

Colorado Lawyers

C O M M I T T E E



2009

ANNUAL REPORT

March 2010

32 Years of Advocacy for the Community

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Colorado Lawyers Committee

2009 Annual Report

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March 2010

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Waggener & Foster LLP
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Zakhem Law, LLC
John S. Zakhem



The Colorado Lawyers Committee is pleased to present this report on the activities of its task forces during 2009. The Lawyers Committee is a nonprofit, nonpartisan consortium of 56 Colorado law firms (see page 2) dedicated to creating and increasing opportunities for children, the poor, and other disadvantaged communities. For the past 32 years, Colorado Lawyers Committee volunteers have focused on systemic change through advocacy, negotiation, and litigation using “all the skills and discipline of the law in the service of others.”

During 2009, over 600 volunteers contributed more than 8,500 hours to make a difference in our community. Projects ranged from public benefits, poverty, education, mental health, civil rights, immigration and criminal law. Each of our active task forces is described in this report. Thank you to all of our volunteers for your extraordinary contributions.

COLORADO LAWYERS COMMITTEE EXECUTIVE COMMITTEE

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Davis Graham & Stubbs LLP

Steve Kaufmann
Morrison & Foerster LLP

Nancy Elkind, Secretary/Treasurer
Elkind Alterman Harston PC

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Richard Westfall
Hale-Westfall, LLP

Jennifer Hunt
Hill & Robbins, P.C.

COLORADO LAWYERS COMMITTEE STAFF

Executive Director: Connie Talmage, 303-894-6363, ctalmage@coloradolawyerscommittee.org

Associate Director: Nora Earnest, 303-894-6361, nearest@coloradolawyerscommittee.org

Interim Assoc. Director: Maureen Sullivan, 303-894-6361, msullivan@coloradolawyerscommittee.org

Administrative Assistant: Linda Futrell, 303-894-6366, lfutrell@coloradolawyerscommittee.org



CHILDREN'S TASK FORCE

The Task Force (formed in 2003) examines issues relating to treatment of Colorado's children to determine if there are legal problems that would benefit from the involvement of the Colorado Lawyers Committee volunteers. Recent issues considered by the Task Force include Colorado's child welfare system, treatment of undocumented children, youth offenders and mandating preschool education.

Co-Chairs: **Dave Stark**, Faegre & Benson LLP, dstark@faegre.com
 Jennifer Hunt, Hill & Robbins, P.C., jhunt@hillandrobbs.com

Volunteers: There are 25 volunteers who have participated in this Task Force in the past. Only the co-chairs were active during 2009.

Recent Accomplishments: The Task Force was recently asked to examine several possible issues regarding systemic problems impacting the health and welfare of children. After considerable discussion, the Task Force declined to take action on these issues.

Future Plans: The Task Force will continue to explore collaboration with other organizations dedicated to improving conditions for children, to determine whether Colorado Lawyers Committee volunteers can provide valuable assistance.



COLORADO BENEFITS MANAGEMENT (CBMS) TASK FORCE

The Task Force represents individuals whose essential public benefits were improperly denied as a result of the State's computerized benefit management system. Beginning in 2004, the computer system failed to process applications for benefits in a timely manner which resulted in the improper denial or delay of public benefits (Medicaid, food stamps, TANF, etc.) for Colorado citizens. Legal volunteers pursued litigation and, after a court order requiring the State to take steps to improve benefit processing, the parties entered into a settlement agreement that requires the State to report on its progress. The Task Force is also examining an issue pertaining to the adequacy of notices sent by the computer system, which results in conflicting, inadequate or confusing notices.

Chair: **Mike Cook**, Sherman & Howard L.L.C., mcook@sah.com

Volunteers: 19 volunteers worked on the CBMS and CBMS notice issues during 2009 and spent an estimated 150 hours.

Recent Accomplishments: The Task Force has been monitoring state compliance with the terms of the settlement, including compliance with the processing deadlines required by federal law.

Future Plans: The reports submitted by the State suggest they are still significantly out of compliance with the settlement agreement and Federal law. The Task Force will explore remedies to assure that individuals are receiving the benefits to which they are entitled in a timely fashion.



COLORADO INNOCENCE PROJECT

This Task Force (formed in 2000) was inspired by similar projects around the country designed to provide legal representation for prisoners whose innocence can be established by scientific or other evidence. The Project involves Lawyers Committee attorneys, defense attorneys, and law school representatives. Legal volunteers review inmate requests for assistance to determine whether innocence might be established by scientific or other exonerating evidence.

Co-Chairs: **Jim Scarboro**, Arnold & Porter LLP, james_scarboro@aporter.com
 Pat Furman, University of Colorado School of Law, furman@colorado.edu

Screening Committee: Jim Scarboro, Ann England, Ann Roan, Bryan Morgan, David Kaplan, Doug Wilson, Pat Furman, Fred Winocur, Gail Johnson, David Winkler, Lindy Frolich, Lori St. John and Madeline Cohen.

Volunteers: 22 volunteers donated more than 315 hours during 2009.

Recent Accomplishments: The Task Force received approximately 200 applications from prisoners in 2009. Most of these were summarily turned down. A few were investigated and, if they looked promising, were referred to lawyers in Denver for follow-up.

Future Goals: The Innocence Project is being transferred to the University of Colorado School of Law, where it will be run as part of a clinic. The Colorado Lawyers Committee will remain involved, however, in all phases of Colorado Innocence Project work, including review of applications, investigations, and preparation of post-conviction cases.



CONSUMER FRAUD AGAINST SPANISH-SPEAKERS IN WELD COUNTY TASK FORCE

The Task Force was formed in 2009 to collaborate with local service provider organizations in Weld County to examine allegations of mortgage and consumer fraud. Volunteer lawyers are exploring ways to create a mechanism to provide legal referrals and other services to individuals and families in need.

Co-Chairs: **John Walsh**, Hill & Robbins, P.C., jwalsh@hillandrobbs.com
 Liz Giordano, CBA Spanish Language Lawyering Committee, liz@giolawoffice.com

Volunteers: Ten volunteers donated an estimated 1,000 hours during 2009.

Recent Accomplishments: The "Weld ETF" was established in May 2009 as a joint effort with the CBA's Spanish-Language Lawyering Committee to address what appear to be systematic problems of consumer fraud against the large Spanish-speaking community in Greeley and in Weld County generally. The Weld ETF began its work over the summer with a systematic outreach effort to legal services providers in the Weld County area, including Colorado Legal Services, as well as social service providers with a focus on Spanish-speakers, such as Catholic Charities. This effort included meetings and conversations with over a dozen organizations, and demonstrated the serious lack of resources in Weld County for low-income legal assistance, and particularly, the lack of resources in the Spanish-speaking community. Task Force members have been shocked by the lack of legal resources available to low-income residents of Weld County.

DPS School Closings, Restructuring and Enrollment Subcommittee (cont.)

input on DPS decision-making related to school closures, turnaround strategies, student retention, enrollment and academic performance. The Task Force's regular meetings focus on strategies to achieve increased transparency and community engagement, and the Task Force is committed to the success of DPS and the highest possible educational achievement for DPS's more than 20,000 students. Among its many activities in 2009, the Task Force conducted a detailed statistical analysis of student performance, retention and enrollment arising from the 2008 elementary school closures.

The timing of the creation of this Task Force proved important, because just as we convened our initial community meetings, DPS was announcing its "Denver 2009 Plan" and restructuring plans for 2010. This resulted in a storm of controversy in some segments of the Denver community, and dramatized the need for a forum of the kind that the Task Force seeks to provide. This is a long-term project.

Future Goals: The Task Force is in the process of obtaining additional data from DPS on school and student performance related to the 2008 school closings, and other restructuring efforts. In addition, the Task Force is seeking to "institutionalize" its efforts in the DPS arena in a manner not unlike the successful Elections Task Force of the Colorado Lawyers Committee.

Education Task Force: Assistance to the *Lobato* Lawsuit

In June 2005, a lawsuit was filed, on behalf of 14 school districts in the San Luis Valley and parents and children across the state, against the State of Colorado, the State Board of Education, the State Commissioner of Education, and the Governor, challenging the constitutionality of the Colorado school finance system. The suit is titled *Lobato v. State of Colorado*. This is not a Colorado Lawyers Committee lawsuit, but members of the Education Task Force have been actively involved in the lawsuit and acting as consultants to the attorneys in the case. In addition, the Colorado Lawyers Committee filed an amicus brief during 2008 urging the Colorado Supreme Court to overturn the rulings of the trial court and the court of appeals that the school funding challenge presented a nonjusticiable political question.

Volunteers: Approximately 15 volunteers donated more than 200 hours to assist in various ways with this lawsuit during 2009.

Recent Accomplishments: In October 2009, the Colorado Supreme Court reversed the District Court and Colorado Court of Appeals and held that the judiciary has the responsibility to review public school funding to determine whether the system is "rationally related to the General Assembly's constitutional mandate to provide a 'thorough and uniform' system of public education." The plaintiffs (represented by Kathy Gebhardt and Alex Halpern) are thus allowed the opportunity to prove that the education system is not rationally related to the constitutional mandate of a "thorough and uniform" system of public education. The court also held that Amendment 23 sets a minimum increase for state funding and is unrelated to the education clause and does not affect the outcome of the case. This is one of the most important Colorado court decisions in the area of K-12 education.

Future Goals: This case has been remanded to the trial court. The Colorado Lawyers Committee Education Task Force will continue to provide consultation and advice and the Lawyers Committee may also assist with litigation costs and expenses.



ELECTION TASK FORCE

The Task Force (formed in 2004) works with the Colorado Secretary of State and key stakeholder groups to assure minority voter participation in Colorado's elections and access to the polls. Volunteers identify issues that may impact elections in Colorado and the bipartisan coalition (including representatives from both major political parties, the specialty bar associations, Colorado Common Cause, the League of Women Voters, and the Legal Center for People with Disabilities and Older People) seek collaborative solutions for the issues.

Co-Chairs: **Richard Westfall**, Hale-Westfall, LLP, rwestfall@halewestfall.com
 Martha Tierney, Kelly Garnsey Hubbell + Lass LLC, mtierney@kghllaw.com

Volunteers: Thirty-five volunteers donated an estimated 200 hours on this Task Force in 2009.

Recent Accomplishments: The Election Task Force influenced election policy in several ways during 2009, including providing testimony before the Election Reform Commission on standardizing best practices in conducting elections by Colorado's 64 counties; testimony before the Secretary of State at its rulemaking hearings on matters intended to ensure access to the voting franchise to all eligible voters, such as the inclusion of tribal identification as an acceptable form of identification at the polling place; and regular meetings with the Secretary of State and his staff on matters including implementation of the statewide voter database (SCORE), providing input regarding priorities for the Director of Elections, polling place identification, treatment of inactive voters, and access to the polls for persons with disabilities.

Future Goals: The Task Force expects to continue working on access issues and will provide input about and/or respond to matters arising from the 2010 general election.



FOOD STAMPS TASK FORCE

The Task Force was created in 2008 to examine the delay in processing food stamp applications in Colorado. In certain counties, the processing time for food stamps applications is significantly delayed and not in compliance with federal regulations. According to federal timelines, a general application for food stamps must be processed within 30 days of receipt of the application, or within 7 days in cases of emergencies. In some areas of the state, over half the applications are not processed within the federal deadlines and individuals and families are struggling to feed themselves and their families during this delay.

Chair: **Eric Eliff**, Husch Blackwell Sanders LLP, eric.elliff@huschblackwell.com

Volunteers: Eight volunteers donated approximately 90 hours during 2009.

Recent Accomplishments: The Task Force reviewed the federal law requirements and collected data on county non-compliance with federal deadlines for processing food stamps.

Future Goals: The Task Force has drafted pleadings to initiate a lawsuit against one or more Colorado counties and is in the process of identifying appropriate plaintiff(s) who can serve as class representatives in the lawsuit. It is anticipated that the lawsuit will be filed in early spring. If the lawsuit is successful, the Task Force will use the court order in discussions with other counties to attempt to persuade them to comply with processing deadlines, without the necessity of further litigation.



HATE VIOLENCE TEACHING TOLERANCE TASK FORCE

Since 1993, this Task Force has presented fictional trials to students based on a case arising from a violation of Colorado's hate/bias crimes statute. The presentation is most frequently addressed to middle school students, although trials have also been held for high school, college and law students, as well as companies and community organizations. The trial is presented by legal volunteers who serve as prosecutor, defense attorney, judge and facilitators. At the conclusion of the trial, the student jurors break into small groups to discuss the issues presented and, with the assistance of the volunteer facilitator, reach a verdict. The students become very engaged in the discussions of tolerance and the value of speaking out against intolerance and injustice. A generous grant from the Qwest Foundation permits the Task Force to offer mock trials around the state by covering the expenses of the volunteers.

Chair: **Tarek Saad**, Jin, Schauer & Saad LLC, tsaad@jinslaw.com

Volunteers: Approximately 40 volunteers donated almost 400 hours during 2009 and made presentations to more than 370 students.

Recent Accomplishments: In 2009, the Task Force continued to offer mock trials at schools where previous presentations had been made. The Task Force also presented mock trials at two new schools.

Future Goals: The Task Force will continue to present fictional trials on Colorado's hate crime/bias statute. The Task Force also expects to update the trial exhibits and explore using actor volunteers as participants in the presentations.



HEALTH CARE TASK FORCE

The Task Force was formed in early 2007 in connection with the much anticipated health care reform recommendations to be made in early 2008 by the so-called 208 Commission, a commission jointly established by the executive and legislative branches toward the end of Governor Owens' last term. As it turned out, the Task Force's mission became to devote its efforts in a nonpartisan manner to ensure the long term legal viability of any legislative proposals put forth as a result of the Commission's recommendations.

Chair: **Rich Hennessey**, Pendleton Friedberg Wilson & Hennessey P.C., rhennessey@penberg.com

Volunteers: There are more than 15 volunteers who have participated in this Task Force in the past. Only the chair was active during 2009.

Recent Accomplishments: The Task Force spent considerable effort after it was formed educating itself on a host of relevant topics. The Task Force monitored the developments in the 208 Commission's work and the results of similar reform efforts undertaken in other states, and studied anticipated issues related to funding and state-financing of healthcare reform. Legal volunteers also researched and distributed a comprehensive memorandum to the Colorado legislature that explained the Employee Retirement Income Security Act of 1974 ("ERISA") and its possible impact on health care reform. The Task Force was active during 2008, studying the final recommendations of the 208 Commission, preparing education materials for state legislators and consulting with the Governor's office on legal issues. The Task Force offered to review all health care proposals offered by Colorado legislators, to assure their compliance with ERISA.

Health Care Task Force (cont.)

The Task Force was essentially inactive during 2009 because the Task Force, the Colorado executive and legislative branches and the rest of the country decided to watch and wait for the outcome of health care reform on the national level as a result of presidential and congressional initiatives throughout 2009.

Future Goals: The Task Force's activities for 2010 largely will be a function of the form and substance of any healthcare reforms that are made on the national or state levels in 2010.



HOMELESS ID TASK FORCE

This Task Force was formed initially in 2006 to address the barriers facing homeless individuals in obtaining Colorado identification cards, without which they are often unable to secure housing, employment and other services. In December 2006, Task Force volunteers obtained a court order granting their Motion for Preliminary Injunction and requiring Colorado's Department of Revenue to adopt regulations regarding the issuance of ID cards and to establish procedures to provide due process to individuals who are denied IDs. Following the adoption of the new regulations, the Task Force reconvened in 2008 to determine if the problems which gave rise to the lawsuit were being resolved by the new regulations. In an effort to gather experience about the regulations and determine if systemic issues remain, the Task Force agreed to identify 25 lawyers who could represent individuals and assist them in obtaining IDs.

Steering Committee:

- Tim Macdonald, Arnold & Porter LLP
- Jim Hubbell, Kelly Garnsey Hubbell + Lass LLC
- Jim Kilroy, Snell & Wilmer L.L.P.
- Linda Olson, Colorado Legal Services
- Kati Rothgery, Snell & Wilmer L.L.P.
- Tom Snyder, Kutak Rock LLP
- Lindsay Unruh, Reilly Pozner LLP
- Diego Hunt, Holland & Hart LLP
- Nan Morehead, Denver Dept. of Human Services
- Julie Prine, Denver Dept. of Human Services

Volunteers: During 2009, 32 volunteers donated an estimated 1,600 hours on this Task Force.

Recent Accomplishments: Members of the Task Force provided legal services to 28 individual clients during 2009. They obtained ID cards for 10 homeless and/or low income individuals and identified various systemic barriers to obtaining IDs: Problems in obtaining IDs persist for certain felons, people with disabilities, and individuals with limited English proficiency.

Future Goals: Task Force members are drafting a policy paper to provide to state officials regarding ongoing problems and systemic barriers to obtaining IDs in Colorado. In addition, Task Force members will work for passage of SB 6 which permits felons to change their names under limited circumstances. (The current statute prohibits felons from changing their names; however Department of Revenue officials often refuse to issue ID cards to felons unless they change their name.)



IMMIGRATION TASK FORCE

For more than fifteen years, this Task Force has supported the efforts of a small nonprofit, in one of the poorest areas of the state, that provides information and assistance for the sizeable number of immigrants in the area. The Immigration Task Force oversees the services provided by the nonprofit, trains the organization's staff of non-attorneys and provides referrals to pro bono attorneys for indigent clients.

Chair: **Emily Curray**, Stern & Curray LLC, emily.curray@sterncurray.com

Volunteers: During 2009, seven volunteers donated approximately 50 hours.

Recent Accomplishments: The Task Force continued to provide provided ongoing support to the Immigrant Resource Center, including periodic visits to the agency which has no other legal resources.

Future Goals: The Task Force has undertaken a project that will include collaboration with a number of other organizations, and will provide assistance to the many low-income applicants who will need help once immigration reform is passed.



LEGAL NIGHT TASK FORCE

Since 2006, this Task Force has provided individuals and families with legal information and referrals. The Colorado Lawyers Committee co-sponsors (with the Denver Bar Association Young Lawyers Division and the Denver Access to Justice Committee) two monthly legal clinics to provide legal information and referrals for individuals and families who can't afford legal services. Clients are served on a first come first serve basis and issues generally include consumer problems, immigration, employment, housing, and family law. Legal Nights are held in Denver on the first Wednesday of the month at Centro San Juan Diego and third Tuesday of the month at Mi Casa Resource Center.

Chair: **Tim Macdonald**, Arnold & Porter LLP, Timothy.Macdonald@aporter.com

Volunteers: During 2009, more than 175 volunteers donated over 1,000 hours serving clients at Legal Night.

Recent Accomplishments: Since Legal Night began in 2006, more than 4,600 clients have been served. During 2009, Legal Night volunteers served 1,500 clients and provided information and referrals on a number of legal issues. Immigration and family law remain the most frequently presented questions, but real estate and housing issues, consumer credit and bankruptcy, employment and criminal law are also often discussed.

Future Goals: The Task Force will continue to offer legal information and referrals on the first Wednesday of the month at Centro San Juan Diego and the third Tuesday of the month Mi Casa Resource Center.



MENTAL HEALTH TASK FORCE

This Task Force was formed in 2004 to examine significant issues that relate to the delivery of mental health services for children and the underprivileged in Colorado and to explore ways to increase access to such services.

Chair: **Iris Eytan**, Reilly Pozner LLP, ieytan@rplaw.com

Volunteers: In 2009, 10 legal volunteers, and 10 community leaders and advocates contributed to the work of this Task Force. The number of hours donated to the Task Force by legal volunteers likely exceeded 500 hours.

Recent Accomplishments: In 2009, the Task Force worked diligently to assist those who are most disenfranchised — individuals who have been criminalized as a result of their mental illness. Since 2008, one of the areas of focus of the Task Force has been assuring that individuals with mental illness leaving the criminal justice system, or transitioning through it, are able to access benefits and medical care to which they are legally entitled.

In late 2008, after months of research and analysis, the Task Force prepared a policy paper for government officials which argued that the state's policy of denying medical care for individuals in community corrections (halfway houses, etc.) was wrong. Task Force members met with representatives from the Governor's office and the Department of Health Care Policy and Finance (HCPF) to convince them that benefits for those individuals, particularly mental health benefits, were essential. After six months of advocacy, the Task Force enjoyed a significant victory during 2009, when HCPF issued a letter (with significant edits by the Task Force) that publicly announced the agency's agreement with the Task Force's analysis.

Future Goals: In order to assure that individuals in community corrections are eligible for health care (and mental health) benefits, approval by the federal government must still be obtained. The Task Force plans to help HCPF obtain this approval and then to assist in changing the regulation affecting these individuals — making it illegal to deny medical care to individuals in community corrections facilities.

In 2010, the Task Force also plans to address the tremendous gap in services and benefits, when individuals on social security disability (SSI) are released from jail. The Task Force has been advised that it often takes over 4 months for these individuals to have their SSI benefits restored after they are released from jail. This delay is not in compliance with the law and can have a devastating impact on these individuals. The Task Force will continue to work with the stakeholders in assisting in developing a solution, possibly computer based, to ensure that these benefits are restored quickly.



NONPROFIT WORKING GROUP

The Task Force was originally formed in 2002 to provide pro bono representation to community and other business organizations. In 2005, the Task Force decided to shift its focus to work with community organizations to provide transactional-type legal services and representation to nonprofit organizations that serve children, the indigent or other underserved populations. The Task Force has partnered with the Colorado Nonprofit Association and other organizations to provide direct representation, seminars, clinics, and educational sessions for the nonprofit community in Colorado.

Chair: **Peter Schwartz**, Davis Graham & Stubbs LLP, peter.schwartz@dgsllaw.com

Volunteers: The Task Force sends frequent emails seeking transactional-type legal assistance for nonprofits. There are more than 70 legal volunteers, as well as many other interested people, whose receive these emails. During 2009, 28 legal volunteers from 11 different law firms either agreed to assist nonprofit clients with transactional-type legal issues, on a pro bono basis, or participated on other projects sponsored by the Task Force. It is estimated that Task Force members volunteered more than 200 hours during 2009.

Recent Accomplishments: During 2009, Task Force members provided legal assistance to 21 nonprofits. Only four potential projects that fit within the mission of the Colorado Lawyers Committee and the Task Force were not placed (84% success rate). This success is largely due to the Task Force's partnership in 2009 with the Colorado Nonprofit Association, which has promoted the availability of pro bono legal assistance and worked with the Task Force to establish procedures to easily match nonprofits with pro bono attorneys.

Future Goals: The Task Force intends to continue and expand the "matching service" and will conduct a survey of participating nonprofits and attorneys to determine how the program might be improved. Also, the Task Force has been asked to assist the Colorado Nonprofit Association with the update of its Principles and Practices, a highly respected guide for nonprofits in Colorado. The Task Force will also reach out to other organizations which serve nonprofits to identify other sources of nonprofit referrals. The Task Force also hopes to refocus on the educational component of the Task Force that provides speakers and panel participants to nonprofit organizations and technical assistance providers.



PROJECT HOMELESS CONNECT TASK FORCE

Since 2005, this Task Force has coordinated the legal component for Project Homeless Connect, a one-day event sponsored by the City of Denver. The event is generally held twice a year and, on a single day, links 500-1,000 homeless individuals in Denver to a multitude of resources: public benefits, housing, employment, medical, legal, and other valuable services. Legal volunteers provide information and referral on issues including bankruptcy, family law, housing and immigration. Legal volunteers also participate in Homeless Court, a very successful component of Project Homeless Connect which processes and resolves individual warrants for municipal citations that may impede a person's ability to obtain housing, employment or other services. The Task Force is a joint effort of the Colorado Lawyers Committee and the Colorado Chapter of the Association of Corporate Counsel.

Steering Committee: Susan Cole (Arnold & Porter LLP), Susan.Cole@aporter.com
 Tim Macdonald (Arnold & Porter LLP), Timothy.Macdonald@aporter.com
 Alice Norman (Denver Municipal Indigent Defense Counsel),
 Alicenorman@aol.com

Project Homeless Connect Task Force (cont.)

Peter Schwartz (Davis Graham & Stubbs LLP), peter.schwartz@dgsllaw.com
 Len Segreti (Qwest Law Department), Leonard.Segreti@qwest.com

Volunteers: In 2009, 91 volunteers donated over 300 hours of their time to this Task Force.

Recent Accomplishments: Two events were held in 2009 and over 300 homeless individuals received legal information and referrals from volunteers or were represented in Homeless Court by volunteer lawyers and law students. The most frequently addressed issues were criminal and family law (divorce and custody) as well as the barriers to obtaining state-issued identification cards.

Future Goals: The Task Force expects to continue its participation in Project Homeless Connect. The first 2010 event will be on Saturday, May 22, 2010 at Coors Field.



PUBLIC BENEFITS INVESTIGATORS TASK FORCE

The Task Force was created in late 2008 to examine allegations of harassment, intimidation and other heavy-handed tactics employed by county officials charged with investigating cases related to the overpayment of public benefits.

Chair: **Laura Hazen**, Ireland, Stapleton, Pryor & Pascoe, P.C., lhazen@irelandstapleton.com

Volunteers: During 2009, nine volunteers donated almost 200 hours to this Task Force.

Recent Accomplishments: Many of the allegations that prompted the creation of the Task Force related to two investigators in a single county. The Task Force began by exploring the factual allegations about the inappropriate behavior of the investigators and by researching applicable state and federal law. After members of the Task Force attended several administrative hearings and submitted discovery requests on behalf of Colorado Legal Services clients, the complaints about investigators virtually stopped. The Task Force then decided to simply monitor future complaints (rather than file a lawsuit) and to explore the establishment of statewide standards for investigators.

Future Goals: The Task Force has drafted a letter to the appropriate state agencies outlining the scope of the problem uncovered by the Task Force and offering suggestions for new regulations. These suggestions include standardized enforcement tools and assuring that each individual under investigation receives a statement of rights.



SIXTH AMENDMENT TASK FORCE

This Task Force was formed at the end of 2009 to address the constitutionality of a Colorado statute that requires individuals charged with a misdemeanor to meet with the prosecutor before counsel can be appointed for them.

Co-Chairs: **Scott Llewellyn**, Morrison & Foerster LLP, sllewellyn@mof.com
Steve Kaufmann, Morrison & Foerster LLP, skaufmann@mof.com

Sixth Amendment Task Force (cont.)

Volunteers: The Task Force has 13 lawyers from 8 different law firms and the National Association of Criminal Defense Lawyers.

Recent Accomplishments: The Task Force began with an analysis of a 2008 U.S. Supreme Court decision that held a criminal defendant's Sixth Amendment right to counsel attaches at the first appearance before a judicial officer who advises the defendant of the charges. *Rothgery v. Gillespie County*, 128 S. Ct. 2578, 2592 (2008). However, a Colorado statute provides that people accused of misdemeanors cannot apply for counsel until after they speak with the prosecuting attorney regarding possible plea deals. C.R.S. § 16-7-301(4). Accordingly, Colorado defers the application for counsel by such defendants until some time after the right to counsel attaches under *Rothgery*.

The Task Force also explored the consequences of Colorado's statute. Defendants who accept plea offers made before they can apply for counsel may be unaware of the significant collateral consequences accepting such offers may have in terms of employment, voting, parole or immigration status, alimony and child support, gun ownership, and driver's licenses.

Future Goals: The Task Force intends to draft a complaint and demand letter, asserting that Colorado's statute is unconstitutional and asking state officials to repeal the statute.



TAYLOR RANCH LITIGATION TASK FORCE

This litigation has been going on for more than 30 years. The dispute about access to a 77,500 acre mountainous parcel originated with promises made in the mid 1800's that Mexican settlers on the Sangre de Cristo Land Grant would have access to the mountainous regions near their homes for uses necessary for their survival. In 1960, Jack Taylor purchased and began to fence off land which had been used for grazing, timber, and wood gathering for more than 100 years, causing enormous disruption to the economic and social fabric of the local communities.

The Colorado Lawyers Committee became involved in 1996 and has seen the case through federal court review, two trials, and both appeals. In an historic opinion, the Colorado Supreme Court, in 2003, upheld the rights of plaintiff property owners (whose heirs and predecessors settled the land grant when it was still part of Mexico) in and around San Luis, Colorado to exercise traditional use rights to graze livestock and collect wood and timber on the property known as "La Sierra" or the Taylor Ranch. The Colorado Supreme Court remanded the case to the Costilla County District Court to identify the current landowners who are entitled to access the property based on the test established by the Supreme Court. The District Court determined that certain property owners were not entitled to these rights because their predecessors in title were allegedly served in one of two 1960 quiet title actions. In 2004, the Court began an identification process to identify the current owners of land entitled to access La Sierra.

Co-Chairs: **Tom Stoever**, Arnold & Porter LLP, thomas_stoever@aporter.com
Jerome DeHerrera, Davis Graham & Stubbs LLP, jerome.deherrera@dgsllaw.com

Volunteers: During 2009, more than 30 lawyers, paralegals and secretaries worked on this case. It is estimated that they donated over 1,800 hours.

Taylor Ranch Litigation Task Force (cont.)

Recent Accomplishments: During 2009, the Task Force continued to participate in the trial court's identification of individuals who are entitled to use La Sierra to graze livestock and collect wood and timber. To date, the district court has examined title to over 6,300 parcels of land and found that all but approximately 300 parcels are entitled to access La Sierra. In 2009, more than 300 individuals provided notice that they intended to use La Sierra for either grazing or to gather timber or firewood.

In May 2009, the trial court entered a Rule 54 order certifying that the orders it has issued since remand are final and ready for appeal. The owner of La Sierra filed a notice of appeal and the Task Force began the process of defending its victories at the appellate level. The plaintiffs asked the Court of Appeals to dismiss the appeal as premature because the identification process is not complete. In early 2010, the plaintiffs' motion was granted.

Future Goals: The identification process should be complete in 2010 or in early 2011. The Task Force intends to continue representing the plaintiffs' class in the identification process as well as defend its victories at the appellate level.

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