



**2003**  
**Annual Report**  
**Tennessee Lawyer Assistance Program**

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## **INTRODUCTION**

The Tennessee Lawyer Assistance Program ("TLAP") was established by order of the Tennessee Supreme Court (the "Court") in 1999. The mission and general structure of TLAP are set forth in Rule 33 of the Tennessee Supreme Court Rules. This report is submitted to the Court, pursuant to Tenn. S. Ct. R. 33.02, for the purpose of reporting the activities and accomplishments of TLAP during 2003.

### **I. STATISTICAL DATA FOR 2003**

TLAP maintains information concerning inquiries and referrals by individuals about possible impairments and the availability of services. Referrals for TLAP's services typically come from the affected individual, a concerned third party, or disciplinary authorities.

There were 228 new inquiries and referrals to TLAP in 2003, bringing the total to 1008 since TLAP's inception in 1999. This figure does not include calls from existing clients, volunteers, previous referrals, or requests for speaking engagements. Substance abuse (i.e. alcohol and/or drug problems) accounted for 51% of these calls. Mental health issues (i.e. depressive/anxiety disorders, post traumatic stress, professional burnout) made up 26% of the total. Compulsive behaviors (i.e. sex, gambling, spending, eating, codependency) made up 20% of the calls (a significant 15% increase from 2002). The remaining 3% were for other physical disabilities (i.e. dementia, stroke).

TLAP receives 61% of its referrals from concerned third parties who can include family members, friends, colleagues and co-workers. Self referrals account for 20% of the inquiries to TLAP. Disciplinary bodies were the source of 18% of the referrals. Anonymous calls accounted for the remaining 1%.

TLAP tracks the source of inquiries and referrals based on geographical regions. Middle Tennessee accounted for 44% (decrease of 5%) of the contacts made. Calls from East Tennessee accounted for 28% of the inquiries and referrals. The West Tennessee area accounted 28% of the calls (increase of 5%), but it should be noted that the statistics maintained by TLAP do not include referrals made directly to the Memphis Bar Association's Lawyers Helping Lawyers program, which has its own toll-free number and part-time Director. A recent article in the President's Column of the November/December 2003 issue of the MBA's Memphis Lawyer, however, reports an average of 47 calls per year.

TLAP has had a total of 101 lawyers, judges, bar applicants, and law students under monitoring contract, 70 of whom are currently active and compliant. Of those 70, 66% were disciplinary referrals and 34% were voluntary. In 2003, 15 clients successfully completed their contract compliance term. Thirty-eight new contracts were signed in 2003, ten of which were law students or referrals from

the Board of Law Examiner. Out of that ten, six were admitted to the Bar with TLAP advocacy, and four are still pending.

Other statistics of interest for 2003: 27% of referrals were female; 5% were non-Caucasian. TLAP participated in a total of 27 formal interventions, resulting in the admission of 18 individuals for detoxification and/or evaluation. TLAP added two new Lawyers in Recovery (“LIR”) support groups, one in Knoxville and one in Nashville. The Nashville group is one of two all female “LIR” groups in the State.

Also of particular interest is what would appear to be a direct correlation between the establishment of Tennessee’s Lawyers Assistance program in 1999 and a significant decrease in disciplinary complaints being reported by the Board of Professional Responsibility in recent years.

## **II.** **2003 ABA EVALUATION**

In August of 2003 the ABA’s Commission on Lawyer Assistance Programs (Co-LAP) conducted a comprehensive evaluation of TLAP at the invitation of the Tennessee Lawyers Assistance Program Commission. The results of that Evaluation were presented to the Court.

## **III.** **RAM TEAMS/VOLUNTEER RECRUITMENT & TRAINING MANUAL**

Existing and potential volunteers have been identified statewide for consideration of appointment by the Commission to Regional Assistance and Monitoring (“RAM”) Teams. Letters of inquiry have been sent to both existing and potential volunteers in the Western Tennessee Regions, and the positive response has been encouraging. The Commission’s goal is to identify and select committed volunteers to establish RAM Teams. These teams will be under the direct supervision of TLAP’s Director. The establishment and training of the RAM Teams will provide additional resources to TLAP staff and will enable the staff to better serve its client base, as well as to systematically recruit and train new volunteers. This training will allow TLAP’s staff to effectively coordinate its efforts and insure TLAP’s accountability and compliance with Tennessee Supreme Court Rule 33, corresponding legislation, and TLAP policies, procedures and protocols.

TLAP’s Volunteer Recruitment & Training Manual has been completed.

## **IV.** **FINANCIAL**

TLAP has been integrated into the Judicial Branch of State Government and is operating as a state agency within the Administrative Offices of the Tennessee Supreme Court. TLAP operates on a fiscal year commencing July 1 and ending June 30. Expense Appropriations for the 2003-2004 fiscal year, pursuant to the AOC's Budget, are \$213,200.00, although 2003-2004 expenditures are expected to be equal to or greater than the actual 2002-2003 fiscal year expenditures of \$217,401.23. These expenses include the cost of operating as a state agency (such as servicing fees, employee pension/retirement benefits, longevity and leave accounts). Revenue for 2003-2004 from lawyers' dues assessments, based upon prior year receipts of \$170,000.00, are estimated at \$340,000.00, a result of the recent dues assessment increase from \$10 to \$20 per year per lawyer pursuant to an order of the Supreme Court of Tennessee, dated December 2, 2003, and effective January 1, 2004. This now provides TLAP an adequate and stable source of funding to meet operating expenses and growth.

Since January 1, 2001, TLAP had been operating under a deficit budget. The 2003 ABA Co-LAP Evaluation recommended an increase in the annual lawyers' dues assessment as a way to adequately fund TLAP.

As of December 31, 2003, the surplus fund has been reduced to \$72,752.54.

Copies of TLAP's Fiscal Year-End and Calendar Year-End Financial Statements, prepared with information provided by the Board of Professional Responsibility and the AOC, are attached as Exhibit "A." TLAP has yet to receive any formal documentation regarding revenue receipts or account balances from the State of Tennessee.

## V. **OVERVIEW OF TLAP INVOLVEMENT**

TLAP is involved on an ongoing basis in the following types of situations:

- TLAP receives self referrals of both genders and all ages with problems ranging from sexual compulsivity to substance addiction. Many of these voluntarily enter into TLAP Monitoring/Advocacy agreements.
- TLAP assists impaired professionals who are forced to take disability status because of inability to maintain sobriety. Without the pressure of practicing law and with the help of TLAP, treatment can succeed and the professionals petition to be removed from disability status.
- TLAP assesses impaired professionals relocating to Tennessee from out of state. A Monitoring/Advocacy agreement is entered into, and TLAP will advocate for admission after development of an appropriate history with the individual.
- TLAP will often advocate for the reinstatement of impaired professionals whose Tennessee licenses have been suspended for substance abuse and who live and

work in other states. TLAP works with other states' LAP programs to assist clients with reinstatement issues.

- TLAP assists in preparing and conducting interventions designed to help the impaired professional recognize and seek help for problems, whether depression, substance abuse, or other disorders or combinations of disorders..
- TLAP works with law school deans, the Board of Law Examiners, and law enforcement to assist law students at risk for abuse and addiction, as evidenced by arrests for substance abuse. TLAP offers assessment, Monitoring contracts for the purposes of advocacy with the law school and Board of Law Examiners, as well as for diversion in legal matters.
- TLAP conducts repeat interventions and Monitoring agreements for those clients who have failed at treatment initially but who wish to re-enter treatment, whether of their own initiative or as a condition of a Disciplinary Order.
- TLAP maintains a list of referral agencies for the various problems with which they are presented.
- TLAP will accept custody of impaired professionals from law enforcement agencies on occasion. TLAP is entrusted with the responsibility of delivering that impaired professional to the appropriate treatment center, while maintaining the safety of the public and of the individual.

## **VI.** **2004 GOALS**

The focus of TLAP in 2004 will remain on volunteer counselor recruitment and training. (See Tennessee Supreme Court Rule 33.04.)

TLAP will continue to expand its web site to include links to other related sites and will be added as a link on other sites (i.e. local and specialty Bars, Courts and law-related agencies, treatment facilities, etc.). This website will also list educational and recovery events in Tennessee and North America, develop individual pages with resource listings, detail symptomology of substance abuse, chemical dependency, and depressive disorders as exhibited by the impaired professional, provide education and resources for law students, and permit access to downloadable monitoring reporting forms online.

New advertisements will be developed and disseminated to all local and specialty Bars, Courts, and law-related agencies for publication. Additional educational brochures for mailings and handouts will be created.

An online Ethics and Professionalism CLE presentation is being developed by TLAP staff and volunteers to be included on the TBA's TennBar U web site. This will be a valuable educational opportunity and may provide additional revenue for TLAP.

TLAP is exploring the possibility of obtaining some of the funding for a Revolving Loan Fund from the Tennessee Commission on Continuing Legal Education and Specialization. (See Tennessee Supreme Court Rule 33.09.)

The Commission may ask that the Supreme Court consider educating the Bench and Bar through minimum mandatory CLE requirements in areas of substance abuse and/or mental health issues as has been done in a number of other states. (See Tennessee Supreme Court Rule 33.01 (B)(3).)

As a result of TLAP's expanding relationship with the law schools and Board of Law Examiners, the Commission may ask that the Supreme Court consider options for conditional admission and monitoring as has been done in a number of other states. (See Tennessee Supreme Court Rule 33.07.)

The development of the database and monitoring software exceeds the capabilities of the TLAP staff without the assistance of a professional programmer. As is evident from this report, TLAP has collected a significant amount of data. All of the data, however, is retrieved and calculated manually because of a lack of technological ability to compile and categorize the data electronically.

In 2002, a Petition for Rule Changes was jointly submitted to the Court by the BPR with the unanimous support of both the BPR and TLAP Commission. Thus far there has been no response from the Court. These proposed changes were based on a need to improve the effectiveness of TLAP monitoring services as a diversionary program for the BPR, add weight and depth to the monitoring agreement as an intervention tool, and remove TLAP from the role of complainant in BPR proceedings.

Additional goals that carry over from prior years include expanding the number of lawyer support groups in Tennessee, developing more diverse and effective peer support networks, improving family support networks, enlarging current outreach programs to women and minority members of the Bar, developing outreach to members of the Bar suffering from depression and other mental health illnesses, introducing law firms to the ABA's Model Law Firm/Legal Department Personnel Impairment Policy and Guidelines, instituting a TLAP Newsletter, persisting in efforts to develop referral relationships and protocols with the Court of the Judiciary and Board of Law Examiners, and continuing efforts to educate the Bench and Bar regarding TLAP, its mission, and its services.

## **VII.**

### **COMMISSION & PERSONNEL**

In June 2003, the Honorable Samuel H. Payne of Chattanooga, TN, completed an abbreviated term, having been appointed to fill a vacancy. Dr. Timothy P. Davis of Chattanooga, TN was appointed in his stead. Also in June 2003, Charles Earl Ogle of Gatlinburg, TN completed his term. He was replaced by the appointment of Ronald C. Chestnut, Esq. of Greenville, TN. Further, existing Commission Members Dr. Howard Burley, Jr. of Nashville, TN, the Honorable Robert L. Childers of Memphis, TN,

Christopher A. Hall, Esq. of Knoxville, TN, Stafford F. McNamee, Jr., Esq. of Nashville, TN, and Jacqueline B. Dixon, Esq. of Nashville, TN all had terms expiring June 1, 2003 extended by the Court for an additional three (3) years to June 1, 2006.

There were no changes in TLAP personnel during 2003. Robert E. Albury, Jr., JD, LADAC continues as TLAP's Executive Director with Laura Gatrell, MA, CEAP being promoted to Assistant Director. It should be noted that Ms. Gatrell received the 2003 John P. Mulloy, Jr., Tennessee Employee Assistance Professional of the Year Award.

### **CONCLUSION**

TLAP made great strides in 2003 toward maintaining the health and integrity of the legal profession and the administration of justice in the State of Tennessee. With the emphasis in 2004 on RAM Team development, TLAP will continue its efforts toward improving the quality of law and life for members of the legal profession and their families.

TLAP is a peer assistance program comprised of lawyers helping other lawyers by providing free and confidential referral and support services. Though it does accept referrals from disciplinary bodies, its only mission is to assist members of the profession in improving or restoring the quality of their lives and practices.

The continued support and encouragement received by TLAP from the Bench and Bar has been gratifying and is critical to TLAP's success in achieving its mission to carry the message of recovery to members of the legal profession throughout the state and to providing assistance to any member of the profession who seeks it. It is a privilege to assist these individuals and their families recover from substance abuse and mental health disorders. TLAP's success in educating the Bench and Bar that these illnesses are usually treatable conditions, not indications of weakness or moral failings, is a testimony to the dedication and efforts of the TLAP Commission, its staff and volunteers.