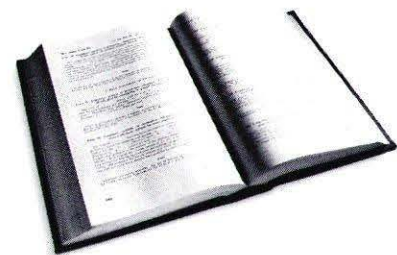
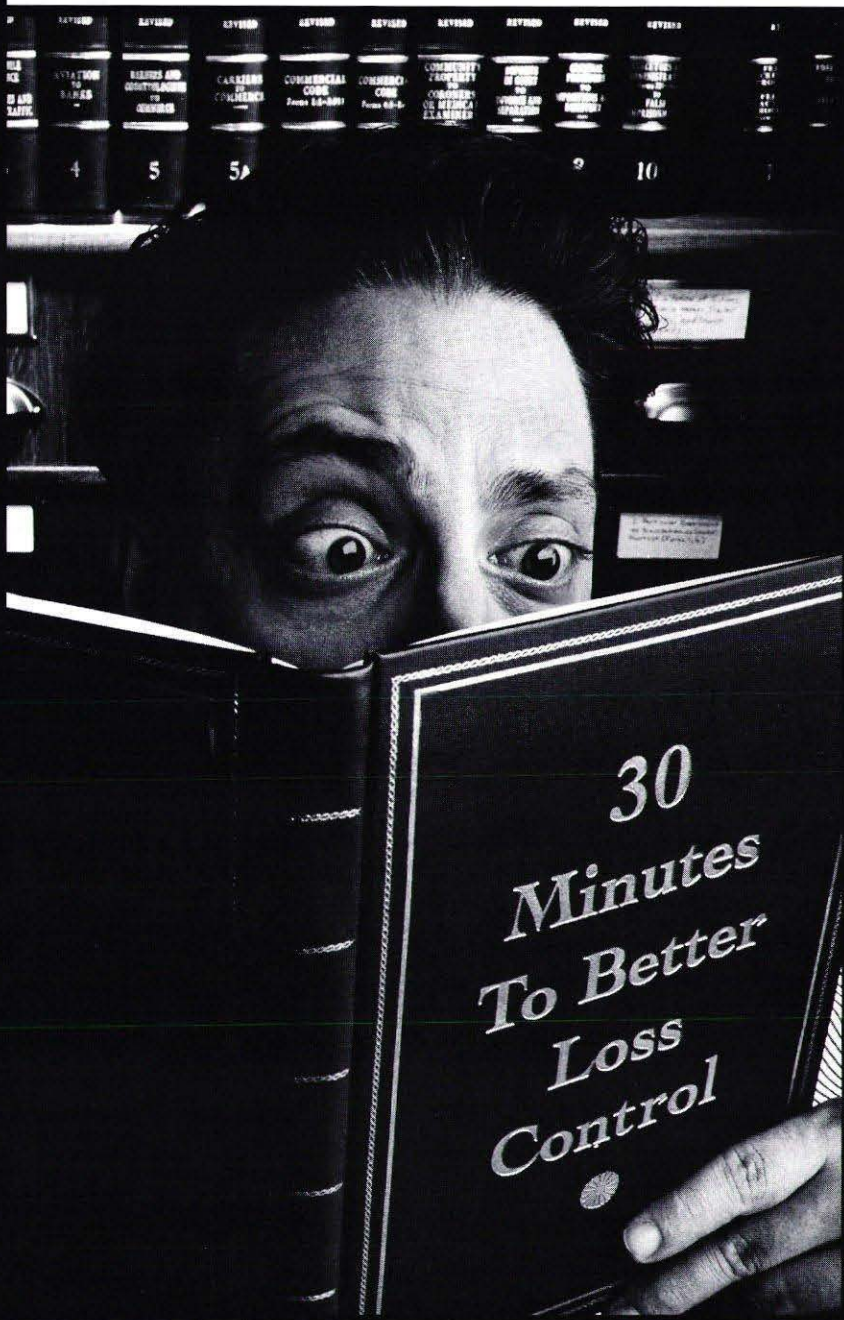
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of this issue, both as to Washington State Bar Ethics Committee and the Supreme Court. I believe it would be helpful to the Washington State Bar that, instead of abandoning the value of a law practice as a going concern, that an attorney who is retiring, moving, or becomes disabled would be able to realize the value of the practice as a going concern, just as doctors, dentists, CPAs and other professionals do.

Some lawyers are now protected (e.g., governmental lawyers with pension plans and large-firm lawyers with shares to sell or partnership buyout agreements). Families of lawyers who die mid-career will have a market for the practice rather than being forced to liquidate the hard assets and struggle to collect the receivables.

Our law practices are evaluated and divided (and paid for) in a dissolution setting, but otherwise are unmarketable under our present rules. Apparently, some rather simple rule changes can change things so that we and our families can extract some value from that which we may have spent a lifetime building.

MICHAEL E. KELLER  
Lynnwood

## Gloating Cyberheads

Editor:

I read your short article in the June issue regarding the upcoming CLE, "Internet and the Practice of Law." Of course, I plan to attend the CLE. I thought it interesting you did not mention anyone's e-mail address, nor did you cite the addresses of the World Wide Web pages mentioned in the article. I was going to send this letter to you by e-mail, but, to my shock and surprise, I couldn't find an e-mail address anywhere in the magazine. Then I noted that all letters needed to be "typed" on letterhead, and "signed." I was out of papyrus, my clay tablets had hardened, and my stone chisels were stolen by bearded trolls long ago, so I complied, and wrote you this letter by "snail mail." Being on the absolute cutting edge, I can be reached by e-mail to JKK@Schwabe.com, or KitchelJ@Teleport.com. Cybercorrespondents who amuse me will be graced with my own web page address.

JAN K. KITCHEL  
Portland

(Editor's note: Mr. Kitchel is one of many lawyers who, over the years, have

told me of dazzling technological innovations the Bar News, or the WSBA generally, should embrace. Many of those same people, on other occasions, have told me how the Bar Association wastes money and how they'll vote against every dues increase proposal they ever can. If the WSBA could charge members for services with the relative impunity its mem-

bers can charge their clients, we'd doubtless be awash in electronic delights of the sort Mr. Kitchel considers de rigueur. In the meantime, the Bar News presses ahead with the clay tablets doled out to us. For a slight improvement, see the masthead (page 4), which shows the Email addresses the managing editor and I have acquired independently at our own expense.)

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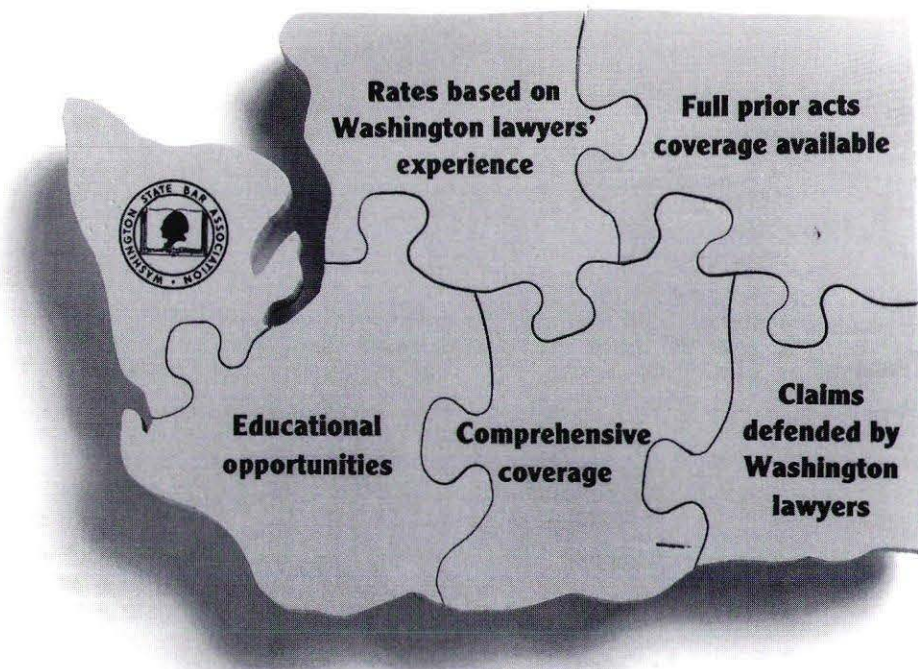
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by **Ron Gould**  
WSBA President

"Thank you" to the thousands of Bar members who debated the issues and voted in resolution of the referendum that would have restricted use of the WSBA's dues and activities. It was a privilege to meet with so many of you who were interested in this subject. It is gratifying that many county and local bar associations, specialty bar associations, law firms and other interested groups came forward, after deliberation, with resolutions opposing the referendum and urging their members to vote "NO." The more than 70 percent of those who voted and defeated the measure deserve our thanks for showing their abiding commitment to the important role of the WSBA in reinforcing our duties to the profession.

To those who voted "YES," thank you, also, for your interest in the WSBA, and I hope that our Board of Governors will be sensitive to your concerns. Several lawyers told me that their affirmative vote was a response to perceptions about unneeded activities or problems within the Bar over the past decade or more.

Our management and Board of Governors need to be—and are—mindful that they represent all 19,000 members. We need to act with proper restraint and continue to develop the confidence of those lawyers who are disaffected by Bar procedures. The debate on the issues was handled with dignity and good faith by both proponents and opponents. Let us put this behind us and go forward to our varied tasks.

For most of us, that means representing clients. We are reminded every day of our duty to advocate their interests with diligence and loyalty, calming clients in distress and giving counsel. We also need to attend to our duties to all those in our offices; we depend on each other.

And we have duties to the society at large. The special skills that we have as lawyers can be used for many causes.

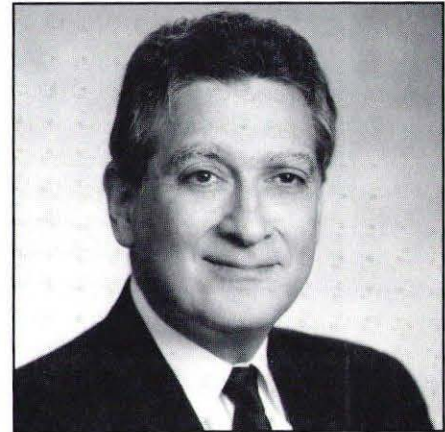
\* \* \*

Congratulations to Washington Women Lawyers on its twenty-fifth anniversary, which this *Bar News* issue celebrates. I was encouraged to join this organization and increase my understanding of the concerns of our many women lawyers. I am glad I did, for I see the issues from more perspectives than I would if I relied solely on my own experiences.

Note this month's *Bar News* articles that celebrate diversity. Recognition is due to the Committee on Opportunities for Minorities in the Law for encouraging and gathering them. Notwithstanding the current controversy on affirmative action, law firms, businesses and other organizations are increasingly recognizing the value of diversity. We need to tap the full range of human potential to be competitive with other nations and to put the best talent to work. Those who search for the right person for a job need to recognize the talents of women and minority lawyers, who are not asking for special privileges but, simply, fairness and equal respect. At the same time, it is important that no lawyer of any race or gender be unjustly excluded from opportunities. All are entitled to that same fairness and equal respect. Our society is experiencing some growing pains, but the legal profession will be stronger as a result of its growth.

We are seeing increased communication and participation by women and by minority lawyers in the structure and the leadership of the WSBA. This involves generous contributions of time and effort; we are grateful for them. Whatever our differences as individuals, we are in this together as lawyers, and we are all the stronger for it.

\* \* \*



*Ronald M. Gould*

Finally, please consider this your first invitation to attend our Awards Luncheon and Annual Meeting in Seattle on September 8.

Thanks for the opportunity to work with you.

*Ron*

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## Tribute to a Colleague: Ada Shen-Jaffe

by **Dennis P. Harwick**  
*WSBA Executive Director*

Publication of this column coincides with the ABA Annual Meeting in Chicago. Although there are lots of meetings, luncheons and receptions, there is one special luncheon that I will be attending — along with a dozen or so representatives of the Washington legal community. That luncheon is the "Margaret Brent Women Lawyers of Achievement Award Luncheon," and one of the recipients is our own Ada Shen-Jaffe, Director of Evergreen Legal Services. The Margaret Brent Award (which is named after the first woman lawyer in America) honors "outstanding women lawyers throughout the country who have achieved professional excellence within their area of specialty and have paved the way to success for other women lawyers."

Ada is universally regarded as one of the top echelon of national leaders in the arena of access to justice. When I tell national bar leaders that I'm from Washington state, the first thing they often say is, "Oh, you must know Ada!" When the Legal Services Corporation was looking for a new president, I called Ada to tease her about taking the job because I knew people would approach her about it. She assured me that she wasn't interested. Then a few days later she called back to let me know — before I heard it from someone else — that she would serve on the transition team, but only for a few months! I never really



doubted that she would stay in Seattle, but she commands that kind of respect at the local, state, and national level.

Those of us who work in the field of administering bar associations or law-related organizations stand in awe of Ada's skills, her vision, her energy, and—most importantly—her passion for her work. But even more remarkable is Ada's ability to advance her goals and ideas without belittling those who disagree with her. She is dogged and relentless, but not in a pejorative sense. I always believe that if people who disagree with her just spend

some time with her, two things will happen: 1) they will find some common ground, and 2) they will walk away knowing that you have just spent some time with a charismatic leader who affects—in a positive way—virtually every life she touches.

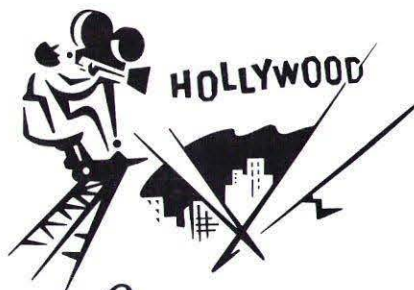
Ada is a modest person, and I know that accepting honors is uncomfortable for her. She told me that she had doubts about accepting the Margaret Brent award because she wasn't sure what this award had to do with her clients—the poor and unrepresented—a disproportionate share of whom are women. I thought to myself—she's the perfect recipient! She doesn't even know why she's getting the award! She's exactly the kind of person who ought to be honored for a lifetime of work that is distinguished primarily for its low financial reward and high aggravation. If pressed for an explanation of her never-ending drive, Ada always points to the courage of members of her client communities and to the hard work and dedication of her staff and Board. And I know that she agreed to accept only because she found a way to link the award to serving her clients and her colleagues.

She is—as her letter of nomination states—"an inspiration to women lawyers everywhere." More accurately, she is an inspiration to all lawyers.

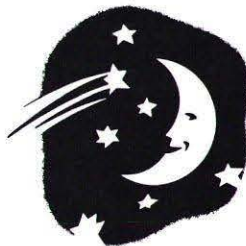
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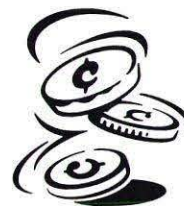
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# Refining Lawyer Discipline in Washington: A Multifaceted Approach The Final Report of the Joint Task Force on Lawyer Discipline of the Washington Supreme Court and the Washington State Bar Association

abridged by Lindsay T. Thompson

**S**hortly after I became editor of the *Bar News* a letter arrived, addressed to me, from the Washington State Bar Association. In addition to my name and address, it bore the stamped message in red, "Confidential."

My secretary brought it in before the rest of my mail had been opened. If she could have brought it in with tongs she would have.

I was spooked, then and every time for a long time. The letters kept coming, you see. Each time I opened one I'd breathe a sigh of relief: just another disciplinary notice to run in the *Bar News*. But I always wondered if the next envelope I opened bearing the red, stamped message would be addressed to me.

Finally, I confessed my little phobia to then-Chief Disciplinary Counsel Lee Ripley. "Oh, don't worry," he said, with weary bemusement. "The real complaints we send out in window envelopes. There are so many we don't have time to address the envelopes ourselves."

At the end of the day, the main reason lawyers don't like the State Bar Association is because it runs lawyer discipline. In a world where popularity comes from gratifying wants, it has to impose order. It

has to play the heavy. It has every kid's nightmare job: hall monitor for life.

In the depressing world so many lawyers occupy—where you never know which client is going to turn on you, threatening a malpractice complaint to gain the leverage to skip out on a bill, where consumer groups flood the airwaves with advice that when you don't think your lawyer is doing enough to not just fix your problem but make you happy, straighten your teeth, lose those ten extra pounds for you, just call the Bar Association!—the WSBA is awash in complaints about lawyers. For years, the Board of Governors and the Disciplinary Counsel's staff have been trying to keep it under control, but the complaints keep multiplying and dividing, like the Sorcerer's Apprentice's broom.

In 1993, the Board of Governors invited a consultation team of the American Bar Association's Standing Committee on Professional Discipline to come out and conduct a study of Washington's system. After doing so, the consultation team issued a report and recommended that a committee be appointed to receive the report, conduct its own investigation and analysis of the team's findings, and make its own, homegrown recommendations for change. The Bar Association

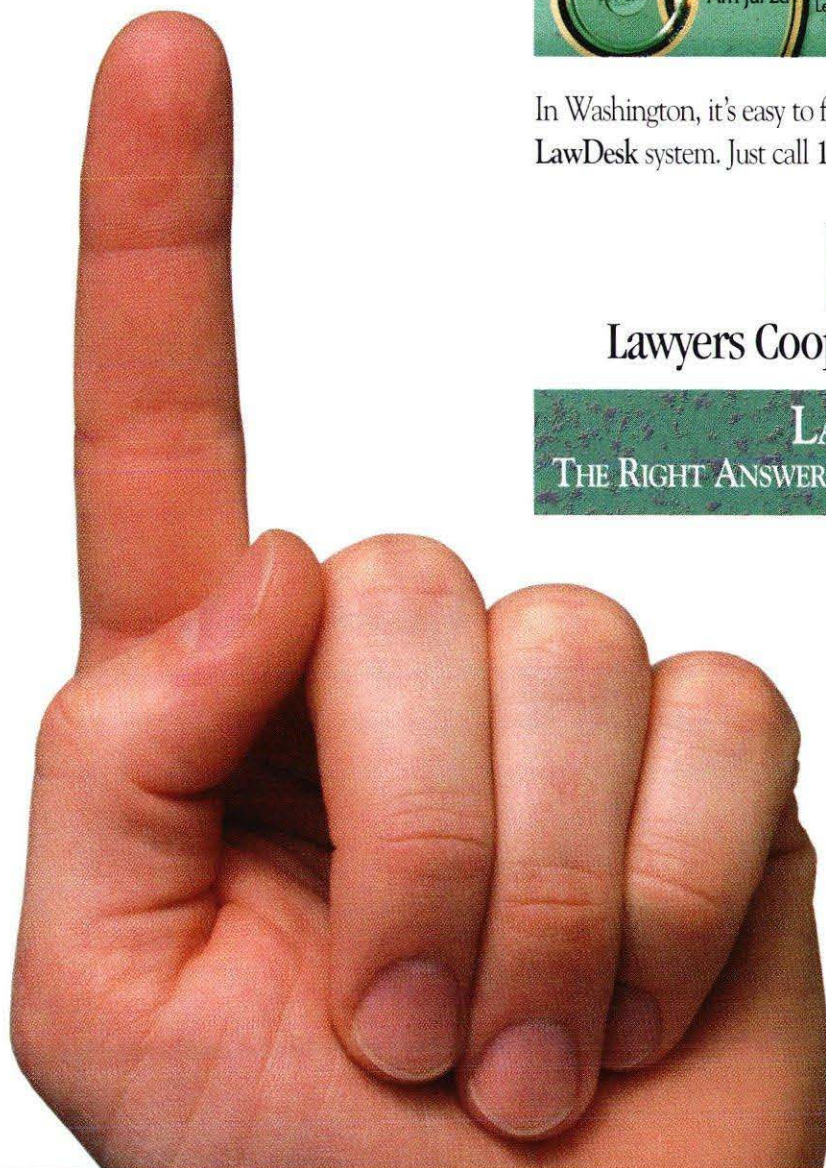
and the Washington Supreme Court appointed such a body, cochaired by then Chief Justice James Andersen and WSBA president Paul Stritmatter, and populated by a number of lawyers and judges as well as three members of the Supreme Court and two citizen members.

At the end of 1994, the Task Force produced its report, which the Board of Governors then circulated for comment to local and specialty bar associations, lawyers involved with the disciplinary system, and anyone else who asked for a copy. They intend a wide dissemination of the report and its recommendations as the next step in seeking WSBA members' input on what to do with the way the profession polices itself.

Because the full report is several inches thick, and even the abridged edition is over fifty pages long, the *Bar News* cannot afford to print the whole thing. What follows is an abridgment of the abridgment, a heads-up notice for members. Those wanting to know more should contact their member of the WSBA Board of Governors or David DeOrto in the WSBA Communications Department (206) 727-8213) for a copy of the report.

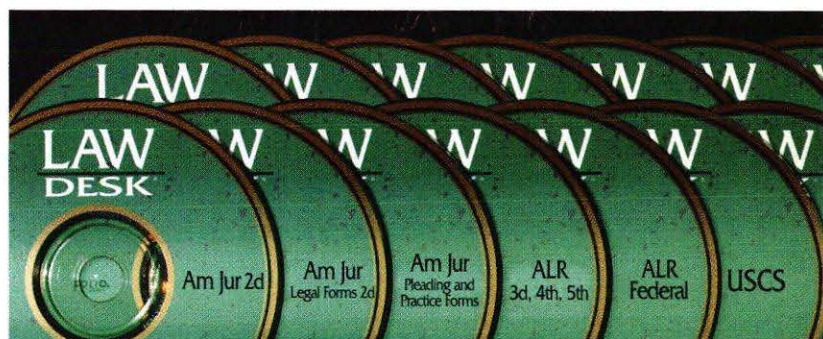


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## I. INTRODUCTION

At the invitation of the Washington Supreme Court, the Washington State Bar Association and the Washington Disciplinary Board, the American Bar Association (ABA) Standing Committee on Professional Discipline examined Washington's lawyer regulation system. In September 1993, using the criteria that had been adopted as a national model by the ABA House of Delegates in 1992,<sup>1</sup> the ABA's audit team submitted its Report On the Washington Lawyer Regulation System making 42 specific recommendations for improving the Washington system.

The ABA recommended that an ad hoc committee be appointed to receive the report, conduct an independent investigation of the ABA's findings and recommendations, and make its own recommendations for improving the Washington lawyer regulation system. In January 1994, Chief Justice Andersen announced the creation of a joint task force between the bench and the bar for this purpose. Cochaired by Chief Justice Andersen and then WSBA President Paul Stritmatter, the Task Force included three justices of the Supreme Court, one sitting and one retired Superior Court Judge, current and former members of the WSBA Board of Governors, current and former members of the WSBA Disciplinary Board, two non-lawyers who previously served on the Disciplinary Board, respondent's counsel, a prosecutor and members of the bar.

The Joint Task Force formed four subcommittees which conducted numerous additional interviews and examined specific proposals and recommendations . . . The full Task Force met on eight occasions. Each of these meetings was open to the public . . . After careful consideration of the subcommittee reports the Task Force makes the following recommendations.

## II. SYNOPSIS OF RECOMMENDATIONS

**Keep Discipline At the Bar.** At the outset we faced one recommendation from the ABA which outweighed all others in its potential to radically alter lawyer regulation in Washington: that the Supreme Court take over from the Bar Association the task of administering the disciplinary system. After careful review we recommend rejection of this proposal.

The ABA pointed out areas where the disciplinary system could be improved, the most significant of which is that funding the system out of Bar licensing fees, which are subject to referendum, has resulted in less than adequate resources to get the job done in a timely manner. It is not, however, necessary to transfer administration of the discipline system to the Court in order to alleviate this problem, and transferring the system to the Court would require a whole new administrative office with increased costs to Washington lawyers. In addition, putting the prosecution of disciplinary matters directly under the Court would create potential conflicts of interest with the Court's role as the ultimate appellate authority over discipline. The Bar Association has long been committed to effective lawyer discipline as evidenced by the joint invitation from the Bar and the Court to have the ABA review our discipline system. Finally, the Bar Association is positioned to make the suggested improvements in the discipline system more quickly and efficiently than a new agency to be created under the Court. It is obvious that the improvements recommended by the ABA will cost Washington lawyers more than they are paying now. As a bottom line, however, the recommended changes will cost less by keeping administration of the discipline system under the Bar Association.

**Adequate & Stable Funding.** The means by which we fund the lawyer discipline system must change. In fiscal 1994 the WSBA budgeted over \$1,395,000 for

lawyer discipline. For fiscal 1995 this has been increased to over \$1,724,000.<sup>2</sup> This represents \$93 for each active lawyer in the state. While this is a significant figure, it is less than the amount spent in most states,<sup>3</sup> and is clearly not enough. The ABA found that "[t]he principal problem facing the Washington Lawyer Regulation System is a lack of adequate personnel and resources."<sup>4</sup> We must provide a stable source of adequate funding if we are to make the recommended improvements and keep up with the increasing numbers of lawyers and grievances. This could be accomplished by several alternatives. We recommend a disciplinary assessment of Washington lawyers pursuant to a Supreme Court order which authorizes the Bar to determine annually the exact amount of assessment needed to adequately fund the discipline system, but keeps the assessment within a predetermined cap which can only be changed by the Court. Other alternatives include providing for the same system by a court rule rather than by an order, or adopting a court rule providing that budgets for discipline adopted by the Board of Governors shall not be subject to referendum.

**An Effective System Should Do More Than Just Prosecute and Punish.** Apart from restructuring funding, our most significant recommendation is a restructuring of the Disciplinary Department into what would be known as the Department of Professional Conduct. Currently our disciplinary counsel have a narrowly defined jurisdiction to do little more than police the profession to ensure ethical conduct. We recommend restructuring to create a system that does more than just prosecuting and punishing lawyer misconduct. We recommend intervention with education, training and lawyer assistance to prevent minor misconduct from growing into major misconduct. We recommend diverting minor grievances into a variety of non-prosecutorial alternatives that are carefully tracked in the event prosecution is ultimately required. We also recommend addressing the con-

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sumer concerns of clients by making fee arbitration mandatory, offering a mediation service for lawyer/client and lawyer/lawyer disputes and creating an ombudsperson position as a resource and referral option for consumer inquiries and complaints.

We recommend that all these programs be coordinated by a central intake office that would serve as the hub of the professional conduct wheel, screening and investigating cases and tracking the cases being referred to the various spokes of the wheel:

- Mandatory Fee Arbitration
- Mediation
- Practice Assistance  
(skills training, law office management, law practice school/CLE)
- Disciplinary Counsel Office (Prosecutions)
- Ombudsperson
- Lawyers Assistance Program
- Audits (Random & For Cause)
- Disciplinary Board  
(Hearing Officers, Review Committees, Counsel to the Board)

Significant staff increases are necessary both to more timely prosecute those cases of serious misconduct and to staff these new diversionary and consumer-oriented programs as they are developed and brought on line over the next few years. Currently the Bar has budgeted for 9.5 lawyers, 2 auditors, 6 legal assistants, 7 support staff and 3 LAP staff. We recommend 15 lawyers, 2 auditors, 11 legal assistants, 5 professional investigators, 11 support staff and 3 LAP staff.

**Refining Volunteer Use.** Our professional conduct system relies on the volunteer efforts of Bar members as hearing officers, special district counsel, special trial counsel, file custodians, Disciplinary Board members, probation monitors and fee arbitrators. In response to the ABA report we have examined these roles and made various recommendations. In most instances we have recommended that we use somewhat fewer volunteers in a better trained and more intensive man-

ner so that these volunteer efforts are more effectively utilized and result in a more professionally satisfying experience for the volunteers. We also recommend new practice assistance and mediation programs which will make extensive use of volunteers.

**Clearly Defined Roles.** This review has provided the opportunity to focus on the roles of the different components in the professional conduct system and we have made a number of recommendations to provide a more clear definition. The Board of Governors is responsible for the administrative management of the system but is removed from all consideration of individual cases. The individual cases are screened, investigated, prosecuted or referred by a regulatory division consisting of an intake/investigation unit and a discipline counsel office of prosecutors. A major change already underway is providing the Disciplinary Board with its own staff separate from the disciplinary counsel in order to operate as a more independent body. The Disciplinary Board's role is further defined as appellate, with factual determinations in disciplinary matters being made by hearing officers and panels and factual determinations on reinstatement cases being made by the Character and Fitness Committee. The role of disciplinary counsel has been defined as primarily prosecutorial. Other roles such as responding to ethics "hotline" inquiries have been transferred to other lawyers on the WSBA staff.

**Improving Public Confidence.** We have made various recommendations to improve public confidence in our system of self-regulation. The significant staff increases are designed to make the system work much more expeditiously and effectively. The current delays in resolving matters gives the appearance all too often that justice has been denied because justice has been delayed. Justice is denied for both the grievant that has a meritorious complaint as well as for the lawyer when the grievance is without merit. Our recommendations for a new consumer-oriented approach to discipline with man-

datory fee arbitration, mediation and an ombudsperson are designed to win back public confidence, client by client over the years. We have recommended keeping our current practice of issuing detailed letters explaining the reasons for dismissal of those grievances which we do not pursue. We have recommended expanded publication of discipline decisions to keep both members of the Bar and the public better informed of the discipline being imposed. The ABA made a number of recommendations to strengthen our Client Security Program, most of which have been recently adopted and are now being implemented by Admission To Practice Rule 15 establishing a Lawyers Fund For Client Protection. The Joint Task Force did not review the current proposal to open the discipline to more public scrutiny, but our proposals would work well with such a system.

**The Future.** Although the work of this Joint Task Force is concluded, the work of the Bar Association and the Court in reviewing and implementing these recommendations has just begun. The scope of the changes recommended will require several years to fully implement. We have drawn ideas from various other states and the ABA as well as coming up with a few of our own to make these recommendations which we believe will result in a much more responsive, fair and consumer-oriented lawyer regulation system.

<sup>1</sup> American Bar Association, *Lawyer Regulation For a New Century*, February 1992, Report of the Commission On Evaluation of Disciplinary Enforcement (McKay Commission).

<sup>2</sup> This includes \$1,314,000 for discipline, \$253,000 for the Lawyers Assistance Program, \$141,000 for audits and \$16,000 for fee arbitrations.

<sup>3</sup> See Appendix C, pp. 66 - 68, Transcript of Testimony of Raymond Trombadore, Chair of the ABA Commission on Evaluation of Disciplinary Enforcement.

<sup>4</sup> ABA Report on the Washington Lawyer Regulation System, September 1993, p. 5.

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# Diversity, Discrimination, Affirmative Action, and the Gay/Lesbian Experience

by Victor B. Flatt

**R**ecently the visibility of gays and lesbians as a distinct group has increased in our society. With the conception of "group" (that is probably a minority in this country<sup>1</sup>) the issue of whether gays and lesbians, as a minority,<sup>2</sup> deserve legal protection from antidiscrimination, or special services as a community or as individuals, has come to the fore in civil-rights policy debates. Unlike protections and community conceptions for religious groups, ethnic and racial minorities, and women, however, protection for gays and lesbians as a group from discrimination apparently garners less support, and gays and lesbians as a group do not receive federal protection from discrimination.<sup>3</sup>

Although support for gay and lesbian rights has increased in the last 20 years (and surveys have indicated that in general up to 80 percent of Americans support protection of gays and lesbians from employment discrimination), asked about specific occupations, such as teacher or clergyperson, their support drops.<sup>4</sup> There is now a widespread movement to repeal scattered local laws that protect gays and lesbians from discrimination on the basis that these grant "special rights" to gays and lesbians that other groups do not enjoy. On the surface, at least, the differences in opinion appear to be based on the view that gays and lesbians as a group are different from other minority groups and women, and that these differences may justify the failure to grant antidiscrimination protection. Similarly, even among those who support antidiscrimination legislation and policies for gays and lesbians

and/or affirmative action in general, these perceived differences may mean that they do not support "affirmative action" for gays and lesbians.

This article examines the nature of gays and lesbians as a "group" (identified minority) and how that nature relates to factors historically used to justify antidiscrimination protection and affirmative action. Such a discussion is particularly appropriate for attorneys, as we are familiar with the legal theories behind these issues and have a special responsibility to educate the public. Also, as people who serve the community at large and are concerned with a community's trust in the law, we need to be cognizant of our area's distinct communities and their needs.

## Are gays and lesbians a "minority"?

Are they similar to other groups that currently receive federal antidiscrimination protection?

Such protections are based on our societal concept of the presence of a visible minority that receives disparate treatment perceived as "unfair," requiring alleviation by government intervention. The matter also relates to the presence of gays and lesbians in larger organizations that deal with so-called "minority concerns."

In order to address difference, the question arises as to how gays and lesbians are "created." Are children born into the world either gay, heterosexual, or bisexual; or are gays and lesbians simply otherwise ordinary people who choose to participate in an activity that many find offensive? Historically, the "official" answer

to this question was easy. Since most people probably have at least occasional desires to have sexual relationships with members of the same sex, it was easy for the majority to assume that anyone who participated in this activity did so as a choice, and therefore, since it was a choice (which many people saw as evil), it could be penalized just as the choice to steal or murder could be penalized. This assumption began changing when psychologists, the medical community, and more visible gays and lesbians began to challenge the long held belief that "being gay" was a choice; they asserted that "being gay" was an orientation. This also allowed the creation of the distinction between a "homosexual act" which presumably can be engaged in by anyone, and the status of "being gay or lesbian" which can presumably occur in the absence of sexual activity, just as heterosexual status can occur in the absence of sexual activity.

The issue of choice versus immutable orientation as a justification for policy also appears to underlie the constitutional issue of government discrimination. In terms of constitutional "equal protection" doctrine, one of the justifications for awarding a group a higher level of scrutiny has been that members are being discriminated against based on a characteristic that they cannot change. Although private employment protections are not directly tied to the constitutional doctrine of "equal protection," in the minds of many, the issues have become fused, with the presence of an immutable characteristic providing justification for government intervention to prohibit employment discrimination, just as it justifies the

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constitutional prohibition against government discrimination in the private sector. Choice versus orientation has taken on a strong urgency in the antidiscrimination policy debate, with many who support protection claiming that sexual orientation is immutable, and those who oppose such protections claiming that it is not. Although the current opinion supports some biological "reason" for homosexuality, the question itself is not germane to antidiscrimination protection in the private sector. The history of discrimination and policy and legal responses to that discrimination, closely examined, shows that the presence of an immutable characteristic in a protected group is less important than other issues.

For instance, "religion" is not an immutable characteristic; historically, private religious discrimination was widespread in this country. One of the motivations for such discrimination was the pressure to "change" (convert) people to the favored (better) religion—usually Protestant Christianity. Although religion is not an immutable characteristic, few to-

day dispute the validity of having laws that protect people from private discrimination based on religion. Retaining one's religious beliefs while still being free from private discrimination is generally allowed, not because religion is an immutable characteristic but because we believe that religion is important to people's sense of identity and does not harm the rights of others. The view that personal morality requires discrimination against another group because of "imperfect" religious beliefs has given way to strong tolerance and official protection of religious freedom through private employment protections.

Even race and sex discrimination protection is not really related to the concept of protecting people from discrimination based on an immutable characteristic. As with religion, the ability to practice sex and race discrimination enjoyed widespread popular support in this country until only the most recent decades, despite the fact that both were and are generally considered immutable characteristics. To the extent that these are not im-

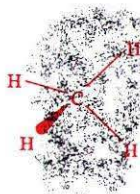
mutable, as in the cases of people of other races "passing" for white or women "passing" for men, such passing was the only alleviating vehicle. Yet today, private antidiscrimination protections are provided for people on the basis of both race and gender

because they are considered the fair things to do, and the concept of having a right to discriminate on such a basis holds little sway. Moreover, the concept of encouraging or expecting someone to "pass" out of a less-favored status is looked upon askance, even though the ability to "pass" might render race or even gender a mutable characteristic that could presumably "solve" the discrimination problem for an individual.

The attitude we now have toward "passing" for racial minorities also illustrates why gays and lesbians do not deserve treatment different from that toward other minorities in terms of antidiscrimination protection simply because their sexual orientation is not always immediately apparent. A typical policy argument is that protections are not necessary for sexual orientation because it is apparent only if "behavior" or "speech" makes it so. This argument is present in such comments as, "We don't care what goes on in the bedroom, but we don't want to know about it," and "They don't deserve antidiscrimination protection because they can hide their minority status." Indeed, many gays and lesbians do hide or attempt to hide their status because of strong discrimination. But this "hiding" can take an enormous toll on the psychological health of someone and is not an "easy accommodation" to avoid discrimination. We now believe that a person's ethnic group and cultural identity and history is important, and would perceive it as psychologically damaging to require someone to give that up by "passing" in order to avoid discrimination. Similarly, we do not expect people to hide their religion even though it may not be readily apparent or can be easily hidden. The same applies to sexual orientation.

The other reason most often given to justify a distinction between gays and lesbians and other minority groups that receive antidiscrimination protection is that homosexual behavior is morally wrong. Some homosexual, as well as cer-

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tain heterosexual, behaviors are criminalized in almost half of the states in this country. Morality may be related to choice and the issue of fairness in discrimination ("if a gay person is born that way, how can it be morally wrong, and how can we allow discrimination?") Nevertheless, this distinction is not pertinent to the ultimate issue of whether a group deserves or needs antidiscrimination protection. Whether that homosexual behavior is morally wrong or not, morality does not come into play with other antidiscrimination laws; it is therefore irrelevant.

The example of religion is again illustrative. Many religions believe that the failure to be a member of that particular religion is morally wrong and condemns an individual to eternal punishment. This attitude has long been used to justify discrimination, particularly against Jews, because the presence of these other religions was suspected of unraveling the social fabric established by the majority religion to protect the souls of its citizens; discrimination was meant to encourage the discriminated group to convert to the "true" (established) religion of the society. Although the exclusivity of certain religions in our society still exists, we, as a society, no longer believe it appropriate to discriminate privately on that basis. Adults are free to make choices of conscience about religion that do not hurt others. The same argument applies to gays and lesbians.

The example of religion also undercuts the argument (promoted by those who believe homosexuality is morally wrong) that discrimination is permissible due to the potential for "bad" moral influence on children.

The same used to be said of nonconforming religions. It was also argued that hiring of ethnic minorities or "intermingling" of minorities with whites would encourage children to engage in interracial dating or marriage. However, even though some people still believe that certain religions and interracial marriage are morally "wrong," we now no longer accept "moral influence" as a justification for discrimination in these areas, and this position applies to sexual orientation as well.

What the groups that we consider mi-

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norities and that are protected under antidiscrimination laws *do* have in common is that they are an identifiable group that has faced a history of discrimination and whose status, or behavior in accordance with that status, is one that does not create external tangible harm to the community. Gays and lesbians fit this definition, and they therefore should receive antidiscrimination protection from the states.

#### What about affirmative action?

Even though gays and lesbians are similar to other groups for purposes of the government prohibiting private discrimination, the same does not hold true for affirmative action. Just as there are possible reasons for distinguishing between various minority groups under affirmative action, gays and lesbians may not be similarly situated to all minority groups

for purposes of affirmative action.

The merits of affirmative action are being debated generally. Is it fair, or does it produce another kind of discrimination? There is confusion regarding what affirmative action is.

This article does not discuss the nuances of affirmative action, but it outlines the three major justifications for, and the related kinds of affirmative action that exist and then shows why as a group, gays and lesbians are similarly situated to other groups receiving certain kinds of "affirmative action" protection, and that gays and lesbians should receive these protections as well.

"Affirmative action" traditionally refers to the purposeful preference for ethnic or racial minorities, often required and enforced by a court, as a remedy for proven, past discriminatory practices.

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Because it often involves quotas and is rigorously enforced by court order, this is often known as "hard" affirmative action. Since it was assumed that most current members of ethnic or racial minorities descended from members of minority groups that had been subject to discrimination which prohibited them from attaining certain education and jobs, and since job and educational opportunities are often related to educational and employment status of parents, it was felt that current members of these groups had suffered for these past wrongs in their own educational and job preparedness. Therefore, a rigorous preference was required to equalize the playing field. Under this kind of theory, it is argued, those who might "lose" a chance for a job or educational opportunity because of this practice were not unfairly burdened; had it not been for the prior discrimination, ethnic minority applicants would have come from more enriched households and would have had higher qualifications than these other applicants. The only reason they did not was past discrimination.

Under this theory, ethnic minorities could receive "affirmative action" preferences, but other groups with a history of discrimination, such as women and those with physical disabilities would not, since their status was not inherited or lineal, i.e., if you are a woman now, you presumably have received equivalent resources at birth to other contemporary women and men because you both had a father who was not subject to gender discrimination and a mother who was. Similarly, under this—the least controversial theory of affirmative action—gays and lesbian would not receive any preferences in terms of hiring or education since the status of being gay and lesbian, under current understanding, also is not automatically inherited.

However, it has also become clear in the ongoing analysis of how discrimination works that past discrimination against identified groups may affect the employment and educational opportunities of current members of that group even if there is no lineal descent of disadvantage. If there has never been a member of a certain group in a certain kind of job, this "role model" theory assumes that it will be much more difficult for a current member of that group to simply decide to apply or train for that kind of job, even in the

theoretical absence of current discrimination. Thus, in order to eliminate barriers to women taking all types of jobs today, it may be necessary to give certain preferences to women in job fields where they have historically not existed, such as construction and engineering. Under this theory, almost all members of minority groups and women would be expected to receive some slight preferences in jobs and education where they have been underrepresented to remove the vestiges of past discrimination and create a level playing field for current members.

In addition, the need for members of a minority group in certain professions is often seen as important for the empowerment of a group in general. In law, for instance, the very fact that an "opportunities for minorities in the bar" committee exists shows the importance of having people in law and politics from all groups for purposes of community comfort with the legal system, an important institution in our society. Similarly, many schools which serve diverse populations may make an applicant's past experience, ethnic makeup, or gender a possible reason for admission in order to create a more

diverse class; this enhances the education of all in the class.

Under this concept, gays and lesbians should probably receive similar treatment, since widespread past discrimination has left out gays and lesbians, widely visible in only a few fields, such as design, hair-dressing, and construction. The fact that gays and lesbians can or may choose to hide their orientation complicates the application of this theory. For instance, it is possible that if all gays and lesbians were open about their sexual orientation, there might be open gays and lesbians dispersed widely in many different career tracks, mirroring the career choices of the general population.<sup>5</sup> In that case, affirmative action preferences for purposes of providing role models or community representation might not be necessary. On the other hand, because even open gays and lesbians are not particularly visible, it is often more difficult for young gays and lesbians to find career role models than for other minority groups, and this would argue for such preferences.

The last justification for preferences in hiring and educational opportunities is a practical one. Most people who study

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***"Gays and lesbians, as a group, have many of the same attributes as other minority groups . . . and as a group [they] need and deserve similar protections."***

discriminatory patterns now believe that even in a perfect world where people do not want to or do not perceive that they are discriminating, subconscious discrimination may be present; people tend to admire, and thus inflate, the qualifications of those people who are most like themselves. It is thought that modest preferences between otherwise equally qualified individuals may be necessary to overcome this unconscious bias and level the playing field. Under this justification, open gays and lesbians may need some kind of preference, since they are often seen as different from the culture or society at large.

There are many arguments against affirmative action, and some justifications for it are stronger than others. Certainly

gays and lesbians cannot advocate for "strong" affirmative action for themselves based on inherited disadvantage. However, if we assume that some kinds of mild preferences should exist for all minority groups and women to help eradicate past discrimination, preempt subconscious discrimination, and serve distinctive communities, then gays and lesbians probably need to receive the same kinds of consideration as women do in order to assure equal access to jobs and education.

Gays and lesbians, as a group, have many of the same attributes as other minority groups. In being historically subject to discrimination for a status or behavior that does not adversely affect other persons—the main reason that groups are

protected from discrimination—gays and lesbians are very similar to and have interests that are similar to other minority groups. To the extent we believe in anti-discrimination protection at all, gays and lesbians as a group need and deserve similar protections.

#### Endnotes

<sup>1</sup> Demographers suggest that lesbians, gay men, and active bisexuals make up somewhere between 2 and 20 percent of the U.S. population. Rand National Defense Research Institute, 1993 *Sexual Orientation and U.S. Military Personnel Policy: Options and Assessment*. (1993); *Homosexual Attraction is Found in 1 of 5*, The New York Times, Sept. 6, 1994, at A12. The wide variability is probably attributable to the various ways of defining gays and lesbians as a group, and in the difficulty in obtaining honest answers to questions about sex—especially homosexuality.

<sup>2</sup> The term "minority" is used for common understanding even though the term is falling out of favor with some groups and advocacy organizations. No offense is intended by the use of this term.

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<sup>3</sup> It is difficult to compare the support for gays and lesbian antidiscrimination protection with support for antidiscrimination protection for other groups since those groups already have federal protection and few surveys ask such direct comparisons.

<sup>4</sup> David W. Moore, *Public Polarized on Gay Issue*, Gallup Poll Monthly, April, pp. 30-34 (1993).

<sup>5</sup> Preliminary research, however, indicates that even gays and lesbians who are

not "out" often do not follow the same career choices as the general population, because of fear of discrimination in certain fields. See Klawitter and Flatt, "Antidiscrimination Policies and Earnings for Same-sex Couples," paper prepared for the Association of Public Policy and Management annual meetings, October 1994 (on file with the author).



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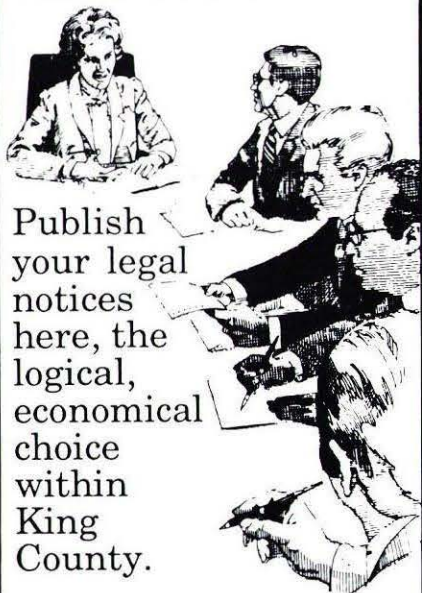
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# The Case for Repeal of Affirmative Action

by Ron Taber

**I**t is time to repeal state-coerced affirmative action. Washington Initiative 172 to the Legislature will do that. After 25 years, affirmative action has largely succeeded in redressing the effects of institutionalized racism. The trades, occupations and professions are integrated to the extent this can be accomplished through law. Now, affirmative action threatens to undo the good it has accomplished. Anecdotal and courtroom evidence of reverse discrimination repulses fair-minded people. The people benefiting from affirmative action are those who least need protection—the wealthiest and most competent in the protected classes. Affirmative action is divisive and leads to increased prejudice. It invites fraud as members of protected groups act as “fronts” for businessmen seeking an advantage in state contracting. Affirmative action was to be temporary, but it has become a new institutionalized racism and sexism. A majority in all groups neither want to return to the days when minorities were oppressed nor do they want to continue the current system, by which selection rests on color and genitalia.

Repeal of affirmative action will not change the laws against discrimination based on race and sex. Such discrimination is immoral and illegal and will remain so after repeal. Most people believe that minorities and women do not need reverse discrimination to obtain fairness. The courts and other mediating agencies, both public and private, will still hear the cases of individuals who have been intentionally discriminated against. Minorities will not be pushed “to the back of the bus,” as one African-American spokesman has charged.

Nat Jackson, a successful executive who left a Republican state administration to found enterprises that benefited from affirmative action, says of the move-

ment to repeal, “It is economic genocide on minorities.” That charge is nonsense.

Lying behind such overheated rhetoric is the argument that the effects of 200 years of slavery and 100 years of “separate but equal” policies cannot disappear after 30 years of preferences. This is probably true, but it is irrelevant. Affirmative action is not supposed to remedy the effects of racism. It is a temporary redress of an historical injustice. It is not a means to maintain workplace racial balance or maintain minority incomes.

Justice Thurgood Marshall was asked during the 1978 *Bakke* case deliberations, “How long will we need quotas?” Marshall replied, “One hundred years, to overcome the damage created by slavery and segregation.” Allen Bakke was denied admission to the University of California medical school despite having academic records superior to all the students who benefited from the University’s 16% minority “set-aside.” The justices balked at the notion of institutionalized quotas. Quotas were to be a temporary measure. The Court required the University to admit Bakke, some believe, because of Marshall’s frank reply suggesting quotas into the indefinite future. Marshall was also blunt in response to Justice Douglas’s plea to hear the case of a white male refused admission to the Arizona bar to make room for more blacks: “You guys have been practicing discrimination for years. Now it is our turn.” Will the defenders of affirmative action be bold like Marshall, or will they continue to reply “someday; not yet.” How many years must pass before merit becomes the criterion for admission to the American table of plenty? When, at long last, will merit and content of character, rather than sex or color, become the decisive factor in state decision-making?

The defenders of the status quo imply that only quotas based on group rights can coerce compliance with the laws against discrimination. They say suits by indi-

viduals alleging discrimination are futile because, “One cannot know intent of a personnel director, contracting officer or admissions officer.” The 1964 Civil Rights Act requires a showing of intent to discriminate. Quota proponents say, “Since we are unable to know whether the official intended to discriminate, the laws against discrimination are unenforceable.” To avoid the problem of showing intent to discriminate, the enforcers in the Equal Employment Opportunity Commission (EEOC) generated the statistical argument that employment patterns, which do not mimic the available pool of workers, support a presumption that discrimination is present. No showing of intent to discriminate is necessary to prove discrimination. To protect themselves from this attack, employers must have a plan that sets hiring and promotion quotas.

The evolution of affirmative action from the passage of the 1964 Civil Rights Act to the “set asides” and “goals and timetables” policies of the Nixon era was rapid and, more amazing, in defiance of the law. In 1991, the Government codified practices which were the opposite of the legislative intent of 1964 and resulted in an institutionalized regime of racist and sexist discrimination. It is this view of history and law that led the author, Ron Taber, to contact the sponsors of the California Civil Rights Initiative in February 1995.

Two California academicians drafted the California Initiative. Thomas Wood, executive director of the California Association of Scholars, says he lost a teaching position because he is white. His partner in the enterprise is Glynn Custred, a California state anthropology professor who maintains that racial quotas are destructively affecting the academy by putting diversity ahead of merit. Wood and Custred deliberately sought to spawn similar movements in other states. The movement caught fire and began to spread nationwide.



As of May 1995, Oregon, Illinois, Nevada, Florida, Colorado and Washington had accepted the challenge.

Taber wrote Washington Initiative 172 in consultation with attorney Stephen J. Hosch, a former official of the Department of Social and Health Services in the administration of Governor John Spellman. The key provision of the Initiative reads,

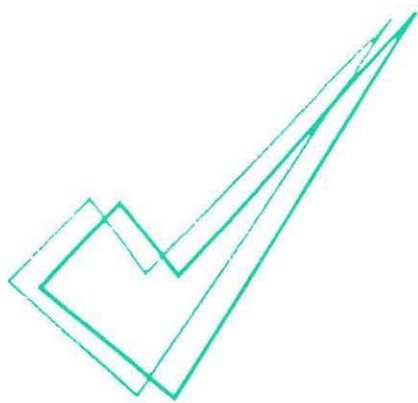
Neither the state of Washington nor any of its political subdivisions or agents may use race, sex, color, ethnicity, national origin or status as a sexual minority as a criterion for granting preferential treatment to any individual or group.

Affirmative action is having a blighting effect on education. Minorities do not have to work hard because seats are set aside for them. White men are less motivated because they feel that the deck is stacked against them. Grade inflation and lower performance at the high school and undergraduate levels reflect the lack of competition based on merit. The bachelor degree has become a five-year and even six-year degree for many who simply do not make an effort.

The quotas have a corrupting effect on business. Men set their wives up in business so they can bid state and federal jobs as female-owned businesses. When affirmative action was introduced in Lyndon Johnson's Executive Order 11246, the Order replaced equality as a right with equality as an outcome. The "Great Society" required persons doing business with the Government to "... take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color or national origin." But it was Richard Nixon, not Johnson, who imposed affirmative action on America.

Nixon's ramrod, Art Fletcher, was a black former Los Angeles Ram and 1968 Republican candidate for Lieutenant Governor in the state of Washington. He quickly subdued the construction industry with the "Philadelphia Plan." He bludgeoned the construction trades into setting "goals and timetables" for attaining a work force that reflected the racial makeup of the city. Like the quota barons who followed, Fletcher claimed he had not set up quotas, but the *Congressional Quarterly* described the Philadelphia Plan as a "nonnegotiable quota system." Fletcher boasted that his new "goals and timetables" to correct the underutilization of minorities covered, "... from one-third to one-half of all U. S. workers."

Kaiser Aluminum "voluntarily" fell into line in 1974, establishing two seniority lists, one black and one white, and filled openings alternately. In *United Steelworkers v. Weber*, the U.S. Supreme Court upheld the Kaiser plan, claiming that it would not lead to quotas and was, in any event, "... a temporary measure; it is not intended to maintain racial balance [emphasis added], but simply to eliminate a manifest racial imbalance." This interpretation coincided with the intent of Congress to adjust the work force by a temporary program of reverse discrimination, to be followed by the restoration of the merit system. Universities, too, adopted goals and timetables for hiring, and student admissions fell under the hammer of quotas.



## A Checklist for Eliminating Barriers to Diversity

✓ Think about and recognize your own cultural biases. Are you making assumptions about people who are different from you? Are you denying or ignoring differences that exist?

✓ Learn more about different cultures within your own organization - make friends with someone

from a different cultural background. Recognize that we tend to promote and surround ourselves with people who are like us.

✓ Enhance communication by focusing on the whole person and the content of the message. Some people become distracted or biased by others' gestures, appearance, accent and so on.

✓ Understand that diversity is a bottom-line business issue. To stay competitive, companies need to be reflective of the changing demographics and cultures of the marketplace.

## Nine Steps to Fostering Diversity

- 1) Aggressively recruit qualified, diverse candidates.
- 2) Speak out about inappropriate behavior.
- 3) Include employees/volunteers in decision-making.
- 4) Introduce diversity education within the workplace.
- 5) Mentor a diverse law student or colleague.
- 6) Share diversity development strategies with colleagues.
- 7) Incorporate diversity into all aspects of the workplace.
- 8) Review policies and practices for hindrance of diversity.
- 9) Broaden your definition of diversity to be inclusive of white males.

*Acknowledgment: Rachel Patrick, American Bar Association. Reprinted with permission from the Wisconsin Bar Journal, April 1994, page 11.*

Affirmative action is now institutionalized. In 1989, *Fortune* magazine found that 72 percent of the Fortune 500 used racial quotas or "goals." According to ABC's "20/20," a Department of Defense memo says, "... special permission will be required for the promotion of all white men without disabilities." Courts have repeatedly found discrimination against white males. In 1994, the U. S. District Court found in *Hopwood v. State of Texas* that University law school quotas had wronged four white law school applicants because of quotas.

Twenty years earlier, Marco DeFunis challenged the University of Washington School of Law's 20-percent-black quota on the basis that his test score was better than all but one of the 37 blacks admitted that year. Justice Douglas ordered DeFunis's admission, overturning a Washington Supreme Court decision. Although the U. S. Supreme Court never ruled on the merits of DeFunis, Justice Douglas wrote,



There is no superior person by constitutional standards. A DeFunis who is white is entitled to no advantage by reason of that fact; nor is he subject to any disability, no matter what his race or color. Whatever his race, he had a constitutional right to have his application considered on its individual merits in a racially neutral manner.

In 1989, the Court seemed to modify affirmative action in *Wards Cove v. Atonio*. Smarting from the tongue-lashing by Justice Scalia in a previous case where he argued, "We effectively replace the goal of a discrimination-free society with the quite incompatible goal of proportionate representation by race and by sex in the workplace," the Court finally rejected statistical disparities as *prima facie* evidence of discrimination. It found,

... racial quotas, ensuring that no portion of ... [the] work force deviates in racial composition from the other portions thereof ... is a result that Congress expressly rejected in drafting Title VII [of the 1964 Civil Rights Act].

A week later, the Court ruled, in *Martin v. Wilks*, that white males suffering from reverse discrimination could challenge their employers' quota policies. This set

off charges of racism and the usual litanies of hate speech from the defenders of affirmative action. The Court, by providing a remedy for victims of reverse discrimination, focused light on the dark secret of affirmative action—the undeniable evidence that white males (and white females in many situations) are being discriminated against. Against all common sense, Court findings and historical experience, however, the defenders of affirmative action still heatedly deny the existence of reverse discrimination and accompany these denials with hateful accusations of divisiveness, racism and bigotry.

Fear of being thought racist cowed the academic community into silence. The social scientists who are most interested in making studies of the effects of affirmative action avoid them because they are potential career busters, as are IQ and race studies. Charles Murray took a drubbing for daring to publish *The Bell Curve*. Few academicians would be able to withstand the torrent of racism charges which Murray has experienced for the last eight months. Murray and African-American economist Thomas Sowell can stand up because they are protected by private foundations. Undaunted by threats of retaliation is George Mason University African-American economist Walter Williams. He writes that blacks at elite colleges may trail whites by 300 points on the SAT and explains the consequences as follows,

It guarantees that academically superior white students will run circles around black students. The academic difficulties of black students can't be hidden from white students and professors. It creates negative impressions of black academic ability and fosters condescending attitudes toward them. Worst of all, it creates unnecessary anxiety and self doubt among black students. In addition, quotas that cause black students to be academically mismatched create dropouts and failures out of people who might otherwise be successful. ... This wouldn't happen if black students were admitted to college solely on academic merit; they would share the same academic characteristics as the general student body. However, given today's SAT differential, there'd be far fewer black students attending the nation's elite colleges like Harvard, MIT and Stanford. But a greater percentage of those actually admitted would graduate.

Students who publish what they know about race norming and double standards suddenly find themselves accused of hate conduct and are subject to expulsion. When a Georgetown Law Center student reported a possibly illegal race-based admissions policy at the Center, it caused a national flap. The weak denials from Georgetown culminated in the unguarded comment of a Georgetown public relations officer, "If you feel there's a wall of secrecy, it's nationwide."

The Congress is also cowed. It rushed to overturn the Court's *Wards Cove* and *Wilks* decisions with the 1991 Civil Rights Act, which made reverse discrimination legal. The new law even made it impossible to bring suits for reverse discrimination unless the white male or female is statistically underrepresented in both management and line positions. The only way an employer can avoid a suit for compensatory and punitive damages is to use quotas. Not merit, but race and sex are now the relevant factors in personnel decisions. Although it legalized segregation, not even *Plessy v. Ferguson* (1896) envisioned discrimination as a matter of

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law. One hundred years after *Plessy*, Americans can be legally discriminated against in college admissions, jobs, and contracts.

Reverse discrimination created by affirmative action is now out in the open. Liberal feminist professor Camille Paglia believes affirmative action should be repealed because it patronizes women. Attorney Susan Estridge, who managed Michael Dukakis's campaign in 1988, called for repeal. In May 1995, 81 percent of white men, 79 percent of white women and a majority of both Hispanics and blacks told the *Los Angeles Times* poll that they would vote for the California repeal initiative. Looking ahead, Governor Pete Wilson signed on June 1 an executive order rolling back affirmative action in California.

On June 12, the U.S. Supreme Court weighed in with a 5 - 4 decision pointing back to 1989 *Wards Cove*. *Adarand v. Peña* is the Court's response to the Civil Rights Act of 1991. The Court ruled that a "disadvantaged business enterprise" (DBE) preference program had to serve a compelling government interest under the "strict scrutiny" standard. The ruling implies that those who receive preferences must show they (not their parents or group) were harmed by discrimination. According to some, this signals the beginning of the demise of affirmative action. Others believe affirmative action can withstand the higher standard of scrutiny.

Justice Clarence Thomas wrote defending the change:

That these programs may have been motivated, in part, by good intentions cannot provide refuge from the principle that under our Constitution, the government may not make distinctions on the basis of race. As far as the Constitution is concerned, it is irrelevant whether a government's racial classifications are drawn by those who wish to oppress a race or by those who have a sincere desire to help those thought to be disadvantaged.

These programs stamp minorities with a badge of inferiority and may cause them to develop dependencies or to adopt an attitude that they are "entitled" to preferences.

The opponents of change are countering with hateful language. Businessman Nat Jackson told the *Seattle Post-Intelligencer* that the initiative "is wrong; it's divisive," and it is being promoted by "ultraright-wing-extremist-reactionary types." He told *The Olympian*, "The Initiative is wretchedly brutal, overwhelmingly mean and vicious to people beginning to share in America's opportunities." Defenders of reverse discrimination hurl ad hominem arguments despite the support repeal of affirmative action has from African-American thinkers like Shelby Steele, Clarence Thomas, Thomas Sowell, Walter Williams and Stephen Carter. Carter, professor at Yale and author of *Culture of Disbelief* and *Reflections of an Affirmative Action Baby*, says that reverse discrimination is an attempt to have "racial justice cheap." Sowell writes,

Affirmative action has been one of the great distractions from the real task of self-development. When it and the mindset that it represents passes from the scene, poorer minorities can become the biggest beneficiaries, if their attention and efforts turn toward improving themselves. Unfortunately, a whole industry of civil rights activists, politicians and miscellaneous hustlers has every vested interest in promoting victimhood, resentment and paranoia instead.

The militant rhetoric now in play by this "industry," as Sowell calls it, no longer works. It worked 30 years ago, and rightly so, when the memory of Bull Connor's fire hose and police dog attacks on peaceful protesters was fresh in memory. The generation that grew up in the 1950s and 1960s tried to expunge America's guilt. Americans marched, rode and sometimes, like Viola Luzzio, they gave their life. They support civil rights and still cherish Martin Luther King's "Letter from the Birmingham Jail" as a great statement of conscience and commitment to truth. For most Americans, however, today's militant 1960s rhetoric from wealthy black businessmen, powerful black politicians and their liberal allies rings hollow.

The opportunity society awaits if we

return to our basic principles. We must purge the status-based distinctions from the law and follow Justice John Marshall Harlan's dictum that our Constitution

... is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful."

Repeal of state preferences is the door we must open to the opportunity society.



*Ron Taber, Ph.D., former vice chair of the Thurston Urban League Committee, is a businessman living in Olympia. He was an activist in the civil rights and anti-war movements of the 1960s and 1970s. Neither he nor any member of his family has suffered discrimination as a result of affirmative action. He is moved to repeal affirmative action because he is interested in the quality of education in Washington and in business fairness. He is the founder of Fair Play for Washington.*

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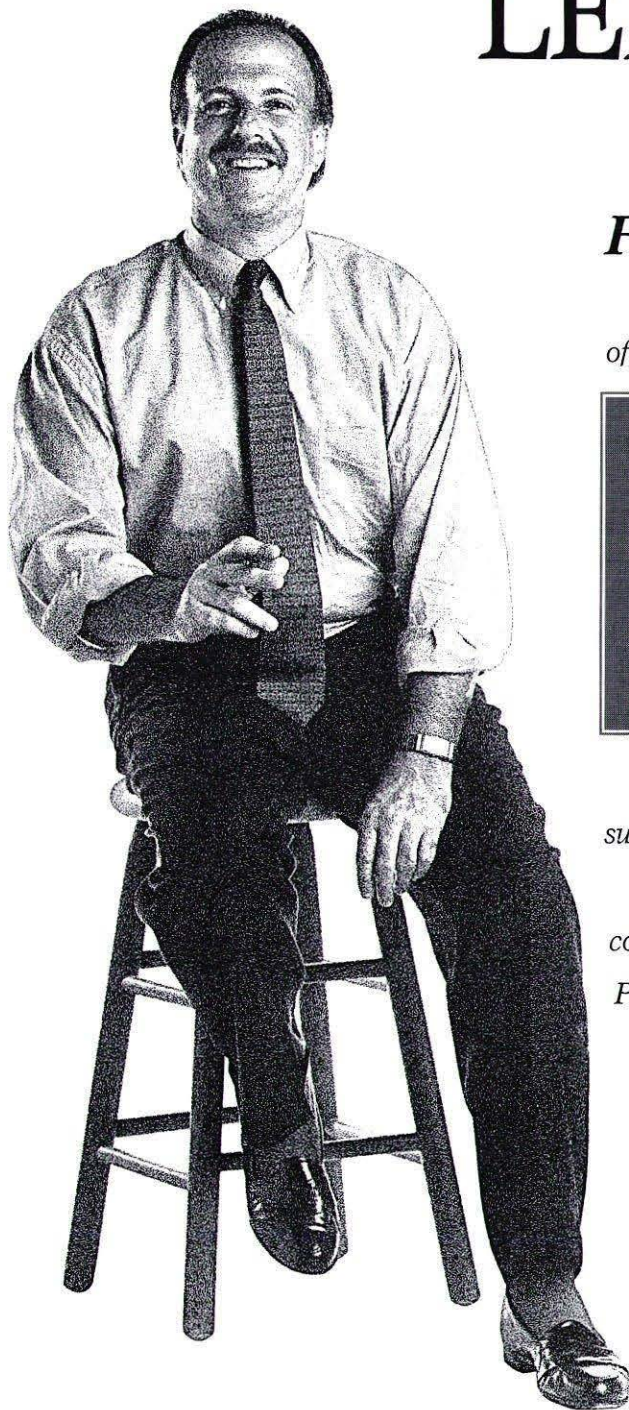
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# Affirmative Action: Equal Opportunity or Equal Results?

by Charles O. Russell



**T**he term equal opportunity represents legal doctrines and a variety of programmatic applications intended to prevent discrimination in employment, education and housing. Two concepts underlie these doctrines and applications: equality of opportunity and equality of results.

Equality of opportunity is, for the most part, not controversial. The courts, the public and government have generally accepted the idea that people should have an equal opportunity to compete, perform and succeed on the basis of individual merit. Equality of result, however, is increasingly the subject of court litigation and political battles.

Equality of opportunity has its foundation in Title VII of the Civil Rights Act of 1964, which established the Equal Employment Commission. Title VII also prohibits employment on the basis of race, sex, national origin and religion. In *Teamsters v. the United States* (1977), the Supreme Court developed two concepts of discrimination banned by Title VII: "disparate treatment" and "disparate impact."

"Disparate treatment embodies the concept of equality of opportunity. Disparate treatment occurs when an employer harms an applicant or employee because of the employee's race, sex or some other protected characteristic."<sup>1</sup>

"Disparate impact" embodies the idea of equality of result. Title VII requires that employment decisions be fair in ef-

fect as well as in purpose. Employment practices that are neutral on their face are discriminatory if they have the effect of harming members of a protected group.<sup>2</sup> Supporters of the equality of result concept argue that discrepancies in numbers are representative of a lack of opportunity. Even employee practices that are job-related can be discriminatory if the employer could use other employment practices that are equally effective but less adverse.<sup>3</sup>

The supporters maintain that numerical discrepancies indicate a systematic discrimination that cannot be corrected by attempting to eliminate individual instances of bias. The equality of result advocates maintain that members of groups that have been historically discriminated against start from biased social, educational and economic situations. Because of these disadvantages special considerations are required to assure equality of result.

Critics of the equality of result position charge that people are placed in jobs and schools solely on the basis of their members in a protected group. The equality result critics argue that these privileged appointments are obtained in direct proportion to the size of the protected group to the society at large.

Equality of result gained prominence in 1959, when then-Vice President Richard M. Nixon, head of President Eisenhower's Committee on Contracts,

recommended limited preferential treatment for qualified blacks seeking jobs with government contractors. In 1961, President Kennedy issued an executive order calling for "affirmative action" as the means to promote equal opportunity in hiring by federal contractors. Affirmative action is a formal effort to provide increased employment opportunities for women and ethnic minorities, in order to overcome past patterns of discrimination.

Eight years later, President Nixon strengthened the Office of Federal Contract Programs. In 1971, the Labor Department started the Philadelphia Plan, a quota system that required federal contractors in Philadelphia to employ a fixed number of minorities. Similar programs were later adopted by other federal agencies as well as state and local governments.

Twenty-five years of effort have substantially increased equal-employment opportunities for women and minorities. Overall progress in terms of equal-employment results are less clear.

The civilian labor force grew 18 percent in the 1980s to 128.1 million by 1993. The number of white workers increased 12 percent. The number of minority workers increased 45 percent. White workers constitute the majority of the work force at 78 percent. This percentage is down from 82 percent in 1980.

The number of women in the work



force grew 27 percent between 1980 and 1993. Women now make up 46 percent of the workers. Women also accounted for 63 percent of the work force growth between 1980 and 1993.

White men make up 43 percent of the work force, and white women constitute 35 percent. One in ten workers is black, and slightly more than half of the black workers are women. Asians, Pacific Islanders and Native Americans account for four percent of the total work force. About 46 percent of this group are women.

White men constitute 43 percent of the work force, 56 percent of officials and managers and 76 percent of craft workers. These are, generally, the highest-paying white-collar and blue-collar jobs. Minority men are most heavily represented among operatives and laborers. Women dominate lower-paying clerical and service jobs. Technical workers come the closest to equal gender and minority distribution.

During the 1980s, the overall employment of women in professional occupations increased noticeably. Women made substantial gains in managerial jobs but lost ground in technical, labor, craft and operative occupations.

During the same period, minority representation among professionals did not increase, even though professional jobs were among the fastest-growing of the decade. Minorities continue to be highly represented among laborers and service workers and poorly represented in the higher-paying occupations.

The following tables reflect the utilization of minorities and women, in various occupations, as a percentage of the labor force.

The figures tend to negate beliefs that minorities and women are being afforded positions at the expense of white males and in direct proportion to their numbers as a percentage of society at large. Nor do these figures support the argument that minorities and women are underrepresented in certain occupational areas.

Arguments against affirmative action tend to be anecdotal, relying more upon case studies than statistical analysis. Conversely, the advocates of affirmative action stress the importance of proportional representation without regard to mitigating societal factors such as the educational and experience levels of the protected groups. Too little serious research

#### Utilization Rate of Minorities By Occupational Category 1980-1990 <sup>4</sup>

	1990	1980	% Change
Service Workers	145%	50%	-5%
Laborers	140%	155%	-15%
Operatives	135%	125%	0%
Craft Workers	90%	80%	10%
Office & Clerical Workers	100%	90%	10%
Sales Workers	75%	60%	15%
Technicians	90%	80%	10%
Professionals	75%	75%	0%
Officials & Managers	60%	50%	10%

*A utilization rate of 100 percent indicates that the share of minority workers in an occupation matches the share in the total labor force.*

#### Utilization Rate of Women By Occupational Category 1980-1990 <sup>5</sup>

	1990	1980	% Change
Service Workers	130%	140%	10%
Laborers	30%	45%	15%
Operatives	65%	70%	5%
Craft Workers	15%	20%	5%
Office & Clerical Workers	160%	180%	20%
Sales Workers	20%	110%	-10%
Technicians	100%	114%	14%
Professionals	120%	118%	-2%
Officials & Managers	80%	70%	-10%

*A utilization rate of 100 percent indicates that the share of female workers in an occupation matches the share in the total labor force.*

has been done on the outcomes or results of affirmative actions.

The concept of equal result has a place in equal-opportunity law as a way to remedy existing discrimination and to prevent further discrimination. However, the adoption of affirmative action programs that give special consideration must be tied to numerical opportunities that indicate a lack of equal employment opportunity in the past and must not trammel the rights of nonprotected groups.<sup>6</sup>

The lack of reliable numerical data makes it difficult to determine whether or not the rights of nonprotected groups are being trammled. Nor is it easy to measure the results of more than a generation of affirmative action. It is clear that opinion regarding these issues has once again shifted. Government and the courts are redefining the concept of equal result while professing to leave the concept of equal opportunity relatively unchanged.

#### Endnotes

<sup>1</sup> *Teamsters v. United States* (1977).

<sup>2</sup> *Griggs v. Duke Power company* (1971).

<sup>3</sup> *Wards Cove Packing Co. v. Atonio* (1989).

<sup>4</sup> Source: EEO Access Systems, Claritas, NPDC

<sup>5</sup> Source: EEO Access Systems, Claritas, NPDC

<sup>6</sup> *Richmond v. J.A. Croson* (1989).



*Charles O. Russell, Ph.D., is a professor in the Department of Economics at Seattle Pacific University. He is active on the WSBA Minorities in the Legal Profession Committee.*





## APPOINTMENTS

### Committee Appointment Opportunities for WSBA Members

The Board of Governors of the Washington State Bar is called upon to make appointments to various boards, commissions and committees listed below. These vacancies are in addition to those on standing committees of the WSBA, for which a separate mailing goes out to each member annually. Some time frames for application are shorter than others; as a result of the need to start this service at some point in time and the desire to include as many openings as possible. Over time all openings will be listed at least three months prior to Board action.

Members are encouraged to apply for any and all positions that are of interest. Applications may be directed to Dennis P. Harwick, Executive Director, WSBA, 500 Westin Building, 2001 Sixth Avenue, Seattle, Washington 98121-2599, or to members' representatives on the Board of Governors. Members of the Board of Governors, the congressional or other districts they represent, and their city or residence are listed on the masthead of the *Bar News*.

### WSBA Disciplinary Board

*Call for Nominations: Now. Board of Governors action: September*

The Disciplinary Board oversees the WSBA lawyer discipline system. The terms of William S. Bailey of Seattle, Andrew N. Becker of Port Orchard, citizen member Kathryn Culpepper of Yakima, and Philip E. Rosellini of Bellingham expire September 30, 1995. WSBA pays member meeting and travel expenses. The next terms run from October 1, 1995 to September 30, 1998.

### CLE Board

*Call for Nominations: Now. Board of Governors action: September*

The CLE Board, created by Supreme Court Rule, oversees and accredits continuing legal education programs for lawyers. The terms of Laurie M. Boyd of Yakima, Malcolm Lindquist of Tacoma, and Gary C. Randall of Spokane end September 30, 1995. WSBA pays member meeting and travel expenses. The next terms run from October 1, 1995 to September 30, 1998.

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## Notices of Interest to Bar Members

### **WSBA Nondisciplinary Notices Interim Suspensions:**

Seattle lawyer **Jack Ackerman** (WSBA #327, admitted 1968) has been ordered suspended from the practice of law pursuant to RLD 3.2(a) by Supreme Court order entered May 16, 1995. The order suspends Ackerman during the pendency of current disciplinary proceedings against him. A suspension under RLD 3.2 is not a disciplinary action.

Seattle lawyer **Nelson L. Christensen** (WSBA #1589, admitted 1967) was ordered suspended from the practice of law pending the outcome of disciplinary proceedings by Supreme Court order entered June 21, 1995.

Interim suspension is pursuant to RLD title 3 and is not a disciplinary sanction.

### **WSBA Disciplinary Actions**

**Reprimanded:** Des Moines lawyer **John C. O'Rourke** (WSBA #3068, admitted 1957) has been ordered reprimanded pursuant to a stipulation for discipline entered into by O'Rourke, his counsel Emily J. Tsai, and disciplinary counsel David T. Cluxton, and approved by the Disciplinary Board on May 26, 1995. This discipline is based on O'Rourke's failure to appear before the Board of Governors for the administration of a previous reprimand. O'Rourke's failure to appear violated Rule for Lawyer Discipline 5.5(b).

**Censured:** Seattle lawyer **Kevin G. Healy** (WSBA #16307, admitted 1986) has been ordered censured by the Disciplinary Board after a hearing held May 18, 1995. In one transaction, Healy offered to forgive or return fees of a client in return for the client's referral of potential clients in violation of RPC 7.2(c) and relied upon a lien provision in his fee agreement in failing to deposit potential or disputed client funds into a trust account or to deliver the client's portion of the funds to the client upon request in violation of RPC 1.14(b)(1)&(4). In an unrelated transaction, Healy used funds held in an escrow trust earmarked for payment of title insurance to pay himself legal fees unrelated to the real estate escrow in violation of RPC 1.14. For his solicitation of client referrals and failure to deposit disputed

funds to trust, Healy will receive one censure. For his improper use of escrow funds held in trust, he will receive an additional censure.

In the first matter, Healy represented a client in multiple issues regarding a lease/option agreement. During the course of representation, the landlord/seller's lawyer sent Healy a partial settlement check in January, 1991. Healy's client, a minister, requested the funds. Healy conditioned delivery of the funds on the client's promise to refer members of his congregation to Healy for real estate matters. The landlord/seller's lawyer sent Healy a final settlement check in June 1991. Healy wrote to the client that he had paid himself the entire amount of the check as legal fees. Upon receipt of the letter, the client contacted Healy to dispute his entitlement to all the funds as fees. Healy did not deposit the settlement funds to his trust account, transfer those funds to his trust account, or deliver any of those funds to the client. Instead, he asserted his ownership of the funds pursuant to a provision in his fee agreement that his fees would become a lien upon all funds and property of the client and would be paid to Healy so long as Healy asserted fees were owed.

In a second matter, Healy agreed to act as the escrow/closing officer in a sale of residential property. Healy represented the buyer in other matters. Healy insisted that legal fees due him by the buyer on the other matters, unrelated to the escrow, be paid from this escrow at the time of closing. At closing, insufficient escrow funds existed to pay all closing costs and pay Healy's unrelated legal fees. Healy nevertheless paid himself the unrelated fees and did not pay all of the closing costs. Specifically, he did not pay the title insurance premium. Healy prepared and submitted a closing statement which inaccurately indicated the title insurance premium would be paid at closing and did not indicate the payment of unrelated fees to himself. Healy informed the buyers they would have to pay the title insurance premium out of their own separate funds. Healy advanced the funds to pay the title insurance premium only after the lender filed a grievance with the Bar Association six months after closing.

Disciplinary Counsel Joy McLean and Anne Seidel represented the Bar Association; Brian Putra represented the respondent lawyer. Hearing Officer Edward Novack presided over the hearing.

### **Judicial Conduct Commission Action**

#### ***Stipulation and agreement and order of admonishment:***

In documents filed June 2, 1995, the Washington Commission on Judicial Conduct and Judge **John O. Linde** of the San Juan County District Court stipulated to an admonishment.

The parties agreed that on August 26, 1993, Linde heard a small claims matter. Pursuant to a course of action discussed with the parties, an expert inspected the plaintiff's premises, the subject matter of the claim, on the following day. Linde discovered that the issue was complex and resolved to do some additional legal research. Thereafter, Linde, a part-time district court judge, misplaced the file in his law offices.

On October 22, 1993, and continuing thereafter, the plaintiff in the case made several inquiries concerning the status of Linde's decision. By letter dated September 30, 1994, he entered his decision.

Linde has been on the bench for 18 years and has had no prior disciplinary action. He acknowledged the delay in entering his decision and the commission found the event was an isolated occurrence. He reported having taken steps to ensure the placement of systems to better track court files.

The commission and Linde stipulated that he failed to make a timely decision in the small claims case in violation of Canon 3(a)(5) of the Code of Judicial Conduct. He accepted the admonishment and the commission's determination that his conduct constituted a violation of the Code of Judicial Conduct, agreeing further that he will exercise caution to avoid repeating the violation in the future. David Akana, executive director of the commission, represented the commission. Linde represented himself. *In Re the Matter of Honorable John O. Linde, San Juan County District Court, Case No. 94-1845-F-51.*



## Public Notices

### Attorney General's Opinions Issued:

I. Offices and officers - public utility districts - commissioners - districts - salaries and wages - compensation - authority of public utility district commissioners to receive additional compensation for service as president or secretary of the board of commissioners:

A public utility district commissioner is entitled to receive only the compensation specified for the position in RCW 54.12.080, and is not entitled to any additional compensation for serving as president or secretary of the board of commissioners. *AGO 1995 #7, May 19, 1995.* Gregory J. Trautman, Assistant Attorney General, is author of the opinion.

II. Colleges and universities - schools - teachers - churches - religion - placing student teachers from public colleges in religious schools:

It would violate the state and federal constitutions to place students at state-funded colleges and universities and students in "pervasively religious" elementary or secondary schools, as defined in case law; whether a particular school is "pervasively religious" must be analyzed on a case-by-case basis. *AGO 1995 #8, May 25, 1995.* Tanya Barnette, Assistant Attorney General, is author of the opinion.

### Agencies alert people to unsafe aquatic weeds:

State and county agencies have found hydrilla, a noxious and harmful aquatic weed, in two connected Washington state lakes. It is a safety hazard to boaters and swimmers and an environmental nightmare because it forms thick mats on the water's surface, depleting the oxygen and potentially filling the water column from top to bottom. Four state and county agencies are cooperating in control efforts. To prevent the spread of the weed, identifiable by small white flowers and very small spines on leaflet edges, remove all plant fragments from boat, trailer and fishing gear, and call the Washington State Noxious Weed Control Board, (206) 872-2972 or Kathy Hamel, Ecology, (360) 407-6562.

*In re RCW 19.52.120(1): Legal Interest Rate ("Usury Rate"):*

## Government Task Force report comments solicited:

The July 1995 issue of the *Bar News* included excerpts from the Final Report of the Task Force on WSBA Governance. The Board of Governors has asked for comments on the

report to be submitted by September 1. Comments should be directed to Dennis Harwick, WSBA Executive Director. What do you think?

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### Small selection of cases examined:

U.S.A. vs. Hugo Fernando Castillon  
Alvarez (world's largest cocaine arrest;  
20 tons; \$2 billion street value)

People vs. Michael Su Chia  
(convicted of killing two federal drug  
agents and wounding another in  
Pasadena)

U.S.A. vs. John Z. DeLorean  
(DeLorean car manufacturer)

DeRita vs. Scott  
(estate of "Three Stooges" comedy  
team)

Estate of Hedayat Eslamania  
(murder victim in "Billionaire Boys  
Club" case)

Jane Seymour Flynn  
(marriage dissolution for "Dr. Quinn"  
actress)

Frustaci vs. Malik, M.D.  
(medical malpractice suit over  
septuplets birth settled for \$2.7+)

Joseph E. Gallo  
(\$100 Million suit between Gallo  
winery brothers)

Carl Galloway, M.D. vs. CBS  
(sued Dan Rather & 60 Minutes)

Estate of Francis Hammer  
(contest over \$250 million art collection  
of Armand Hammer, President of  
Occidental Oil Company)

Howard Hughes vs. John H. Meir  
(dispute about purchase of mines)

Doris Jackson vs. Lee  
("The Shirelles: contract dispute)

Michael Jackson vs. Steve Howell  
(business dispute)

Morgan Anthony Lamb  
(his wife disguised herself and took  
State Bar examination for her husband)

People vs. Bobby Joe Maxwell  
("Skidrow Slayer" accused of 11  
murders)

Taff vs. Steve Reeve  
(Superman V movie plagiarism suit)

Alan Robins  
(political corruption case of U.S.  
Senator)

Attorney Lynn Stites  
("Alliance" case; up to \$200 million  
alleged bloating of legal billings to  
insurance companies by a group of  
attorneys)

Brian Wilson vs. Irving Music  
("Beach Boys" founder sued and won a  
\$10 million judgment)

Write, or call, for full  
Curriculum Vitae





## CONSUMER PRICE INDEXES - PACIFIC CITIES AND U. S. CITY AVERAGE 1994

ALL ITEMS INDEXES (1982-84=100 unless otherwise noted)

MAY 1995

### ALL URBAN CONSUMERS

INDEXES	PERCENT CHANGE					
	Year ending		1 Month ending			
	MAY 1994	APR. 1995	MAY 1995	APR. 1995	MAY 1995	MAY 1995
U. S. City Average.....	147.5	151.9	152.2	3.1	3.2	0.2
(1967=100) .....	441.9	455.0	455.8	-	-	-
Los Angeles-Anaheim-Riverside	151.4	154.7	155.1	1.8	2.4	0.3
(1967=100).....	447.3	457.1	458.2	-	-	-
San Francisco-Oakland-San Jose	148.3	151.5	151.3	2.4	2.0	-0.1
(1967=100).....	456.0	465.8	465.1	-	-	-
West .....	148.8	153.2	153.5	2.9	3.2	0.2
(Dec. 1977 = 100) .....	240.6	247.7	248.2	-	-	-
West - A .....	150.4	154.0	154.2	2.4	2.5	0.1
(Dec. 1977 = 100) .....	245.2	251.1	251.4	-	-	-
West - C .....	147.8	155.9	156.4	4.9	5.8	0.3
(Dec. 1977 = 100) .....	229.2	241.8	242.7	-	-	-

### URBAN WAGE EARNERS AND CLERICAL WORKERS

INDEXES	PERCENT CHANGE					
	Year ending		1 Month ending			
	MAY 1994	APR. 1995	MAY 1995	APR. 1995	MAY 1995	MAY 1995
U. S. City Average.....	144.9	149.3	149.6	3.2	3.2	0.2
(1967=100) .....	431.7	444.6	445.6	-	-	-
Los Angeles-Anaheim-Riverside	146.2	149.5	149.8	2.0	2.5	0.2
(1967=100).....	432.2	441.7	442.8	-	-	-
San Francisco-Oakland-San Jose	146.1	149.4	149.0	2.6	2.0	-0.3
(1967=100).....	444.7	455.0	453.8	-	-	-
West .....	146.0	150.3	150.6	3.0	3.2	0.2
(Dec. 1977 = 100) .....	234.9	241.8	242.4	-	-	-
West - A .....	146.0	149.6	149.7	2.6	2.5	0.1
(Dec. 1977 = 100) .....	236.3	242.1	242.4	-	-	-
West - C .....	145.7	152.8	153.8	4.4	5.6	0.7
(Dec. 1977 = 100) .....	224.7	235.7	237.1	-	-	-

Size classes: A = 1,250,000 and over, B = Not available for West, C = 50,000 to 330,000, D = Not available for West.

Release date May 12, 1995. For more information, call (415) 744-6600. CPI 24-hour hotline numbers for the Pacific cities are as follows:

Anchorage	(907) 271-2770	Los Angeles	(310) 235-6884	San Diego	(619) 557-6538	San Jose	(408) 291-7012
Honolulu	(808) 541-2808	Portland	(503) 231-2045	San Francisco	(415) 744-6605	Seattle	(206) 553-0645

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The average coupon equivalent yield from the first auction of 26-week treasury bills in July 1995 is 5.71%. **The maximum allowable interest rate permissible for July 1995 is therefore 12%.** Compilations of the average coupon equivalent yields from past auctions of 26-week treasury bills, and past maximum interest rates of the past 10 years appear on page 72 of the June 1995 *Bar News*.

### Attorney alert:

Lawyers, businesspeople and other professionals are being solicited throughout the U.S. by individuals in Nigeria who seek to defraud them by obtaining copies of their letterhead and other blank documents. Although the solicitations arrive through the mails, the U.S. Postal Inspection Service does not have investigative jurisdiction in foreign countries. However, the Post Office, the Department of State and INTERPOL, Washington, DC, have joined in a public awareness campaign about the issue.

[The *Bar News* thanks attorney Melvyn J. Simburg for contributing this item.]

### Law Revision Commission final report on foreclosure project:

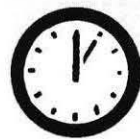
The Commission, funding for which was cut by the 1995 Legislature, reports that the Legislature enacted bills, recommended by the Commission, that correct two unconstitutional statutes, provide a procedure for judicial foreclosure of Article 9 security interests, remove obsolete provisions for chattel mortgages, repeal two obsolete statutes and eliminates seven double/triple amendments of RCW sections.

However, no legislative action was taken on the Commission's proposed Unified Real Property Security Interest Foreclosure Act (HB 1092). At its final meeting June 30, the commission again unanimously affirmed its support of HB 1092 and its objectives.

For more information on this issue, contact Robert P. Beschel, Spokane, (509) 838-6131, John W. Weaver, Tacoma, (206) 591-2222; or Marjorie D. Rombauer, Seattle, (206) 935-0490.







## August 1995

**3-6** Whistler, B.C.: WSTLA Annual Meeting & Convention.

**4** Seattle: Understanding and Drafting Trusts. *Sponsored by* WSBA CLE.

**6** Spokane: Justice Run '95. *Sponsored by* University Legal Assistance, Gonzaga University School of Law. *For information:* Gerri Newell, (509) 324-5791.

**10-11** Tacoma: Northwest Regional Legal Writing Conference. *Sponsored by* Seattle University School of Law. *For information:* (206) 591-2227.

**11** Spokane: Doctor/Lawyer Tennis. *Sponsored by* SCBA.

**11** Seattle: Workers' Compensation. *Sponsored by* WSBA CLE.

**14-16** DUI Defense Skills Certificate Program. *Sponsored by* UW CLE.

**15** Deadline for October 1995 Bar News copy.

**17** SeaTac: Product Liability. *Sponsored by* WSTLA. **CANCELLED.**

**18** Seattle: Choice of Business Entity: A Functional Approach. *Sponsored by* WSBA CLE.

**18** Seattle: How to Take and Defend Depositions. *Sponsored by* WSBA CLE.

**18** Olympia: Domestic Relations Drafting Gems. *Sponsored by* WSBA CLE. **Also August 25 in Seattle.**

**25** Spokane: Annual Golf Tournament. *Sponsored by* SCBA.

**17** SeaTac: Product Liability. *Sponsored by* WSTLA.

**25** TPCBA Annual Golf Tournament.

**26-29** Portland, OR: Confronting Trends with Innovative Strategies. *Sponsored by* Washington Association of Homes for the Aging. *For information:* (206) 248-7434.

**29-31** Seattle: Taking and Defending Depositions. *Sponsored by* NITA.

**29-31** Seaside, OR: Coastal Earthquakes and Tsunamis—Reducing the Risks. *Sponsored by* Oregon Extension Sea Grant Program. *For information:* Joy Burck, (503) 737-3771/Jay Charland (503) 737-1340.

## September 1995

**1** Comments due on WSBA Task Force on Governance final report. (See page 36 of this issue.)

**6** Seattle: Elements of Trial with

Judge Coughenour (first of 15 sessions). *Sponsored by* UW CLE.

**7** Seattle: Growth Management: Initiative 164. *Sponsored by* WSBA CLE/Environmental and Land Use Law Section.

**7-8** Seattle: WSBA Board of Governors meeting.

**8** Seattle: WSBA Annual Business Meeting.

**8** Family Law Skills Certificate Program (first of 12 sessions). *Sponsored by* UW CLE.

**8** Seattle: Technology and the P.I. Practice. *Sponsored by* WSTLA.

**14** Kalispell, MT: certification examination, American Bankruptcy Board of Certification (reflective of current law, including Bankruptcy Reform Act of 1994.) **Also held in Laguna Niguel, CA, December 1.** Sample exam with answers available for \$10. *Contact* Scott Williamson, ABBC, (703) 739-1023; ABBC 44 Canal Center Plaza, Suite 404, Alexandria, VA 22314.

**15** Deadline for November 1995 Bar News copy.

**15** Seattle: Taming Your Practice with Technology. *Sponsored by* WSBA CLE and Law Practice Management Section.

**15-16** Seattle: 5th Annual Northwest Alternative Dispute Resolution Conference. *Sponsored by* WSBA/UW CLE.

**21** Seattle: Violence & Liability. *Sponsored by* WSTLA.

**22** Seattle: Business Succession Planning. *Sponsored by* WSBA CLE.

**22** SeaTac: Fourth Annual Water Law Seminar. *Sponsored by* WSBA CLE.

**22** Seattle: Family Law Skills Certificate Program (first of 14 sessions). *Sponsored by* UW CLE.

**22-24** Mediation Skills Certificate Program. *Sponsored by* UW CLE.

**22-24** Tacoma: TPCBA Bar Convention.

**29** Seattle: NW Employee Benefits Conference. *Sponsored by* WSBA CLE and Taxation Section.

**29-30** Bellevue: Second Annual Washington Criminal Justice Institute. *Sponsored by* WSBA CLE and Criminal Law Section.

**29-30** Priest Lake, ID: 22nd Annual Tax Institute. *Sponsored by* Gonzaga U. Sch. of Law. Limited to 60 registrants. *For information:* (509) 328-4220 ext.

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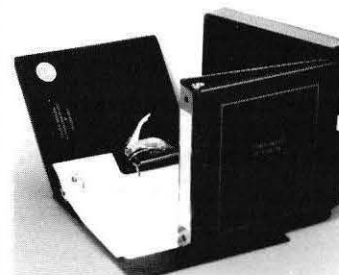
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### October 1995

**5** Spokane: Tort Law Update. *Sponsored by WSTLA. Also in Seattle October 6.*

**6** Spokane: Tax Deskbook. *Sponsored by WSBA and Taxation Section. Also in Seattle October 13.*

**6** Seattle: Environment/Endangered Species/Sweet Home Decision. *Sponsored by WSBA CLE.*

**10** Seattle: Washington Women Lawyers 25th Anniversary Dinner. *Contact: Tiffanie Kilmer, (206) 821-6117.*

**12** Spokane: Wrongful Discharge. *Sponsored by WSBA CLE. Also in Seattle October 19.*

**13** Seattle: Environment/Endangered Species/Sweet Home. *Sponsored by WSBA CLE.*

**12-13** Seattle: The Pacific Northwest and the Global Economy—The Americas. *Sponsored by Institute for Professional and Business Organization. For information: Leland Shepherd, (206) 285-5325.*

**18** Olympia: Valuing the Closely Held Business. *Sponsored by WSBA CLE. Also in Seattle October 19.*

**19** Seattle: Intellectual Property. *Sponsored by WSBA CLE.*

**20** Renton: Insurance Law Basics. *Sponsored by WSTLA.*

**26-27** Seattle: The 40th Annual Estate Planning Seminar. *Sponsored by*

Business Advisory Services, Inc. (206) 223-5400

CLE International (206) 621-1938

Davis, Wright, Tremaine (DWT) (206) 622-3150

Idaho Law Foundation (208) 342-8958

King County Bar Association CLE (KCBA) (206) 340-2579

Northwestern School of Law of Lewis & Clark College (503) 768-6642

National Business Institute, Inc. (NBI) (715) 835-7909

National Education Network (NET) (800) 637-0020

National Employment Law Institute (NELI): (415) 924-3844

National Institute of Trial Advocacy (NITA) (800) 225-6482. BBS registration, messages, etc.: Set communication program to 8 bits, no parity, 1 stop bit, then call (219) 234-7348.

Professional Education Systems (800) 843-7763; fax (715) 836-0105

Spokane County Bar Association (SCBA) (509) 623-2665

Tacoma-Pierce County Bar Association (206) 383-3432

University of Washington School of Law (UW CLE) (206) 543-0059; (800) CLE-UNIV

Washington Association of Criminal Defense Lawyers (WACDL) (206) 623-1302

Washington Association of Prosecuting Attorneys (WAPA) (206) 727-8202

Washington Defense Trial Lawyers (WDTL) (206) 233-2930; fax (206) 628-6611

Washington State Bar Association CLE (WSBA CLE) (206) 727-8202;

fax (206) 727-8320

Washington State Trial Lawyers Association (WSTLA) (206) 464-1011, (800) 732-9251

World Trade Club (206) 448-8803

WSBA CLE and Estate Planning Counsel.

**27** Renton: Annual Family Law Seminar. *Sponsored by WSTLA.*

### November 1995

**3** Seattle: Antitrust. *Sponsored by WSBA CLE and Antitrust Section.*

**3** Olympia: Ultimate Jury Guide. *Sponsored by WSBA CLE. Also in Seattle November 10.*

**9** Spokane: Eighth Annual Insurance Law Seminar. *Sponsored by WDTL. Also November 10 in Seattle.*

**10** Seattle: Administrative Law. *Sponsored by WSBA CLE and Administrative Law Section.*

**16** Spokane Family Law Mandatory Forms/Drafting. *Sponsored by WSBA CLE. Also in Seattle November 17.*

**17** Seattle: Commercial & Residential Real Estate Conference. *Sponsored by WSBA CLE.*

**30** Federal Tax Controversies. *Sponsored by WSBA CLE and Taxation Section.*

### December 1995

**1** Laguna Niguel, CA: American Bankruptcy Board of Certification exam. *See September 14 entry.*

**7** Seattle: Collection of Judgments. *Sponsored by WSBA CLE and Creditor/Debtor Section. Also in Spokane December 14.*

**8** Seattle: Distribution Law. *Sponsored by WSBA CLE.*

**8** Seattle: How to Draft Wills. *Sponsored by WSBA CLE and Young Lawyers Division. Also in Vancouver December 15.*

**15** Seattle: Best of CLE. *Sponsored by WSBA CLE and General Practice Section.*

**28** Seattle: How to Probate (VIA-CLE). *Sponsored by WSBA CLE and Young Lawyers Division.*

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# Washington Women Lawyers Celebrate 25 Years

## Readings from a Quarter-Century's Work

edited by Lindsay T. Thompson

*The first letter I received as a lawyer was an invitation to join Washington Women Lawyers. I disregarded it: clearly someone had gone through the list of attorneys newly called to the bar and assumed from my name that I was a woman.*

*In due course I learned WWL has many members who are men, and is a large, vital and impressively active organization within the bar of this state. In every aspect of practice their influence is felt, most recently in championing lawyer discipline rules proscribing sexual relationships with clients, as well as defining harassment in the workplace.*

*From a handful of lawyers WWL has helped launch the careers of hundreds of women lawyers. The bench is filled with women judges where not so long ago there were none. One of the articles quoted below reported on a superior court election in which two women were the candidates: since then such competition has extended to the state's supreme court itself. From old Bar News articles and WWL newsletter supplied to us, we have assembled some snapshots from the rich and varied history of this organization. They are, of course, no more than that: a few glimpses of what was on the way to what now is. We wish WWL a happy 25th birthday, and many more.*

Washington Women Lawyers was founded in 1970 by a small group of Seattle lawyers to promote equal rights for women and to advance women to positions of leadership within the legal profession. At that time there were only 17 first-year women law students, three women judges, and a handful of women attorneys practicing in Washington. In addition, Washington had not yet enacted its Equal Rights Amendment and married women could not jointly manage community property.

*-J. Alece Cox, "President's Report," WWL newsletter, December 1988*

On the first Tuesday of any given month a large group of women bearing briefcases and sack lunches will descend upon the conference room of a large law office in Seattle. Diverse in age as well as politics, this group of women may have but one thing in common—they are attorneys and they are attending a monthly meeting of Washington Women Lawyers, a loose association of women lawyers and law students organized in 1971. Originally just a handful, this group has grown to a

mag card mailing list of over 350 women lawyers and law students. Women outside the Seattle area, seldom able to attend these Seattle meetings, frequently send questions for group discussion.

*-Chris Young, "Washington Women Lawyers", Bar News, June 1975*

This is the debut of the WWL Newsletter. Plans at this point are to publish every other month and to focus on material or interest to women lawyers statewide and issues of interest to our organization.

*-"Introduction", WWL Newsletter, October 1979*

Washington Women Lawyers was organized primarily as a means of lobbying for greater participation of women lawyers in positions of responsibility within the legal profession. Implicit in its organization was the commonly held assumption that women attorneys are frequently the victims of discrimination within their own profession. This discrimination may take the form of pay differential or difference in job assignment, or it may be reflected in paternalistic treatment by the



Group photos from the June 1975 Bar News

judiciary. Even established bar associations involved in "liberal" political activity frequently refer to their women members with jest and jokes rather than with common professional courtesy. For years, women attorneys learned to put up with this type of treatment as part of a price for entering a male-dominated profession.



By the early 1970s, however, the growing ranks of women within the profession began to get together and share experiences. Militancy among younger women blended well with a cynical wisdom of the experienced, and from this blend grew a consciousness of the need for an organized body of women attorneys to influence change within the profession. Needless to say, men are not invited to the group's meetings.

**-Chris Young, "Washington Women Lawyers," Bar News, June 1975**

WWL recently became a statewide organization overseen by a Board of Directors. Each local WWL chapter has one representative on the Board, plus one additional representative for every 35 chapter members over the original 35. Plans are in the making to organize at-large representatives for those state members who are not affiliated with a local organization. . . . The annual meeting also provided a forum for members' reactions to demeaning and pejorative remarks made regarding women attorneys by speakers at the Convention's seminars. . . . Several men attending the seminar were also reportedly offended by the remarks. Members were urged to write to individuals who engage in such unacceptable and unprofessional remarks in similar situations and educate them as to their lack of sensitivity. Harriet Cody, president of the Seattle chapter, will bring the matter to the attention of the bar association. . . . Director Barbara Frost recommended that WWL be instrumental in seeing that more women attorneys are active on state bar committees. To promote such participation Liz Huneke and Barbara Frost were appointed to coordinate identification of prospective committee members, recommend such prospective members to the appropriate WSBA committees, and to schedule the attendance of at least one WWL member at each meeting of the State Board of Governors.

**- "WWL Board of Directors," WWL Newsletter, Fall 1979**

Whether or not Washington Women Lawyers will continue to flourish and be effective remains to be seen. As a group, it has defied tradition. It has no formal organizational structure, no officers and no membership rituals. Seldom are meetings chaired by the same person. While

this lack of traditional organization is viewed as a weakness by some, to others it has assured a grass roots level of participation seldom seen in similar membership group. Any member may propose specific activity, without the prerequisite of executive committee recommendation. Actions, once approved democratically, are quickly delegated for completion to a person or an ad hoc group. . . . An additional reason for the group's lack of formal structure has been the belief of some, perhaps naive, that the need for such an organization may be short-lived. With natural "attrition" and more women entering the profession, traditional male domination may soon be a thing of the past, but the experience of other minority groups has indicated that power is not always given up willingly. A white male backlash within the profession is not inconceivable.

**- Chris Young, "Washington Women Lawyers," Bar News, June 1975**

The Bar Liaison is WWL's direct link with the WSBA Board of Governors, a powerful body whose actions and decisions affect our lives as lawyers and citizens in numerous ways. The WWL Bar Liaison regularly attends and participates in the Board of Governors' monthly meetings, thereby continuously reminding them of the presence of women lawyers among their constituency.

WWL's contacts with the Board of Governors have dramatically increased the number of women appointed to bar committees and, in particular, the number of WWL members appointed. WWL was instrumental in convincing the Board of Governors to take a position opposing a call for a national constitutional convention. Our presence at meetings also gives us an opportunity to present WWL's viewpoint on issues, such as legislative issues, as they arise and to recommend members for appointment to task force positions as they are created. . . .

**- "Bar Liaison," WWL Newsletter, February 1983**

Thus Washington Women Lawyers may become a permanent group. Whether or not they do, however, is irrelevant. They have already served a function in pointing out shortcomings in the profession's treatment of women members. Few of those who have felt the wrath

of the Washington Women Lawyers critique or suggestions can continue to ignore the conditions which have bred the group's existence.

**-Chris Young, "Washington Women Lawyers," Bar News, June 1975**

At the July meeting, the Reorganization and Long-range Planning Committee gave a report. Mary Van Gemert outlined the three main objectives which have been agreed upon by the Committee . . . 1) to promote the selection of women to the judiciary; 2) to increase the visibility of women attorneys in professional settings; and 3) to improve women's rights through legislation.

**- "Board Report," WWL Newsletter, August 1984**

They said it couldn't happen. Some folks said that ten years ago, and some folks said it ten weeks ago. Never mind, they are all wrong and as a result, King County voters are faced with a rare and wonderful dilemma on election day: choosing between two highly-qualified women for King County Superior Court Judge Position #33. Out of an impressive field of six, Joan Allison and Anne Ellington have risen to the top to face each other in the general election.

**- "Allison and Ellington Vie For Position #33," WWL Newsletter, October 1984**

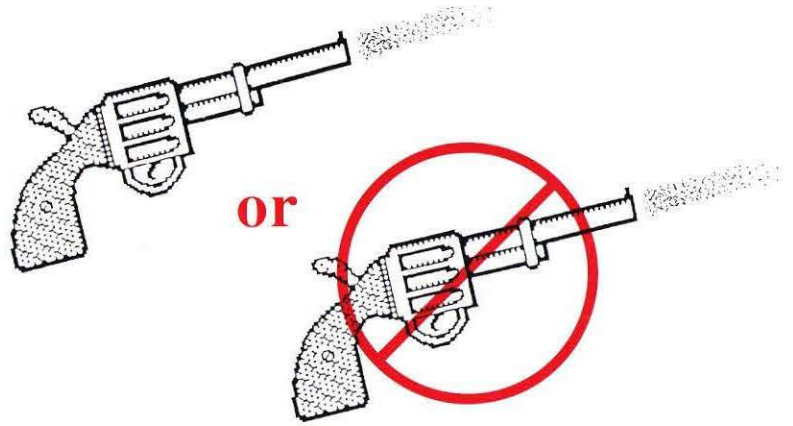
WWL's April fundraising dinner proved to be very successful both in terms of number of attendees and their enthusiasm. Close to 200 people were present to hear an address by Governor Booth Gardner. The Governor received an especially warm welcome, having just announced the elevation of Judge Roselle Pekelis to the State Court of Appeals and the appointment of Susan Agid to fill Judge Pekelis's position on the superior court bench. . . .

In July, the Washington State Bar Association announced that Julie W. Weston had been elected to replace Betty Bracelin as the Seventh District representative on the WSBA Board of Governors. This ensures the Board will continue to have one woman in its ranks for the next three years. . . .

**- Claudia Backlund and Janet Gaunt, "Presidents' Report - Fall 1986," WWL Newsletter**



# Gun Control as Crime Control



by William G. Dennis

**N**ewsweek magazine's article "The Media's Message" (January 9, 1995) described "an unprecedented public hostility toward the national media." To a great degree, the hostility arises from the press's preference for the "cheap shot" and an addiction to negative stories peopled by "villains." "What was lost in the press was that there were good people on all sides that differed philosophically about what should be done." Those of us that want to encourage a rational informed debate about armed crime in America can certainly relate to that article.

In spite of her obvious good intentions, Ann Landers' columns provide abundant examples of cheap shots, shrill attacks, and just plain misinformation. Once she wrote that a crime victim was better off not to resist an armed assailant. This seemed odd to me for reasons that will become clear below.

I wrote and asked where she had gotten her information, and after some prodding, she cavalierly responded that I should do as she had done and ask a policeman. The ones I had already asked had certainly not agreed with her. But more important, we have all read any number of her columns where she makes a major point out of the source of her information. Her unwillingness to specify which officer in what department she had consulted seemed more than a little odd.

I could fill this article with examples from her column because her zealous pursuit of crime control through gun control seems to accept truth as an unimportant casualty.

Ann Landers is by no means atypical. In the April 1994 *Bar News*, I described a 90-day summary of the stories about shootings that had appeared in the Longview *Daily News*. Pieces about misuse of firearms by criminals and crazies

predominated over stories about legitimate self-defense, in spite of the fact that many criminological studies have shown at least a rough correspondence between the numbers of firearm abuses and legitimate self-defense uses. More telling, the stories about abuse were from locations that averaged 26 times further away from Longview than the incidents involving self-defense. The paper, or more properly the wire services from which the paper drew, would print an article from anywhere in the world about firearms abuse, but not articles about self-defense. So unless the events described in those stories had occurred so close to Longview that the reader could learn about the incident from other sources of information, he wasn't going to learn about it from the *Daily News*.

In the fall of 1994, there was spectacularly successful example of self-defense near Portland that ended with the armed citizen driving the wounded would be carjacker to the hospital. That incident was not reported here, even though it occurred only a few miles away. This prompted me to repeat my *Daily News* study, and the lack of balance was even more pronounced. In 13 weeks there were 92 stories about abuse and not a single one about self-defense. Incidents involving successful self-defense occurred in the Northwest during the study, but they were not reported either.

The zeal we see in Landers' columns seems to permeate the whole industry. If you take nothing else away from this article, realize that someone cannot be well-informed on this subject simply by casually reading a few newspapers and weekly magazines.<sup>1</sup>

But in fairness to the media, much of the information to support the views advanced in this article is there for someone who wants to spend the time digging it

out. The sources cited herein are all well respected mainstream publications, and they are supplemented only by material drawn from specialized professional periodicals.

This article provides some balance on this subject by presenting information that has failed to get the exposure it deserves, such as the substantial body of scholarship that holds that gun control, as it has been pursued in this country, has failed to be a significant deterrent. (See Nelson Polsby of Northwestern University School of Law, "The False Promise of Gun Control," *Atlantic Monthly*, page 57, March 1994). That is not a point of view that gets much exposure from the media.

The main point that Polsby's article makes is, "Guns don't increase national rates of crime and violence, but the continued proliferation of gun control laws almost certainly does." The bulk of the homicide in this country does not involve stressed-out madmen or domestic violence, but rather organized crime (drug dealers' turf wars, etc.) and petty crime that escalates into violence. Our worst nightmare of a dictatorship could not collect all of the guns in this country. A great many will continue to be in circulation no matter what we do. The main effect of gun laws is to drive up the price of firearms and to encourage the stickup artist to believe that his victim will not be armed.

To see what Polsby is getting at, compare the experiences of the city of Chicago, which has tightened its concealed-carry law, with the state of Florida, which loosened its law. Chicago's action followed a period of several years when the proportion of homicides committed in the city with handguns had been falling, a trend which stopped immediately; the proportion of homicides committed with handguns has increased substantially



**" The mainstream press normally presents statistics for the nation as a whole as if the level of armed crime were the same everywhere. But that is not at all true. "**

since. (*Wall Street Journal*, March 25, 1991) By way of contrast, Florida has experienced a phenomenal 29 percent decrease in its homicide rate since it eased its concealed-carry law (*Time*, March 27, 1995), and only 19 of the permits granted since the easing have had to be revoked because of the holders' criminal acts. (*Christian Science Monitor*, April 6, 1995).

One weakness in the case for gun control as crime control is that Americans use their guns with startling frequency to defend themselves. Gary Kleck is a criminologist at Florida State. Although gun prohibitionists summarily dismiss him as "pro-gun," he began studying civilian defensive use of firearms primarily because it was an open field, not because he had a particular point of view he wanted to advance. He is a member of the American Civil Liberties Union, Amnesty International USA, and Common Cause. A self-characterized "tree hugger," he is a lifelong registered Democrat.

He initially published an estimate that Americans make legitimate self-defense use of firearms on the order of one million times a year. (*Journal of Quantitative Criminology*, March 1993). It was based on 10 surveys done by other researchers that yield results of the same order of magnitude. This was so startling that he conducted his own survey and found, "Each year there are at least 2.5 million defensive uses of guns by crime victims, about four to five times the number of crimes committed with guns." (Citing Kleck and Gertz in *Social Pathology*, January 1995).

Anyone who wants to deny Americans the opportunity to defend themselves has to deal with the fact that Kleck's research encountered all too many cases like that of the Everett couple who felt the need for an armed neighbor to be at their home when their son arrived from school. When an intruder—who was later identified as a suspect in several sexual assaults on children—tried to break into the house, the neighbor used his gun to drive him off, and the would-be intruder was apprehended by police (*The Herald*, December 12, 1991).

In contrast, estimates of the criminal use of firearms range between 600,000 and 1,000,000 times a year (*Longview Daily News*, May 16, 1993). All this certainly gives one a reason to be skeptical of Ann Landers.

Also, much of that criminal use takes place in areas like New York and Washington D.C., where the citizen is legally forbidden to be armed for self-defense, and which have the highest crime rates in the country. Strip away the laws that disarm the citizen, and criminal use of firearms in those areas might decrease to the lower levels that typically exist where such laws are not in effect.

The weakness of the case for gun control is also masked by the fact that the mainstream press normally presents statistics for the nation as a whole as if the level of armed crime were the same everywhere. But that is not at all true. In an article that appeared in *The New England Journal of Medicine*, November 10, 1989, the authors tried to make a case for gun control as crime control by comparing homicide statistics from Seattle and Vancouver, B.C.

But what came to light was that the homicide rate for "Non-Hispanic Caucasians" (about 75 percent of the population in both cities) was actually lower in Seattle, with all its lack of gun control, than it was in Vancouver. The higher overall homicide rate in Seattle was due to the fact that certain portions of Seattle's minority populations have extremely high homicide rates compared to its "Non-Hispanic Caucasian majority" and to similar communities in Vancouver.

The situation among African-Americans is typical. The homicide rate in the whole Seattle African-American community is five times the rate among Seattle's "Non-Hispanic Caucasian" rate. Nationally, the per capita homicide rate for African-Americans is 11 times that of whites. (*Newsweek*, August 25, 1994). Since there is no reason to believe that the rate among African-Americans who live in suburbs is any different from that of their white neighbors, the rate in the inner-city portions of the African-American community must be actually much higher. Na-

tionally, about a fifth of African-Americans live in poverty in inner cities (*Christian Science Monitor*, August 17, 1994), which suggests that the per capita homicide rate among the part of the community that lives in those inner-city neighborhoods must be on the order of 20 to 25 times the rate for the city as a whole.<sup>2</sup>

These circumstances are not an argument for gun control. Guns are barely a symptom of our problem, not a basic cause.

African-Americans have the highest rates among ethnic groups in Washington for aggravated assault, rape and homicide. The category of race is a proxy for social and economic status—factors directly linked to the incidence of violent crime.

*"A Preliminary Assessment of Violent Crime in Washington State," Washington State Department of Health, 1993*

These facts call for efforts to deal with these underlying causes, not for more gun control.

Actually, Vancouver's experience is one of many examples of a gun ban being followed by an increase in the homicide rate. In the seven years following British Columbia's ban, Vancouver's rate went up substantially ("Evaluation of the Canadian Gun Control Legislation," Elisebeth Scarff, Decision Dynamics Corporation).

This pattern was noted as far back as the passage of the Sullivan Act in New York. (*The Gun in America*, Kennett and Anderson, page 185), as well as when Chicago effectively banned the concealed carrying of pistols by refusing to license any more residents to carry them (*Wall Street Journal*, March 25, 1991, page A10). It was also noted both when Washington D.C. banned handguns and when California banned certain assault weapons (FBI uniform crime reports).

In some cases, there probably wasn't a cause-and-effect relationship. But the sheer number of times the phenomenon has been noted means that it can't be ignored, especially since a decrease in the crime rate has been noted when gun controls are loosened ("A Better and Safer Place to Live," *Washington State Bar News*, April 1994).



**“ Politicians in police uniforms get considerable publicity when they ask for gun control measures. ”**

What initially seemed to be a strong argument for gun restrictions was a study of suicides and gun ownership done in Seattle by Gary Kellerman and his associates that appeared in *The New England Journal of Medicine*, June 12, 1986. The authors found that a gun in the home was 43 times more likely to be used to shoot a member of the family who lives in the home than it was to be used to shoot an intruder. Most shootings were self-inflicted. The authors argued that substantial numbers of lives might be saved if people did not keep guns in their homes.

But this study turns out to be one of the best examples of why prohibitionists' claims are worthy of very close scrutiny. The people I contacted who work in suicide prevention indicated unanimously that suicide incidence is governed by drug and alcohol abuse and personality disorders, and that controlling access to guns would not have a significant effect.

I became even more skeptical when I realized that firearms are only marginally more effective than hanging and other commonly used means of committing suicide. In order to accept the authors' conclusion that gun control might significantly reduce suicides, we must first accept the proposition that somehow having a gun in the home encourages thoughts of suicide. This flies in the face of what I was told by the people I contacted.

The study was heavily criticized (*See The New England Journal of Medicine*, December 24, 1992). The authors fell back on earlier work that suggested "that guns kept in homes are involved in unintentional deaths or injuries at least as often as they are fired in self-defense." But if rough parity between legitimate (self-defense) shootings and "unintentional deaths or injuries" is the best the authors can claim, they are on exceedingly weak ground. Kleck and his associates found that there are several defensive uses of a firearm where the gun is not fired for every time it is. Taken together, his work and the authors' arguments suggest strongly that guns are used far more often for self-defense than in instances where they create "unintentional deaths or injuries."

These are just some of the reasons that gun control as crime control is viewed skeptically by crime prevention experts. Politicians in police uniforms get considerable publicity when they ask for gun

control measures. But no policeman with whom I have ever discussed the matter (perhaps a hundred over the years) has ever spoken in favor of gun control as a crime control measure. The response that I got from a State Patrol sergeant was typical. He felt that a gun law would keep an honest person honest, but a crook would always get a weapon if he wanted it. Some police officers do favor gun control. But when the Death Penalty Information Center polled police chiefs and sheriffs, only three percent said that gun control was the most important thing we could do (*Wall Street Journal*, March 10, 1995).

It appears that the popularity of the argument for gun control as crime control comes not from some strong intellectual or factual basis, but from the tens of millions of dollars of free publicity that the media give gun prohibitionist groups every year.

Most people who have not made a study of gun control have the impression that our homicide rate is now far worse than it was at any time in the past, and that it is rising rapidly. That impression comes from the constant drumbeat of crime stories appearing in all segments of the media. But the truth is that the per capita homicide rate in this country is no worse now than it was 20 years ago, and considerably below its all-time high. Most experts see it currently trending slightly downward (*Christian Science Monitor* February 19, 1994; *Longview Daily News*, December 7, 1993, February 19, 1994; *Money*, June 6, 1994).

Press bias is especially evident and especially misleading in the coverage given to opinion polls that purport to show a vast base of support for the prohibitionists. Typically, the questions asked by the pollsters concentrate on traditional gun control proposals (registration, confiscation and the like). They usually don't even give the respondent the opportunity to express a preference for less gun control or for alternatives, such as the restrictions that are designed to impact groups whose behavior has suggested that they should not have the same access to firearms as the rest of the population—convicted felons, juveniles and those with a

history of mental disability.

This abuse of the media's discretion is so clear that Everett Carl Ladd, the head of the Roper Center for Public Opinion Research, used it as an example in his column in the *Christian Science Monitor*, (June 18, 1993), "Misreported Polling Data Fails an Informed Citizenry." The article centered on a poll conducted by Lou Harris, no longer associated with Louis Harris and Associates. It made the startling finding that "a majority of Americans now favor a total ban on the possession of handguns unless a court explicitly grants an exception". Ladd notes that this result is enormously different from other poll results. Harris got that response by asking the crucial question after a long series of other questions designed to put the respondent in a mood to answer the way he wanted. Ladd's conclusion was that Americans need to be skeptical, and the press needs to "develop more effective means for assessing accuracy".

Even if they had the money, the NRA and similar groups simply do not have the opportunity to match the publicity that the media regularly hands anti-gun groups. It was only when measures such as three-strikes-and-you're-out laws became popular that the fact that the homicide rate is actually stable received wide dissemination as part of arguments that such Draconian measures were unnecessary.

So far, this article has suggested that there is good reason to be skeptical about traditional gun control measures as crime fighting tools, and that that skepticism is shared by many people whose opinions ought to be heard. It suggests that those opinions are not given the attention they deserve because the press often falls well below any reasonable standard of objectivity on this subject. It has also presented reasons to suspect that at least some of the scientific work that appears to favor traditional gun control is subject to the same criticisms. But it is equally important that a good part of the research that analyzes the gun crime link concludes that traditional gun control is not a useful means of controlling crime.

The work of two of the most distinguished sociologists in contemporary America, James D. Wright and Peter



Rossi, is a case in point. Wright is a Professor of Human Relations at Tulane and has received numerous professional honors. Initially there was a distinct anti-gun bias in his published work. But as he and Rossi explored the subject, they became increasingly disenchanted with that viewpoint. In their landmark study, "Weapons Crime and Violence in America" (1981), they concluded,

"There appears to be no strong causal connection between private gun ownership and the crime rate . . . There is no compelling evidence that private weaponry is an important cause of, or a deterrent to, violent criminality."

Such a conclusion from someone who must contradict his own prejudice and previous pronouncements does not come lightly and has a special credibility.

But Wright's later work moved him even further from advocating traditional gun control measures. In his article in the March/April 1995 issue of *Society Magazine*, he concludes that that type of anti-crime measures are unlikely to impact our problems in any positive way. He finds that evidence for this is so clear that he notes that it is difficult to dismiss the theory that the measures are just a first step toward outright confiscation of all firearms (as Senator Diane Feinstein recently advocated).

For example, Wright found that almost all firearm purchases covered by the Brady

five-day waiting period were made by individuals who resided in households where there were already one or more guns. How can a delay in selling an additional gun to someone who already has access to one or more guns reduce crimes of passion?

Wright also notes that a detailed examination of instances where large-magazine capacity "assault weapons" were used in crimes found that large magazine capacity was almost never a factor in how much damage was done. However, there was at least some evidence that substitution of hunting rifles, whose rounds are normally far more lethal than the low- or medium-power cartridges used in "assault weapons," substantially increased the seriousness of wounds that were inflicted and the number of deaths that resulted.

More importantly, he has moved away from his original conclusion that there is no compelling evidence that guns are a valuable deterrent against violent criminality. He cites Gary Kleck's work, which was not available when he made that statement, and asks, "Does a society that is manifestly incapable of protecting its citizens from crime and predation really have the moral authority to tell people what they may and may not do to protect themselves?"

This article has examined the proposition that we can control crime by limiting the access of all Americans to firearms. The historical evidence and the scholarship cited here show that that is a very

dubious proposition indeed. Allowing people to be free to defend themselves and concentrating gun control on those that abuse guns might be much more productive.

None of this can be read as an argument that gun control is illegal or necessarily unproductive. Neither is it an argument that our homicide rate 20 years ago, or now, is anything to brag about. But it does suggest that we would not be wise to institute most of the gun controls that are currently being advocated.

#### Notes

<sup>1</sup> Alas, the legal profession, which is often criticized for emphasizing its advocacy role at the expense of scholarship, is not immune to the news media's problems. In the July *Bar News*, I described an advertisement, signed by a number of law school deans, that advances the theory that the Second Amendment does not provide an individual right. But none of the signatories had published on the topic, and the vast preponderance of those scholars who had published had come to the conclusion that we do have such a right.

Another example is the interview with Nadine Strossen of the ACLU that was published in *Reason* magazine in October 1994 and contained the comment, "The plain language of the Second Amendment in no way, shape, or form, can be construed as giving an absolute right to unregulated gun ownership." The comment is accurate, but it implies that some major player in the debate, such as the NRA, thinks that there is such a right. Anyone who has read NRA material on this topic knows that it doesn't take such a position, and to the best of my knowledge, neither does any other major player. The debate is about the shape or extent of that right.

<sup>2</sup> Anyone who thinks that I am being unfair to the authors is obliged to read the devastating criticisms of their work that appeared in the May 4, 1989 issue of *The New England Journal of Medicine*. My favorite comment remains that of John Gryder of Johns Hopkins University, who identified himself as "politically in favor of gun control" and then went on to explain why this work is flawed science.



WSBA member William G. Dennis practices in Kelso.

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## THE JUDICIARY

White Salmon attorney **Tom Reynolds** is the new superior court judge for Skamania and Klickitat counties. A graduate of Gonzaga School of Law in Spokane, he has served as both prosecutor and public defender. He has practiced law in both counties for 18 years.

## NEWS FROM HOME

**Robert S. Mahler** has joined MacDonald, Hoague & Bayless as Of Counsel. He was formerly an Assistant Federal Public Defender in Seattle. **Marsha Farris Song** has been named an associate with the firm. She is a former judicial law clerk for the U.S. Department of Justice Executive Office for Immigration Review in San Antonio, Texas. **Kevin Lederman** has become a director of the firm and will continue his practice in immigration law.

Two attorneys with Schwabe, Williamson, Ferguson & Burdell—**Paul N. Daigle**, who has focused on maritime law and insurance defense, and **Roland F. "Jerry" Banks**, noted as a trial lawyer in the areas of product liability and business litigation—have become fellows of the American College of Trial Lawyers.

**Elizabeth Copperwhite**, former designated counsel in the Office of the Public Defender for the State of New Jersey, has become associated with the Spokane office of Preston Gates & Ellis. She will practice in the areas of environmental law, land use law and general civil litigation.

**Richard Algeo** is chair-elect of the WSBA Tax Section. He is an adjunct professor at Gonzaga University School of Law.

**Irvin W. Sandman**, editor of the WSBA *Creditor/Debtor Section Newsletter* and cochair of the ABA Task Force on Alternative Dispute Resolution in Bankruptcy, is the new section chair.

**Adeola Enigbokan** of The Bush School and **Mariama Covington** of Garfield High School received Graham & Dunn merit scholarships, which assist with the first year of college tuition. "The scholarship fund was created to honor past mem-

bers of the firm by enhancing opportunities for others in our community to realize their potential," said **John T. John**, president of Graham & Dunn. "Through their academic performance and work experience, the young women receiving this year's awards have laid a foundation for further achievement, and they exemplify the firm's ideals of community commitment."

The firm also announced that **Christi Muoneke** and **Margaret D. Christopher** joined the firm as associates in its corporate group and litigation group, respectively.

Lane Powell Spears Lubersky welcomed **John M. Cerqui** as a general litigation associate. He will concentrate his practice in business and commercial law.

**A. Reid Allison** has moved from Seattle to practice in Mt. Airy, Maryland. He can be reached at (301) 829-3191.

**Monica Kirk** of the EPA's Office of Regional Counsel in Seattle has begun a one-year fellowship at the Government Accountability Project (GAP) office. GAP is a public-interest project devoted to government and corporate accountability by advancing occupational free speech, defending whistleblowers and empowering citizen activists.

Spokane attorney **Julie A. Twyford** recently moved her office to 1402 W. Broadway, Ste. 101, Spokane, WA 99201.

**Jean M. O'Keefe** moved from Wenat-

chee to the Spokane firm of Grove & Morgan as an associate. Her primary areas of practice are real estate, estate planning, trusts and landlord-tenant law.

**Paul Silver**, an attorney with Karr Tuttle Campbell, received the King County Bar Association's 1995 Pro Bono Award at the association's annual dinner. Washington Court of Appeals Judge **Anne Ellington**, who presented the award, praised him for "his sustained and quiet commitment to service in this community, which comes from a deep personal generosity and for which he seeks no public recognition. His work has had a wide and deep effect in our community and has inspired many others to follow him in giving of their professional expertise for those less fortunate."

**Shawn Hart**, a 1995 Gonzaga School of Law graduate from Seattle, placed second in the recent Roscoe Hogan Environmental Law Essay Contest, which is open to environmental-law students from all law schools in the United States. The title of his essay was "Compliance with Federal Environmental Standards Should Not Provide a Defense to State Torts Absent an Express Congressional Intent to Preempt State."

**F. J. Dullanty, Jr.**, previously with Winston & Cashatt in Spokane, has joined Witherspoon, Kelley, Davenport & Toole. His primary areas of practice remain in real estate, land use planning and condemnation.

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**Cynthia L. Schwartz**, a former partner with Hackney Schwartz, March & Carroll, has opened her new practice at 221 N. Wall, Ste. 426, Spokane, WA 99201. Her practice focuses on civil negligence and litigation, business and commercial, wills and guardianship/GAL matters.

Also in Spokane, **Teresa A. Sherman** has opened her own office at 1212 N. Washington, Ste. 210. She was formerly of Stamper, Sherman, Stocker & Smith.

**Denise A. Lewis**, who has worked as a family support advocate and on the staff of the Spokane Housing Authority, helping low-income clients and families to find housing, recently became the Volunteer Lawyers Program Coordinator at the Spokane County Bar office.

Davis Wright Tremaine announced that **Christopher R. Helm** has joined its Seattle office as "of counsel." He advises Japanese business in the Pacific Northwest and counsels American companies

entering the Japanese market.

The WSBA named **John Myung** as its liaison with the Asian Bar Association. Myung, currently chair of the WSBA Opportunities for Minorities in the Legal Profession Committee, is committed to bringing Asian issues to the Bar and assisting it in efforts to increase diversity.

**Simmie Baer**, head of the juvenile division for Seattle's Public Defender Association, received the ABA Livingston Hall Juvenile Justice Award, given to the nation's most outstanding "unsung hero" in the field of juvenile justice. She and **Pat Arthur**, of Evergreen Legal Services, also won a \$57,000 federal grant for "TEAMCHILD," a program they created which allows the Public Defender Association to hire a civil lawyer to help young offenders obtain education and welfare benefits.

UW Dean **Wallace Loh** will become vice chancellor for academic affairs at the University of Colorado at Boulder. He has taught at the UW law school since 1974 and served as its dean for five years.

**Seth Dawson**, former Prosecuting Attorney for Snohomish County, received the Outstanding Achievement Award by a Public Official from the Washington Council on Crime & Delinquency at its annual meeting and award luncheon. Recently retired Washington Supreme Court Justice **Robert F. Utter** received the "Mark F. Cooper" Lifetime Achievement Award.

Attorneys **Karen Perret**, **Martha Ries** and **Amy Sommers** will join the board of directors of Seattle's World Trade Club, which recently established an international trade scholarship and is celebrating its 50th anniversary this year. (See page 40 of this issue.)

Lane Powell Spears Lubersky has announced the addition of two associates. **Matthew W. Claman** practices in Anchorage, in the fields of professional malpractice, white-collar criminal defense and appeals litigation. He was formerly with the Anchorage office of Preston Gates & Ellis. **Diana T. Jimenez** has joined the firm's Seattle office as an associate in international and business law.

Preston Gates & Ellis has received the 1995 Environmental Education Award from the Association of Washington Business for its leadership in establishing its own waste reduction and recycling program as well as the Law Firm Waste

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Reduction Network. The network promotes waste reduction strategies within the Puget Sound legal community. In addition, **Ken Weiner**, founder of the firm's environmental and land use practice, received an outstanding service award for more than a decade of service to the state's business community, most recently focusing his efforts on environmental and land use matters. Meanwhile, **Shannon J. Skinner**, a partner in the real estate department, is one of only 13 attorneys in the United States this year elected to membership in the American College of Real Estate Lawyers.

Reed McClure has announced the addition of **Geoffrey Groshong** and **Brian Schuster** to its reorganization, bankruptcy and creditor's rights practice. Both were previously associated with the Seattle firm of Erickson and Groshong.

**Michael Pfau** has joined Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, L.L.C. Pfau, a graduate of the University of Michigan School of Law, will focus on trial practice.

**Robert F. Utter**, recently retired after 23 years on the Washington Supreme Court, has announced plans to serve as an arbitrator and mediator for the American Arbitration Association.

**Nyle G. Barnes**, retired partner in Riddell, Williams, Bullitt & Walkinshaw, and his wife, **Galen**, moved in June to Jakarta, Indonesia. Barnes has joined the Indonesian law firm of Ali Budiardjo, Nugroho, Reksodiputro, where he expects to do a wide range of business law work for American and other foreign clients of the firm. He can be reached by fax at 011-62-21-250-5001.

Bogle & Gates has added three new partners in the firm's Washington DC environmental law practice. **Jerome C. Muys**, **Gregory M. Pensabene** and **Beth S. Ginsberg** are the new members of the firm. In the Seattle office, **David E. Friedman** has joined the firm as an associate, and **Kelly P. Corr** and **William F. Cronin** were recently appointed cochairmen of its litigation department. The firm honored **Patrick Madden** and **Timothy Cranton** with the 1995 Robert W. Graham Public Service Award for their outstanding contribution to the community through pro bono legal services. During 1994, Bogle & Gates donated nearly 8,000 hours, worth in excess of \$1 million, to assist individuals in need and nonprofit

organizations whose primary activity is services to persons of limited means.

**Jeffrey J. Duggan** has been named a partner in Levinson, Friedman, Vhugen, Duggan and Bland. Prior to joining the firm, Duggan was associated with a South Carolina law firm, where he handled asbestos injury and other products liability cases.

Miller Nash Wiener Hagger and Carlsen announce that **Peter S. Holmes**, **James H. Jordan, Jr.** and **Bruce A. Kaser** have become partners in the firm, **Susanne C. Lacampagne** has become of counsel, and **Elizabeth Clark**, **Ning Fu**, **Kevin Y. Jung**, **Elizabeth Lee**, **Stephen M. Seidel**, **James M. Shore** and **Claire Turcotte** have become associates of the firm.

**David D. Hoff**, a partner with Riddell Williams Bullitt & Walkinshaw, has been

elected a fellow of the American College of Trial Lawyers. He is a former president of the Washington State Bar Association.

Hospitality (hotels, restaurants, beds & breakfasts) lawyer **Philip Harris**, an associate with Ericsson and Egan, P.C., has been appointed to the Board of Directors for the Portland Oregon Visitors Association. **Lisa Brett Egan** and **Lloyd Ericsson** were married May 21 while in flight in an original Western Airlines DC-3, adjacent to Mt. Hood, at 11,000 feet. They are both lawyers and pilots. The romantic ceremonial flight took 28 passengers and crew around the north face of Mt. St. Helens and Mt. Hood.

**William Knowles**, of Gaitán and Cusak, has been elected to the Executive Committee of the Northwest Insurance Council.

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## AMERICAN IMMIGRATION LAWYERS, WASHINGTON CHAPTER

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New officers elected to the Washington State Chapter of the American Immigration Lawyers Association are: **Ira Rubinstein**, president; **Janet Cheetham**, vice president; **Greg McCall**, secretary; **Kathy Weber**, treasurer; **Kevin Lederman**, program chair; and **Jackie Wood**, membership chair.

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## KITSAP COUNTY REPORT

by **JOAN CASE**

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The ground rules for this column are slightly different from those for the *Inquirer*—most anything that crosses the correspondent's path will likely end up here, except stories about teens impregnated by aliens—whether or not the aliens are alleged to be teens also. The second ground rule is that the reader must bear in mind that there is a substantial delay between the time this round-up of current events of interest to the bar is written and when it appears, so there is always the risk of reporting with breathless prose the nomination of **George Bush** which will appear in print the day of Clintons' inaugural ball.

One of the functions that seems really worthwhile, however, is to attempt to report the new faces in the Kitsap legal community. This should serve two groups: the new faces, who may want us all to know they are out there, and the functionally challenged, who have bar numbers under 20,000 and can often be seen and heard standing in knots on Friday in the courthouse saying things like, "But they all look so young!"

New to our midst, as best I can tell, are the following new faces: **Stuart Ainsley**, **Ahmet Chabuk**, **Pam Dale**, **Kevin Hull**, **Diane Karr**, **Gerald Kearney**, **J. J. Jameson**, **Ann Marshall**, **Michael Morrison**, **David O'Conner**, **John Paulson**, **Darlene Piper**, **David Roberts**, and **J. P. Whitney**.

This hopefully relatively accurate list was compiled from a list of county bar

dues paid and the current list of attorneys published every other full moon by the Beattie law office. If there is a new attorney who has been missed, please call and tell me who you are.

Another project that recommends itself for the assistance of those few lawyers who are not located or locating in the 'magic circle' in Silverdale is the one allegedly planned by the same group that does the tour of stars homes in Hollywood. Busloads will be given maps of law offices in Silverdale and then taken on tours to see the sights. Allegedly, there will be a tour guide on each bus to describe the local wonders tourgoers will see, but please remember no one will be allowed to leave the bus or ask for autographs. The real promise of this venture is that it may be the subject of a request to the bar association for funding with some of our IOLTA funds. (You remember IOLTA—Interest of Outlying Lawyers Taken Away).

News from the Heartland is that the new prosecutor has been making some changes, especially in the handling of criminal cases. The cases, as it has been understood (we hope it is the same as it was explained) is that prosecutorial staff will be formed into a charging unit which will see to the initial charging, will get discovery quickly to defense attorneys and make plea offers. Once that phase is completed, the case will go to a trial unit which will, as you probably guessed, handle the trial stages of the case. So far, defense counsel are hopeful this system will make the process more effective and intelligible for their clients. This is an idea modeled after King County, but it might work, anyway.

Lawyers in motion—**Bob Spader**, **Paula Crane** and **Nancy Rees** to sole practice; **Holly Banks** to practice in the child support division of the prosecutor's office (soul practice, perhaps?); and **David Wecker** to perpetual motion (in the same old location as always). Also new in the prosecutor's office is **Elizabeth A. Bricker**, known to this writer and now to all of you as Sweet Annie Bricker—call her up and say, hey, why don't you!

The bar picnic is going to be a bit early this year—for those of the practice who plan to send their kids to Poulsbo as soon as school is out with no quarter for the phone, as a way of cutting down summer child care expenses. So be on the lookout

for the announcement, or it's Kiddie Land again.

The Friday motion calendar continues to grow to epic proportions in superior court. However, there apparently is no truth to the rumor that positions one through ten on the domestic-relations calendar are being offered for sale on the Internet.

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## LAW FUND REPORT

by **LAUREN MOORE**

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Thanks to all who have already joined our 1995 Annual Campaign. This year we have witnessed threats to the already limited federal and state funding for civil legal services. A massive cooperative effort successfully saved the state funding. LAW Fund's mission is to preserve and expand civil legal services for the poor in Washington. We need every member of the bar to participate so that we can spend less time just trying to preserve legal services and move forward so that those with compelling legal needs may be served. Please send your contribution to LAW Fund, 1326 Fifth Avenue, Suite 815, Seattle, WA 98101.

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## WASHINGTON ASSOCIATION OF LEGAL SUPPORT PROFESSIONALS

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Elected ALSP officers for 1995-1996 are: **Bonnie Gerber**, president; **Roxanne Forrest**, president-elect; **Diana Osborne**, first vice president; **Eleanor Johnson**, second vice president; **Cindy Manson**, corporate secretary; **Julie Moore**, treasurer; **Jan McDonough**, National Director. Osborne is also the recipient of the 1994-1995 Officer of the Year Award. **Louise Akramoff**, member of the Thurston County Legal Secretaries Association, received the Legal Support Professional of the Year Award. ALSP Awards of Excellence went to **Marcia Heying** of Seattle and **Margaret (Peigi) Flynn** of Renton.



**Mary Gallagher Dilly** was elected chair of the Statute Law Committee at its June 9 meeting. A senior administrative law judge with the Employment Security Subdivision, she has served on the Committee since 1993: as a member of the budget subcommittee, as chair of the acquisition subcommittee and as ethics advisor. **John G. Schultz**, former WSBA governor, was elected vice chair. He has served as chair of the CD-ROM overview subcommittee.

She replaces outgoing chair **Raymond W. Haman**, who was honored at the

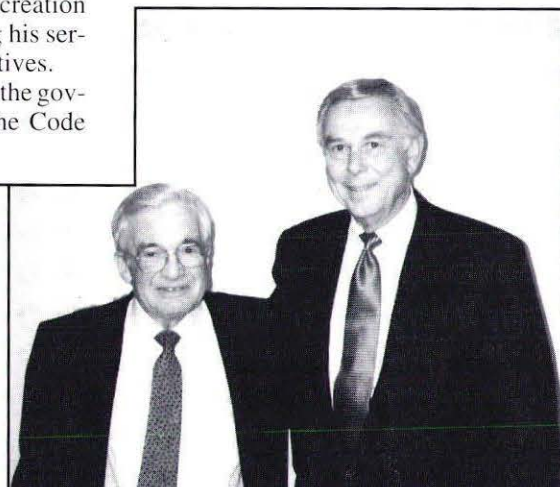
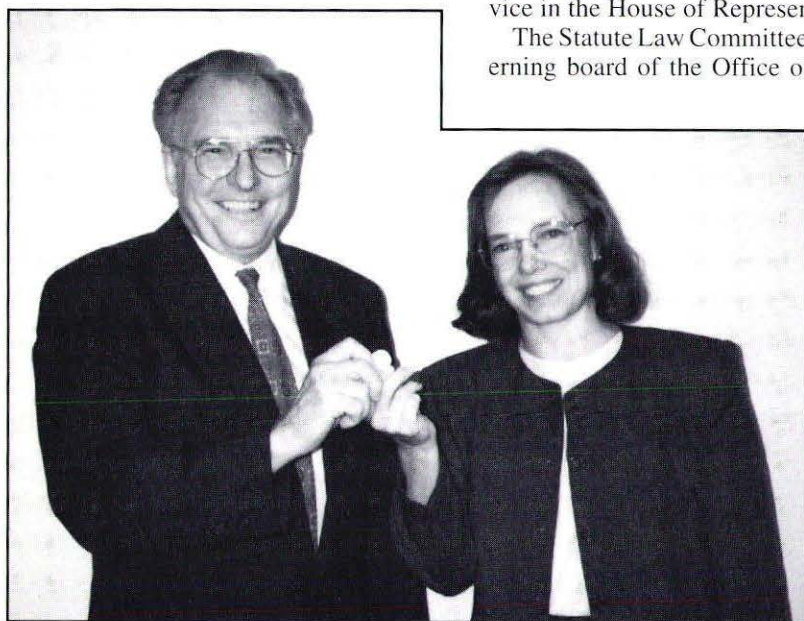
## STATUTE LAW COMMITTEE

meeting for having served on the Committee for 29 years, including eight as its chair. He achieved the unique distinction of having been appointed to the Committee by four Washington Governors: Evans, Ray, Spellman and Gardner.

Also honored for special service was **Bernard J. Gallagher**, who retired from the Committee after having served for 44 years. He was instrumental in the creation of the committee in 1951, during his service in the House of Representatives.

The Statute Law Committee is the governing board of the Office of the Code

Reviser, which provides the professional, nonpartisan and expert bill-drafting services to the Legislature and codification services which keep Washington laws and regulations accurate, orderly and available. The Code Reviser publishes the RCW, WAC, Sessions Laws and the State Register. Under the direction of the Committee and the Code Reviser, availability is maintained by their commitment to providing the codes on a "cost recovery" basis.



*Raymond Haman and Bernard Gallagher upon retirement from the Statute Law Committee.*

*Mary Gallagher Dilly and John G. Schultz, newly elected chair and vice chair of the Statute Law Committee.*

## WASHINGTON ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

**Steve Hayne** of Bellevue began his term as president of WACDL at the Association's annual conference in June on Lake Chelan. Other newly elected officers are **Lenell Nussbaum** (Seattle), president-elect; **Jon Zulauf** (Seattle), vice-president/west; **Don Westerman** (Spokane), vice president/east; **Mike Filipovic** (Seattle), treasurer; and **Tom Campbell** (Auburn) secretary. Officers are elected for one-year terms.

Winners of races for positions on the WACDL board of governors were **Barry Flegenheimer** (1st District); **Anna**

**Robinson** (2nd District); **John Hays** (3rd District); **Kate Mathews** (4th District); **Charles Dorn** (5th District); **Linda Sullivan** (6th District); **Mike Frost** (7th District); **Allen Bentley** (8th District); **Jack Abolofia** (9th District); **Ken Kanev** (at large) and **Jim Lobsenz** (at large). Board members are elected for two-year terms.

**David Allen** of Seattle was selected to receive the 1995 William O. Douglas Award from the Association. The award, the highest presented by WACDL, recognizes extraordinary courage and commitment in the practice of criminal law. The award was presented to Allen at the annual conference at Lake Chelan.

Three President's Awards, recognizing distinguished service to the criminal defense bar, were also presented. The recipients were **Richard J. Troberman**,

**Miriam Schwartz** and **Pat Stiley** of Spokane.

Certificates of Appreciation, recognizing service to the association, were presented to **Walter Palmer**, **Dave Chapman**, **Leta Schattauer** and **John Midgley**; **David Marshall**, **Mary Schultz** and **Steve Hayne** and **Tom Campbell**.

## WASHINGTON DEFENSE TRIAL LAWYERS REPORT

by **BETH A. JENSEN**

As you read this issue of the *Bar News*, your defense trial lawyer colleagues will be just completing their annual convention at Semi-Ah-Moo Resort.



WDTL had a superb two-day CLE program featuring Judge **Robert Lasnik** of the King County Superior Court, who discussed jury verdict challenges. The distinguished panel of trial lawyers included **Matt Williams** on low-speed impacts; **Brad Maxa**, coverage; **Stewart Estes**, joint and several liability; **Neil Dorfman** on bad faith; **Tom Lether**, insurance fraud; **Jim Berg** on expert witness testimony and **Anne Bremner** on trying cases visually. All the seriousness was offset by the golf tournament organized by **Steve Stocker**, a tennis tournament organized by **Bob and Ellie Keolker** and a fun run organized by **Tom Collins**.

WDTL will host a product liability seminar on October 13 at the Washington Athletic Club. The seminar is chaired by **Patrick Middleton** and **Patrick McVey**. Speakers include **Brian Rekofke**, **Daniel Laurence**, **Donald Currie**, **Kathy Cochran**, **Michael Ricketts**, **Douglas Hofmann**, **Steven Jager** and **Larry Levy**. The seminar will cover a wide range of topics, including government contractor defense, the spoliation of evidence, document retention policies, confidential settlements, protective orders, defending warnings cases, and multi-party cases.

Also in the works for this fall is the very popular Seattle Judges' Reception at the College Club on October 13.

And mark your calendar now for WDTL's insurance law seminar chaired by **Karen Hornbeck** in Spokane on November 9 and in Seattle on November 10.

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## IN MEMORIAM

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### Paul W. Browne

*[The following memorial for Paul Browne was submitted by his brother Chris Browne, also a member of the Washington Bar.]*

Paul W. Browne died on March 29, 1995, in an automobile accident with a drunk driver. He was 34. Paul was raised in Idaho and received B. A. and M.A. degrees in English from the University of Idaho. He received his J.D. from the University of Washington in 1988. Following graduation, Paul worked for the Licensing Division of the Attorney General's office in Olympia. Most re-

cently, Paul was in private practice in Coeur d'Alene, Idaho. Paul was an active member of the Idaho State Democratic Party, coordinating campaigns at the local level. Paul also just completed a term as president of the University of Idaho's Phi Beta Kappa chapter. Paul's literary interests were vast, ranging from Hemingway and Frost to Woody Allen and The Three Stooges. He will be missed by friends, colleagues, and his three-on-three basketball team. Paul is survived by his father and six brothers.

### Robert Jackson Williams

Robert Jackson Williams, better known to all of us as "Jack" Williams, of 1721 School Avenue, died May 26, age of 84. He was preceded in death by his wife, in 1992. Surviving him are his brother, George M. Williams of Walla Walla; two daughters, Terry Hage of Vashon Island, and Wendy Rahm of Arlington, Virginia; two grandchildren; and two great-grandchildren.

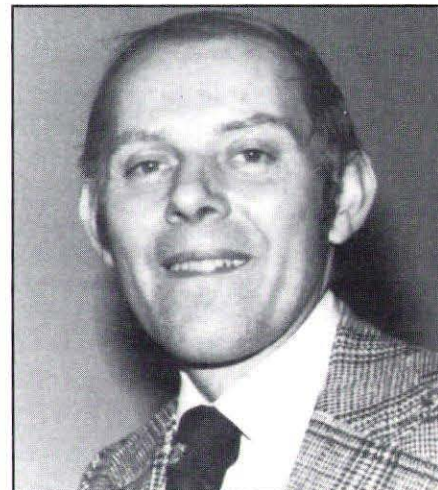
Williams was born in Tacoma, April 28, 1911, to Dr. Randall S. and Gertrude Williams. He attended Tacoma schools and the University of Washington, receiving a Business Administration and Juris Doctor degrees. While at the University, he was president of Fir Tree and Oval Club honoraries.

He obtained his Certified Public Accounting Certificate in 1944 and, that same year, joined the Walla Walla law firm of Pedigo, Watson and Gose, which later became Gose and Williams. In 1962, Charles Luce joined the firm along with Eugene T. Golden, and the firm became known as Gose, Williams, Luce & Golden. Charles Luce left the firm to become the administrator of the Bonneville Power Administration, and the firm continued as Gose, Williams & Golden. In 1965, Gose left the firm to practice with his son, Phelps. The firm continued for the next 30 years as Williams & Golden.

Williams was a member of the Rotary Club and was active in the Little Theater. He served on the Board of Overseers of Whitman College and was an attorney for the Port Authority and Whitman College.

### Hugh W. Hawkins, Jr.

Hugh W. Hawkins, Jr., 46, died June 14, 1995. A native of Florida, Hawkins was a graduate of Florida State University and the University of Puget Sound



**Thomas A. Dietzen**

School of Law. He was an Air Force veteran who served in that branch's intelligence service and reached the rank of Captain.

In Washington, Hawkins was active in real estate circles, lecturing and writing extensively. He served as president of the Escrow Association of Washington in 1989-1990 and was the recipient of its Eddy Award in 1990. A former Snohomish County deputy prosecuting attorney, Hawkins was of counsel to the Bellevue firm of Hawkins Jeppeson Hoff, P.S.

Survivors include his father, two brothers and five nieces and nephews.

### Thomas A. Dietzen

*[The following recollection was contributed by Yakima lawyer Roland L. Skala.]*

Thomas A. Dietzen died Saturday, May 27, 1995, at his home in Yakima. He was 51.

He was born in Yakima on June 21, 1943, and graduated from high school there before attending Gonzaga University, where he received his B.A. in 1966 and J.D. in 1970.

Tom was admitted to the Bar in 1970 and returned to Yakima, serving as deputy prosecuting attorney for Yakima County from 1970 until 1973. At the time that diabetes forced his retirement in 1985, he was a partner in the firm of Weeks, Dietzen & Skala.

Tom is survived by his wife, Karen, his children Jennifer, Deborah, Sharon and Matthew, and two grandchildren.



## Reflections by Elizabeth Bracelin, founding member of Washington women lawyers and only woman president of wsba

by Nancy Krier

*Washington Women Lawyers and WSBA Editorial Advisory Board*

As Washington Women Lawyers celebrates its 25th anniversary this year, founding member and former Washington State Bar Association president Elizabeth "Bets" Bracelin describes WWL's development as "incredible."

"What is interesting is that even when it was very small, the organization was taken very seriously — the Governor would not appoint a judge without conferring with us," Bracelin said. "We had power well beyond what we should have had back then" for the size of the organization, she noted.

"Back then" was 1970, when several women gathered in Seattle to form WWL as a forum to share issues common to women attorneys who were facing discriminatory barriers in their practice of law.

A big issue at the early WWL meetings was how to handle judges who made demeaning comments about women attorneys who appeared before them, Bracelin said. She recalled that one time a judge referred to her by saying "She's no lady — she's a Ms." Bracelin left the courtroom.

## New wsba governors elected

Board of Governors election ballots for three contested districts were counted at the WSBA office in Seattle on June 26. In the Seventh District, Lish Whitson was elected with 1,023 votes, to Mary Ruth Mann's 640 votes. In the Ninth District, Dennis La Porte was elected with 137 votes, to Andrea A. Darvas' 128 votes.

In the Fourth District, Francois Forgette received 190 votes; Steve Crossland, 169 votes; and Frank Kurtz, 152 votes. In the top-two runoff (since there was no majority) which was counted on July 24, Crossland won with 244 votes to Forgette's 236 votes.

Patrick R. McMullen ran unopposed in the Second District. Biographies and pictures of the new governors will run in the October issue. ♦

Bracelin, who is a principal with Peterson, Bracelin, Young, Putra, Fletcher & Zeder, said that the barriers women attorneys faced when she first began practicing were very real. Although Bracelin was law review editor at the University of Washington and achieved other scholastic honors, she said, "When I first started, there were very few firms which would hire women.

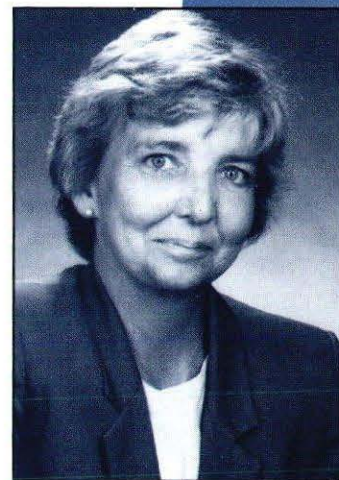
Now that's all changed. While women may not be moving from associates to partners in proportion to men (today), in 1969, a women partner was almost unheard of. Betty Fletcher was one of the few women partners (I knew)."

Fletcher, who now serves as a circuit judge on the United States Court of Appeals for the Ninth Circuit, also preceded Bracelin as the first woman member of the WSBA Board of Governors.

Although much has changed, Bracelin observed that sexism in the law still exists, it's just moved underground. "There is still more of a glass ceiling for women than for men," she noted.

Bracelin served as the WSBA president from 1988-1989, the only woman to have held the highest position in the state bar organization. While she remains a "first" to head up the WSBA, Bracelin predicts that "I will not be the first and only" woman president. She described with pleasure the increasing number of women on the WSBA Board of Governors and on WSBA committees.

Bracelin's Seattle practice focuses on civil litigation, including labor and personal injury matters. Over the years, she has observed a number of changes in the practice of law in this state, in addition to noting the growing number of women attorneys. She said the practice today has "deteriorated in the way lawyers treat one another." If she were to lecture on professionalism at a law school, she would tell



*Continued on page 56*

**Do you know a lawyer who is doing something on the side that is incredibly interesting, but not necessarily related to the practice of law? We want to know about it! We know we have members who are in bands, are stand-up comics, or who help send relief supplies to underdeveloped countries. Please help us give them a little recognition. Call Doree in the Communications Department at (206) 727-8214.**



## Internet seminar provides basic tools for law firms wanting to go on-line

The WSBA CLE seminar "The Internet and the Practice of Law" on July 7 at the Seattle Sheraton was a perfect example of why the Internet is frequently referred to as "The Wild West Meets Cyberspace." Not all of us are techno-heads, but most of us know just enough about computers to be dangerous.



The seminar, the first of its kind in this region, brought together lawyers and legal staff who explained that while the Internet may not be necessary to a law practice, it can certainly be worthwhile.

Speakers also showed how frustrating technology can be, losing the connection more than once and running into Internet sites that were too busy to get into.

James Cameron, president of Internos Inc., which provides consulting and training on the Net, cited valuable uses such as low-cost on-line legal resources, low-cost global advertising, electronic information exchange with clients and other firms, and unbreakable data encryptions and digital signatures for privacy. It was Cameron who convinced WSBA CLE Director Diane de Ryss of the need for an Internet seminar for lawyers. "The legal profession is one of the best professions to gain significantly from the Net," he said.

Mary Sidell, Librarian at Williams Kastner & Gibbs in Seattle and the firm's designated Internet expert, told the audience, "I'd like you to forget everything you've ever heard about the 'Information Superhighway.' That phrase doesn't even begin to tell you what all it does." She prefers an ocean metaphor, teaming with life, with a shallow end that's easy enough for beginners, and that's navigable in a rowboat or a powerboat.

Neal J. Friedman of Pepper & Corazzini in Washington, D.C. — which in June 1994 became the third law firm in the country to have a "Home Page" on the World Wide Web explained that a firm shouldn't establish a home page with an overblown assumption that

new clients will be breaking down the doors. They won't. However, a web site can be a great communications tool with clients you already have. For example, Pepper & Corazzini is a national firm and the lawyers have never even met some of their clients. By putting staff photos and biographies on their web site, clients can call them up and see just who they're working with.

On a more technical level, Friedman reminds firms to decide who in the firm will update your site and how often, how much this will cost the firm in staff time and computer costs, who will have an Internet account, and who controls content.

And be careful of being sucked into the Net and wasting valuable billable hours. "It is an enormous time sucker," he said. "You can get lost in the Web and never get out until someone taps you on your shoulder and says 'What the hell are you doing?'" ♦

*Note: A new newsletter called "The Internet Lawyer" aims to keep law firms apprised of the best legal resources on the Net. For information, call GoAhead Productions at (904) 371-3191, fax at (904) 371-9528, or e-mail at: aadkins@freenet.ufl.edu*

## WSBA annual meeting september 8

The 1995 WSBA Annual Business Meeting is September 8 at the Sheraton Hotel in Seattle. A CLE ethics seminar, "Establish Good Connections Through Client Communications," costs just \$25 and runs 8 a.m. to noon. Call (206) 727-8211 to register. 3.5 CLE credits pending.

At noon is the awards luncheon for the Board of Governors' Awards in the following categories: Award of Merit; The President's Award; Board of Governor's Award for Professionalism; The Angelo Petruss Award for Lawyers in Public Service; Outstanding Judge Award; WSBA Pro Bono Award; WSBA Courageous Award; and The Affirmative Action Award. Cost for the luncheon is \$25. For reservations, call Sharlene Steele at (206) 727-8262. Space is limited.

Following lunch is the Annual Business Meeting. Since no resolutions were filed this year, the meeting will focus on the passing of the gavel from President Ron Gould of Seattle to President-elect Ed Shea of Pasco.

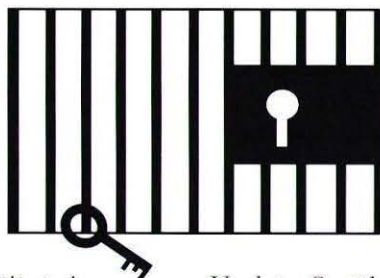
The Sheraton Hotel & Towers is at 1400 6th Ave. in downtown Seattle. ♦

### Correction:

A story in the July issue of FYI on page 57 incorrectly stated that the Spokane County Bar Association had installed a copy machine in the county clerk's office with proceeds from photocopying charges going to its pro bono program. In fact, the copy machine is located in the bar office and proceeds cover administrative and supply costs. The Bar News apologizes for the error.



## Second annual criminal justice institute september 29-30 in bellevue



Last year's wildly successful Washington Criminal Justice Institute is back for its second year on September 29-30 in Bellevue. It is presented by the WSBA Continuing Legal Education Committee and Criminal Law Section, and in cooperation with many law enforcement and justice associations. The two-day Institute brings together lawyers, judges, law enforcement officers and other professionals for an unsurpassed educational event where registrants learn with and from one another.

"The inaugural Criminal Justice Institute session was a remarkable achievement," said King County Prosecutor Norm Maleng. "It was a supermarket of CLE credits, offering a huge assortment of high quality topics, presented by credible front-line attorneys and policy makers. There is nothing else like it in the state."

Speakers and topics include: Supreme Court Chief Justice Barbara Durham will deliver Friday's keynote address; Katrina Pflaumer, U.S. Attorney for Western Washington, will participate in the Featured Forum on the public's perception of the criminal justice system; Judge Charles E. Moylan Jr. from the

Maryland Court of Special Appeals — the most popular speaker of last year's Institute — will deliver Saturday's keynote on U.S. Supreme Court Decisions in Review and a Fourth Amendment

Update; Seattle University School of Law Professor John A. Strait will discuss Washington State Criminal Case Law and Court Rules Update; Adams County Prosecutor David M. Sandhaus' topic is Making Your Life Easier with the Latest Technology; and Seattle Municipal Court Judge Ronald Kessler will lead the Workshop on Critical Practice Issues in Courts of Limited Jurisdiction.

Eleven workshops and over 50 faculty will discuss topics from Alternatives to Incarceration to Revisiting Domestic Violence — And Changes Being Made to Address This Issue.

It is expected to be approved for CLE credit in Washington, Oregon and California, and has been approved for 11.5 CJE credits. Early-bird registration is \$104.50 by September 11, \$145 thereafter. A special Saturday-only rate is available for \$85. Door registrations will be accepted on a space available basis. The Institute will be at the Red Lion Hotel in Bellevue on September 29-30.

For more information and a program brochure, contact WSBA CLE Program Coordinator Sonia Pagonakis at (206) 727-8246. ♦

## Supreme court amends APR 11 to include ethics requirement

The Supreme Court has adopted an amendment to Admission to Practice Rule (APR) 11, creating a mandatory CLE ethics requirement. APR 11.2(c) requires that of the 45 credit hours to be reported by active members every three years, a minimum of 6 credit hours shall be "devoted exclusively to the areas of legal ethics, professionalism, or professional responsibility." The ethics credit requirement will be phased in, beginning with 2 credits for the calendar year 1996, 4 credits for the years 1996 and 1997, and 6 credits for the years 1996, 1997 and 1998.

**Group 1** will be required to report 45 credits by January 31, 1996, for the years 1993-95; **no ethics requirement.** That group will next report 45 credits in January 1999 for the

years 1996-1998; **6 ethics credits.** **Group 2** will be required to report 45 credits by January 31, 1997, for the years 1994-1996; **2 ethics credits.** **Group 3** will be required to report 45 credits by January 31, 1998, for the years 1995-1997; **4 ethics credits.** ♦

## Law day winners

The Whatcom and Spokane county bars won the WSBA 1995 Law Day Contest.

Whatcom County won the unstaffed bar award by providing free advice and consultation by 61 lawyers to over 230 people around the county, and showing 400 students a dropout prevention video and having them tour the courts and jail. Spokane won the staffed bar award for their Law Day Program in conjunction with the City of Spokane and the Department of Naturalization. The naturalization ceremony involved 55 new citizens. ♦

## Test your Sections knowledge:

Can you answer these questions about some of the 21 WSBA sections? Answers below.

- (1) Which section has the most members?
- (2) Which section has the smallest membership?
- (3) Which section chair answers his voice mail in English and then Spanish?
- (4) Which section calls themselves the "foot soldiers of the Bar"?
- (5) Which section has the most subscribers (non-WSBA members)?
- (6) Which section is our newest section?
- (7) Which section has a member who is one of the owners of the Mariners?
- (8) Which section collects royalties from Butterworth Publishers for their book?
- (9) Which section has the most committees?

- (9) Business Law
- (8) Administrative Law
- & Antitrust
- (7) Consumer Protection
- (6) Elder Law
- Resolution
- (5) Alternate Dispute
- (4) General Practice
- (3) International Law
- Through Law
- (2) World Peace
- (1) Litigation Law

Answers:



## WSBA and seattle university win aba national award for professional responsibility clinic

The American Bar Association has awarded in national competition one of its three 1995 E. Smythe Gambrell Awards for Professionalism to Seattle University School of Law's Professional Responsibility Clinic. The Clinic is run in conjunction with WSBA's Legal Department, which handles lawyer discipline.

Working under the close supervision of Professor John Strait, who for many years has served as Special District Counsel to the WSBA, clinic students learn professional responsibility by examining and analyzing a limited number of selected grievances against lawyers, and making reports to WSBA's Legal Department. As part of its own examination and analysis, the Legal Department considers those reports in determining whether to dismiss or prosecute a grievance. Besides helping the Department process grievances, students learn the Rules of Professional Conduct and the Rules for Lawyer Discipline. The Clinic also helps students develop a sensitivity to the often difficult ethical dilemmas and pressures that a lawyer faces in his or her everyday practice of law. ♦

## WSBA CLE wins national best program award

The Faculty Training Program begun by WSBA CLE last fall has won an "Award of Outstanding Achievement" by the Association of Continuing Legal Education Administrators. ACLEA is an international organization that includes CLE organizations from state and county bars, law schools, private non-profits and for-profit entities.

The goal of WSBA CLE's Faculty Training Program is to train experienced and regular CLE faculty in the art and science of interactive lecturing. The free one-day workshop incorporates demonstrations by participants and critiques by instructors and co-participants. It has a high instructor/participant ratio (1:12). By September, the Program should have trained about 80 attorneys, approximately 20 percent of CLE's annual faculty.

The program was honored for accomplish-

ing one or more of ACLEA's three criteria: presenting information in a new, creative or unusually effective format; using innovative ways to be cost-effective in administration without sacrificing quality; and promoting ACLEA's mission statement — "To improve legal services for the public by improving continuing education for lawyers."

The award will be presented at ACLEA's annual meeting in Chicago on July 30. For more information on the Faculty Training Program, contact WSBA CLE Director Diane de Ryss at (206) 727-8220. ♦

## Bracelin — Continued from page 53

students to "remember what your parents taught you — you are supposed to be polite, and you can do that and still be a successful advocate."

On the other hand, she believes the newer generations of lawyers have brought some positive changes to the profession in their approaches to achieving a better balance of work and personal lives.

"Many more firms are required to obtain an understanding of those (family) issues as younger persons are refusing to work 80 hours a week," she said.

She added that while in the early years, many women thought they had to become "Superwomen" to satisfy all the demands on their time, those pressures are becoming more tempered in the 1990s and "that's healthier."

Bracelin's primary influence in her life remains her mother, who at 84, is still selling real estate. She said her mother gets a "real kick" out of her daughter's successes in the law.

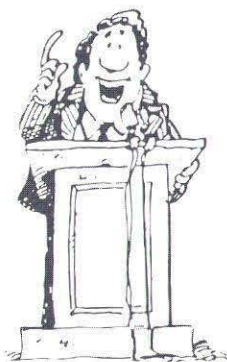
Bracelin has served on numerous task forces and commissions addressing issues of gender and justice, judicial qualifications and damages, among others. She said her next goal is to serve on the State Supreme Court, which she views as a way of "purely approaching the application of the law."

Meanwhile, she remains pleased with the progress Washington Women Lawyers has made to date. She said the organization has been "very generous" in expressing its gratitude to the founders and trailblazers who have changed the practice of law in Washington so the profession embraces women as well as men. ♦



If you have timely Bar-related news, activities or business, or a funny story that would be of interest to your co-members, send, mail or fax it to us and we will help spread the word in upcoming FYI editions. Call us at (206) 727-8203 or fax us at (206) 727-8320.





**Are you a reasonably capable  
speaker?**  
**Do you have expertise in an area  
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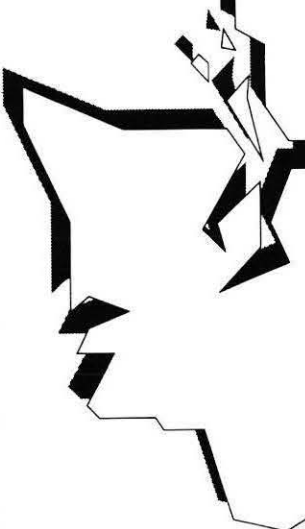


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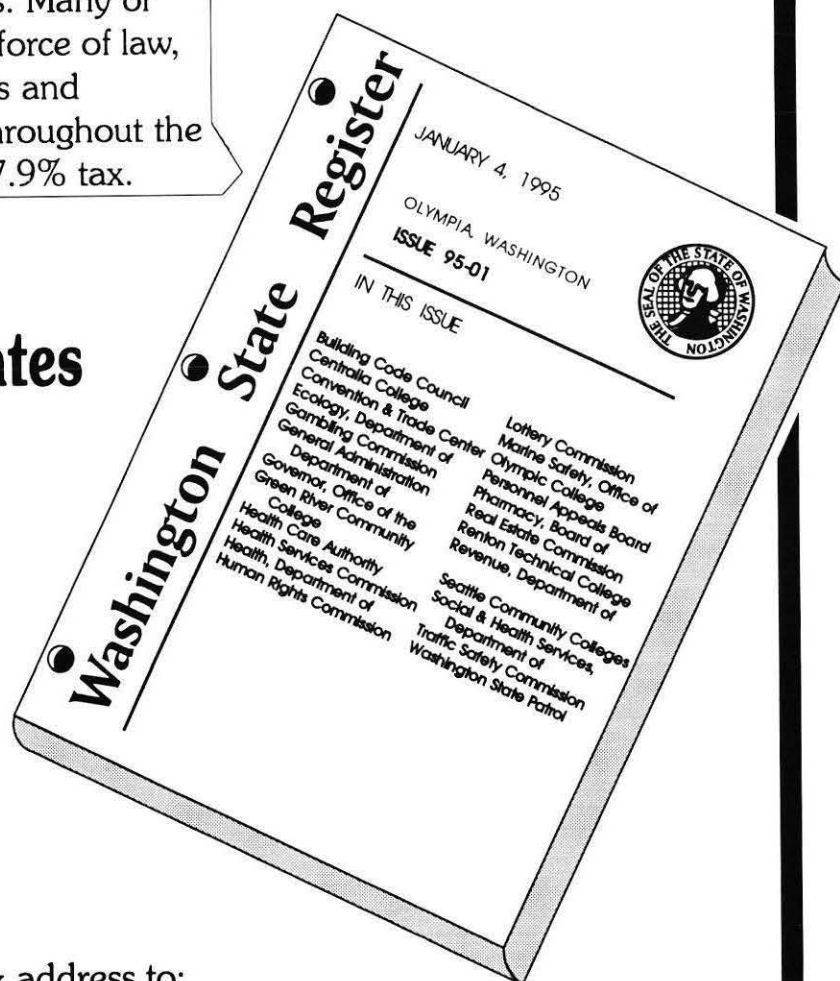


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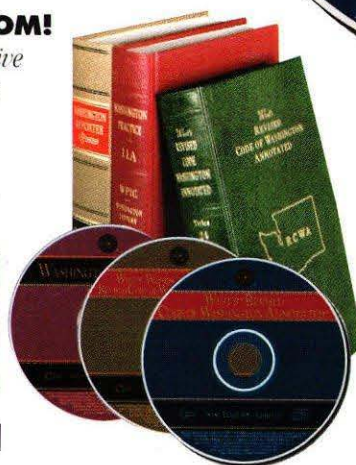
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