

Animal Law

The newsletter of the Illinois State Bar Association's Section on Animal Law

'Puppy prohibition' – An economic primer explaining why Chicago's puppy mill ban ordinance was doomed to fail

BY MELISSA ANNE MAYE

"Hell is full of good intentions." Saint Bernard of Clairvaux (1091-1153)

Chicago's Puppy Mill Ban Ordinance

In 2014, the Chicago City Council responded to concerns expressed by consumers and animal advocates that pet

stores in the city obtained their animals from large commercial breeders, known as "mills." In what has become an almost universal autonomous reaction, the city enacted an ordinance restricting the sources from which pet stores in the city

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Burned out? Overwhelmed? Meet Dr. Diana Uchiyama and the Illinois Lawyers' Assistance Program

BY MARY F. PETRUCHIUS

Editor's note: Although the following article is not directly related to Animal Law, it is included in this month's newsletter as part of an outreach to attorneys who may be experiencing stress, burn-out, mental health issues or substance abuse concerns. It is very important that all Illinois attorneys are aware of the resources that are available to

assist them with any related problems which they are experiencing. The Illinois Lawyers' Assistance Program is a great resource to consider.

The Illinois Lawyers' Assistance Program, or LAP, was founded in 1980. It is a not-for-profit organization that offers free, confidential help to Illinois attorneys,

law students, judges, and their families whose lives are affected by substance abuse, addiction, and/or mental health issues. In late 2018, LAP opened an office in Geneva. I recently interviewed Dr. Diana Uchiyama, LAP's executive director, about LAP and her role in the Geneva

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could obtain dogs, cats or rabbits for resale.¹ These mills, notorious for “deplorable conditions and abusive breeding practices, including over-breeding, inbreeding, crowded and filthy living conditions, lack of appropriate socialization, and inadequate food, water and veterinary care,”² have long been the dirty secret behind the cute doggie in the window of the local pet store.³ The city council determined that it had a legitimate interest in regulating the sources from which pet stores obtain their animals, both because of the city's economic interest in providing shelter services, and because of the economic burden the city incurs when it euthanizes unwanted animals.⁴

The Council also determined that extinguishing the supply of puppy-mill pets to local pet stores would serve several important policy goals, including: (1) limiting financial support to mill operators; (2) reducing the financial and emotional toll on Chicago consumers who purchase mill-bred pets with latent physical and behavioral problems; (3) boosting the placement of pets in shelters and rescues; and (4) reducing the City's shelter and euthanasia costs.⁵

Once passed, the puppy-mill-ban ordinance was widely applauded.⁶ Chicago made history by being the one of the first major cities to pass a puppy mill ban ordinance. After all, who could possibly be in favor of puppy mills? Who wouldn't oppose overbreeding, inbreeding and filthy living conditions for puppies?

Park Pet Shop, Inc. v. City of Chicago

Shortly after the ordinance was enacted, two Chicago pet stores—Park Pet Shop and Pocket Pets—joined forces with Cedar Woods Farm, a Missouri dog breeder, seeking to invalidate the ordinance.⁷ In their amended complaint, the plaintiffs alleged that the ordinance exceeded Chicago's home-rule powers under the Illinois Constitution. They also claimed that the ordinance amounted to

an unconstitutional regulation of interstate commerce in violation of the dormant aspect of the Commerce Clause.⁸ The city moved to dismiss the complaint for failure to state a claim.⁹ The trial court entered an order dismissing the plaintiffs' complaint and the plaintiffs appealed.

In analyzing the dismissal order, the seventh circuit acknowledged that pet stores in Chicago already were highly regulated. In order to operate a “pet shop”—broadly defined as “any person primarily engaged in the business of selling or offering to sell animals suitable for use as pets”—a person must obtain a license from the city,¹⁰ and he or she further must comply with a host of regulations regarding the housing and care of animals offered for sale, including providing a sanitary environment for the animals and ensuring that cage size and quality keeps the animals safe. Licensees also were required to submit to regular inspections by city inspectors.¹¹

The seventh circuit further noted that, although pet stores were heavily regulated, the puppy-mill-ban ordinance placed a “far more significant restriction,” on licensees, in that it “effectively prohibits large commercial breeders from supplying dogs, cats and rabbits to pet retailers in the city,” which “dramatically change[d] the business model of Chicago's pet retailers.”¹²

In determining whether the puppy-mill-ban ordinance was a permissible exercise of Chicago's home-rule powers, the court evaluated the *Kalodimos* factors,¹³ considering the “nature and extent of the problem” and whether the state had “a vital interest and traditionally exclusive role” in regulating it.¹⁴ The court recognized that regulating animal control has never been exclusively limited to the state, but instead has traditionally been concurrent between the states and municipalities. The court then stated that in areas of concurrent authority, the Illinois Constitution required a clear statement from the state legislature to “oust” a municipality's home-rule power. The court then determined that not only

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was there no state animal-control statute that ousted home-rule authority, but in fact, state law specifically preserved municipal power to regulate animal care and welfare.¹⁵

The seventh circuit further analyzed the ordinance under the Dormant Commerce Clause, stating that the Supreme Court has “‘long held’ that a ‘dormant’ or ‘negative’ component of the Clause implicitly limits the states from erecting barriers to the free flow of interstate commerce, even where Congress hasn’t acted.”¹⁶ Relying upon *National Paint & Coatings Assn. v. City of Chicago*, 45 F.3d 1124, 1130 (7th Cir. 1995), the court stated that the Dormant Commerce Clause applied “only to laws that *discriminate* against interstate commerce, either expressly or in practical effect.”¹⁷ Considering the *National Paint* factors, the court determined that the puppy-mill-ban ordinance consisted of a local law that “affect(s) commerce without any reallocation among jurisdictions,” that is, it was a law which did not “give local firms any competitive advantage over those located elsewhere.” Because of this categorization of the statute, the court defaulted to a rational basis standard of review, finding that the ordinance “easily survives review for rationality.”¹⁸ The seventh circuit thus upheld the ordinance, and the puppy-mill-ban ordinance survived its challenge.

Defeat . . . Snatched from the Jaws of Victory

Unfortunately, even the best-intentioned legislation that attempts to ban a product inevitably reaps its share of unintended consequences. It is a well-established economic principle that whenever the government steps in to try to ban people from engaging in trade, people who benefit from trading will try to find a way around government restrictions. The gains from trade are a powerful motivator. In fact, people will continue to trade even when such trade becomes an illegal act that carries a significant risk of fines or imprisonment. This explains why drug dealers, arms dealers, and human traffickers continue to ply their trades despite the government’s attempts to prohibit their unsavory practices. The term *underground economy* is commonly used to describe where and how these trades occur.¹⁹

Any person who is callous enough to earn his living by running a puppy mill is unlikely to see the error of his ways simply because the city of Chicago enacted a puppy mill ban ordinance. Criminals and other unscrupulous people are the jelly donuts of society—if the law puts pressure on them one way, they don’t stop what they’re doing; instead, they find a way to ooze out around the law.

Banning a product never works, particularly when despite the ban, there remains a high demand for the product, coupled with a strong economic incentive to provide it. In fact, the so-called “Iron Rule of Prohibition” states that the more intense the law enforcement against a product, the more potent the prohibited substance becomes.²⁰ However, despite the lessons of history, legislative economic meddling in the name of “do-gooding” continues by our lawmakers relatively unchecked. People continue to believe that it is better to “do something” even if what they are doing doesn’t work, and even if the types of laws they are proposing historically have never worked.²¹

It should come as no surprise that as a direct consequence of Chicago’s puppy-mill-ban ordinance, in the State of Iowa there was subsequently born a fraudulent interstate scheme to circumvent the ordinance. The scheme is described by the Iowa Attorney General as “puppy laundering.”

The Iowa Attorney General’s Petition in Equity Addressing “Puppy Laundering”

On March 18, 2019, Thomas J. Miller, the Attorney General for the State of Iowa, filed a petition in equity in the Polk County District Court, seeking to shut down an alleged “puppy-laundering ring” which was operating in Iowa and which had connections all across the country.²² In the petition, the AG alleged that Hobo K9 Rescue, Rescue Pets Iowa Corp, two Iowa non-profit corporations, J.A.K.’s Puppies, Inc., an Iowa for-profit corporation, and Jolyn K. Noethe, Kimberly K. Dolphin, Megan Peterson and Russell Kirk, (principals of the foregoing entities) violated the Iowa Consumer Fraud Act by engaging in the practice of “puppy laundering.” The petition specifically addressed Chicago’s puppy-mill-

ban ordinance, which requires City pet shop owners to buy only from “humane societies and rescue organizations,” which are defined as “any organization that has tax-exempt status under section 501(c)(3) of the U.S. Internal Revenue Code, whose mission and practice is, in whole or significant part, the rescue and placement of dogs, cats or rabbits.”²³

The Iowa AG coined the phrase “puppy laundering” to describe the activities of the defendants. “Money laundering” is a term that generally describes the concealment of the origins of illegally obtained money, typically by means of transfers involving foreign banks or legitimate businesses.²⁴ Like money laundering, “puppy laundering” is designed to obscure or conceal the original breeder, e.g., the “source” of the puppy. In the petition, the AG defined the practice as “the purposeful masking of the genuine source of merchandise puppies from consumers and law enforcement.”²⁵

To “launder” the puppies, the actors transferred the puppies from different persons and entities at least once prior to transferring them to the entity that ultimately sold the puppies to consumers.²⁶ This behavior constituted a deceptive practice because it preempted consumers’ concerns about buying dogs bred in puppy mills. Puppy laundering also “entails the fraudulent usage of non-profit entities to circumvent local and state laws.”²⁷ In its petition, the AG claimed that for-profit entities created non-profit puppy rescues in name only, to which the for-profit breeders would transfer the puppies for sale, either to consumers or to retailers who have to responsibly source their puppy merchandise from shelters and rescues.²⁸ These transfers occurred across state lines, and the characterization of these transfers as “rescues” served to frustrate government and law enforcement efforts to combat consumer and charity fraud.²⁹

Hobo K9 Rescue, one of the defendants in the petition, was alleged to have sold 1,290 purebred puppies out of state to locations in California, Illinois, Florida and New Jersey, all areas that have strict regulations regarding the sale and resale of puppies from mills. The veterinary certificates of the puppies revealed that all the puppies were “designer” breeds typically found in for-profit shops, including

Pomeranians, Shar-Peis, Shih Tzus, Alaskan Malamutes, Bichons, Shibu Inus, Miniature Schnauzers, Yorkie-poos, and Schnauzer-poos.³⁰

According to the petition, of the 1,290 puppies that were “brokered” by defendant Hobo K9 Rescue, none of them were “re-homed” within the state of Iowa. All were sent outside the state, and few were spayed or neutered prior to being shipped out of Iowa, thereby increasing the chance that some of the puppies would again be bred for profit.³¹

The fraudulently transferred puppies were brokered to out-of-state to retailers in areas such as Chicago. In his petition, the AG noted that even in areas that don’t have a municipal puppy-mill-ban ordinance, puppy laundering obscures the identity of breeders who may have USDA animal welfare violations or other issues that they may want to keep hidden from consumers who want to buy a responsibly-sourced puppy for a pet.³²

In the petition, the AG stated that one Chicago consignee called Pet Luv represented to its consumers that the thousands of purebred and designer puppies it sold were sourced through Hobo K9 Rescue, which was not, in fact, the true breeder source of the puppies.³³ Park Pet Shop, one of the plaintiffs in *Park Pet Shop, Inc. v. City of Chicago*,³⁴ stated in response to an Iowa AG subpoena, that it “adopted” one Goldendoodle puppy to a consumer for \$3,599.99. The AG’s petition stated that “[n]o legitimate charitable rescue’s associated fees to “adopt” or “re-home” a dog would ever even approach such an extravagant, for-profit sum as \$3,599.99.”³⁵

In its petition, the state of Iowa is seeking both temporary and permanent injunctive relief, restraining all the defendants and any of their agents from using any for-profit or non-profit corporate entity for the purpose of conducting any business or charitable activity involving the transfer of animals. It also is seeking to prohibit the defendants from engaging in deceptive, misleading, unfair, and unlawful acts, practices and statements that would further violate the Iowa Consumer Fraud Act.³⁶ The State further is asking for a judgment against all of the defendants, jointly and severally, for up

to \$40,000.00 for each separate violation of the Iowa Consumer Fraud Act.³⁷

The Inevitable Unintended Consequences of the Puppy-Mill-Ban Ordinance

In a 2017 interview with the Chicago Tribune following the seventh circuit’s ruling upholding the City of Chicago’s puppy-mill-ban ordinance, Jim Sparks, Jr., the owner of Park Pet Shop, predicted the flourishing of fraudulent practices as a result of the puppy-mill-ban. In that interview, Sparks stated that he had seen his store sales decline between 20 and 40 percent between 2015 and 2017. “We’re making a go of it, but they’ve made it more difficult not only on the business as it stands but for customers,” Sparks said. “It forces the underground marketplace to flourish.”³⁸ Based upon the AG’s petition, it appears Mr. Sparks’ prediction was correct.

In 2018, alderman Raymond Lopez proposed an amendment to Chicago’s ordinance to address the fact that the current law allows Chicago pet stores to sell puppies supplied by rescues that are closely linked to longtime commercial dealers, presumably like the ones named in the Iowa Attorney General’s petition. In an arrangement that is “not an express violation of the ordinance but runs counter to the spirit of the ban,” these organizations continue to provide Chicago pet stores with hundreds of purebred and designer-mix puppies, all of which come from kennels owned by for-profit businesses or dealers. The proposed amendment would change the law so that only dogs from a government facility or an organization “that has an agreement or other affiliation with Chicago Animal Care and Control” may be sold at local shops. Under this proposal, the city theoretically would have more control in determining a rescue organization’s legitimacy. However, many animal advocate groups, including the U. S. Humane Society, question whether the proposed ordinance changes would survive constitutional scrutiny.³⁹

Another unfortunate unintended consequence of the puppy-mill-ban ordinance is that the fraudulent scheme concocted by the puppy-mill producers in

Iowa has created a cloud of distrust over legitimate rescue operations. Consumers now must be more diligent to determine whether their rescue puppy truly was a rescue, and not a mill-bred puppy, particularly when the puppy arrives in Illinois from out-of-state.

Laws Do Not Drive Market Forces

It is unquestionable that the intentions behind the original puppy mill ban ordinance were laudable. But it is not enough to have good intentions. The more important question we need to ask is, “Will a proposed law work?” Apparently, Chicago’s puppy-mill-ban ordinance did not, as Chicago is still playing catch-up to fix the law, while commercially bred dogs continue to be sold for thousands of dollars in the city.⁴⁰

It’s time to recognize that society is always playing catch-up when it tries to solve market problems by passing laws that ban products. As criminals develop schemes to bypass a ban, more and more laws are needed to address the loopholes and the unintended consequences of the laws. Passing more laws banning more products and regulating more and more elements of society clearly does not work. Why? Because the law doesn’t drive market forces. Consumer demand does. So long as there is a demand for designer dogs, unscrupulous breeders will continue to provide them.

As a lawyer, it may seem odd to take a position in opposition to the passage of more laws. However, the study of economics shows that marketing forces generally drive the economic curve. The law, however, generally reacts to market forces, necessarily running behind economic demand. Instead of the knee-jerk reaction of “Somebody ought to pass a law about that!” the key to success in eradicating undesirable market products is not to simply pass laws banning them, but rather to educate the public to the point where demand declines. Whether a product should be banned should be the beginning of a mature and intelligent conversation, not the end of one.

It is well established that unenforceable and ineffective laws undermine the efficacy of the entire legal system.⁴¹ Thus, we need

to refocus our vision from passing more laws to public education and the shifting of societal norms. If a designer or mill-bred dog is no longer considered a status symbol, then puppy mills will become unprofitable. Once a product becomes unprofitable, the economic incentive to continue to produce it as cheaply as possible dramatically declines.

But can it be done? I believe it can. A classic example is the sharp decline over the past thirty years in the demand for fur coats and accessories. Once considered a status symbol on par with champagne and Porsches, the demand for fur as a luxury item has sharply decreased through societal and market forces alone. In the United States, societal activism has made fur as a commodity highly unpopular. Despite the fact that the United States has never taken any legal action against the fur industry, the number of mink farms in the United States plummeted from 1,027 in 1988 to less than 300 in 2015.⁴²

Likewise, education and market forces may be able to solve the puppy mill problem where the law cannot. Like fur coats and buggy whips,⁴³ society can choose to decrease the demand for mill-bred designer dogs and make real rescue dogs a more desirable commodity.⁴⁴ Once this happens, the economic incentive to produce mill-bred dogs under deplorable conditions will be destroyed, and puppy mills will become a thing of the past. Thus, public education can drive a shift in market forces which will solve a problem that a legal ban, acting alone, cannot.

Prohibition, as enacted by the Volstead Act and the 18th amendment, was an unqualified failure. The societal effects of the “noble experiment,” including the rise of the modern-day gangster, a decade and a half of damage to the economy during the Great Depression, and the subtle yet pervasive erosion of the nation’s respect for the rule of law, are still being felt today. Nevertheless, despite prohibition’s abject failure as evidenced by its repeal in 1933, many lawmakers today continue to ignore its lessons—they continue to believe that the ban of a product will result in a positive shift in human behavior.⁴⁵ Lawmakers need

to stop ignoring the unassailable fact that laws banning products – whether it’s alcohol or plastic straws or mill-bred puppies—constitutes lazy wishful thinking disguised as problem-solving. We need to expect our lawmakers to consider at least two factors every time they propose banning a product: 1) Will this law work? 2) What will be the law’s unintended consequences? We need to learn from our past mistakes, not repeat them. Until that time, simply passing more ineffective laws will continue to undermine respect for our legal system, while failing to solve our problems.

1. Chicago, ILL. Code § 4-384-015(b) (2016): “(b) *Restrictions on the retail sale of animals.* A retailer may offer for sale only those dogs, cats, or rabbits that the retailer has obtained from: (1) an animal control center, animal care facility, kennel, pound or training facility operated by any subdivision of local, state or federal government; or (2) a humane society or rescue organization.”

2. *Park Pet Shop, Inc. v. City of Chicago*, 872 F.3d 495 (7th Cir. 2017).

3. According to Canis Major V. publications, puppy mills originated in the post-World War II era. Midwestern farmers looking for an alternative crop reacted to a growing demand for purebred puppies, resulting in the development of the first commercial puppy businesses. As the business grew, both small and large retail outlets began to sell puppies through pet departments. At around the same time, the first pet store chains were born. “Puppy Mills Then and Now,” The Humane Society of the United States, <https://www.humanesociety.org/sites/default/files/docs/report-puppy-mills-then-now.pdf>, viewed May 9, 2019.

4. *Id.* The City of Chicago budgets about \$300,000.00 per year for its shelter service and spends more than \$500,000.00 annually to euthanize unwanted animals.

5. *Id.*, at 872 F.2d 498

6. <http://www.pawschicago.org/about-us/media-center/paws-in-the-media/news-item/showarticle/new-ordinances-ban-sale-of-puppy-mill-pets-in-chicago-and-cook-county/> “Chicago and Cook County have proudly joined dozens of municipalities across the United States in taking a stand against puppy mills and their inhumane breeding practices. That’s because on March 5 and April 9, the Chicago City Council and the Cook County Board of Commissioners respectively passed new ordinances prohibiting pet stores from selling dogs, cats and rabbits purchased from for-profit breeders and puppy mills.” Viewed May 10, 2019; <https://www.nbcchicago.com/blogs/ward-room/Chicago-Council-Approves-Ban-of-Puppy-Mill-Sales-at-Pet-Stores-248591901.html>, “Chicago aldermen on Tuesday voted 49-1 to ban the sale of dogs, cats and rabbits from “puppy mills” at city

pet stores. City Clerk Susana Mendoza, who supported the measure, said Chicago will now be a “national leader in humane laws” for pets. “It cuts off a pipeline of the animals coming from the horrendous puppy mill industry and instead moves us towards a retail pet sales model that focuses on adopting out the many, many homeless animals in need of loving homes in this city,” Mendoza said.” Viewed May 10, 2019.

7. *Park Pet Shop, Inc. v. City of Chicago*, 872 F.3d 495 (7th Cir. 2017).

8. *Id.*, at 498.

9. FRCP 12(b)(6) (West 2016)

10. Chicago, ILL Code §4-384-020(a)

11. *Id.*, §§ 050, 055, 100, 130.

12. *Park Pet Shop*, 872 F.3d at 499.

13. *Kaladimos v. Village of Morton Grove*, 103 Ill.2d 483, 470 N.E.2d 266, 274 (1984); “[w]hether a particular problem is of statewide rather than local dimension must be decided not on the basis of a specific formula or listing set forth in the Constitution but with regard for the nature and extent of the problem, the units of government which have the most vital interest in its solution, and the role traditionally played by local and statewide authorities in dealing with it.”

14. 872 F.3d at 500.

15. “Nothing in this Act shall be held to limit in any manner the power of any municipality or other political subdivision to prohibit animals from running at large, nor shall anything in this Act be construed to, in any manner, limit the power of any municipality or other political subdivision to further control and regulate dogs, cats or other animals in such municipality or other political subdivision provided that no regulation or ordinance is specific to breed.” 510 ILCS 5/24 (2015).

16. 872 F.2d at 501, citing *Raymond Motor Transp. Inc. v. Rice*, 434 U.S. 429, 400, 98 S.Ct. 787 (1978).

17. *Id.*

18. 872 F.3rd at 505.

19. https://saylordot.org.github.io/text_microeconomics-theory-thru-applications.html, Chapter 11, “Barriers to Trade and the Underground Economy,” viewed May 9, 2019.

20. Cowan, Richard, “How the Narcs Created Crack,” *National Review*, December 5, 1086, pp. 30-31.

21. Changing the rules from those of the free market to those of Prohibition broke the link that prohibitionists has assumed between consumption and social evil, and also added unintended consequences into the equation. “Alcohol Prohibition Was a Failure,” Thornton, Mark, Policy Analysis No. 157, <https://www.cato.org/policy-analysis/alcohol-prohibition-was-failure>, viewed May 13, 2019.

22. *State of Iowa ex rel. v. Hobo K9 Rescue, et al.*, Petition in Equity filed 3/18/2019 in Iowa District Court for Polk County, https://www.iowaattorneygeneral.gov/media/cms/hobo_k9_final_petition_F741B03363499.pdf, viewed May 9, 2019.

23. *Id.*

24. www.google.com/search?safe=strictq=Dictionary, viewed May 9, 2019.

25. *State of Iowa ex rel. v. Hobo K9 Rescue, et al.*, Petition in Equity filed 3/18/2019 in Iowa District Court for Polk County, https://www.iowaattorneygeneral.gov/media/cms/hobo_k9_final_petition_F741B03363499.pdf, viewed May 9, 2019.

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.*

34. 872 F.3d 495

35. *State of Iowa ex rel. v. Hobo K9 Rescue, et al.*, Petition in Equity filed 3/18/2019 in Iowa District Court

for Polk County, https://www.iowaattorneygeneral.gov/media/cms/hobo_k9_final_petition_F741B03363499.pdf, viewed May 9, 2019.

36. *Id.*

37. *Id.*

38. <https://chicagotribune.com/business/ct-biz-chicago-puppy-mill-appeal-201770926-story.html>, published September 26, 2017, viewed May 9, 2019.

39. <https://www.chicagotribune.com/news/local/breaking/ct-rescue-puppies-chicago-ordinance-revision-20180523-story.html>, viewed May 10, 2019.

40. See, *AG. Petition*, Par. 34-38. “Purebred dogs” are generally dogs that are registered with the American Kennel Club and have recorded pedigrees; “designer dogs” are generally hybrids, or cross-bred dogs from two purebred dogs, such as the “goldendoodle” (crossed between a golden retriever and a poodle) or the “Pomsky” (crossed between a Pomeranian and a Husky.)

41. See, e.g., Daron Acemoglu & Matthew O. Jackson, *Social Norms and the Enforcement of Laws*, *Journal of European Economic Association*, April 2017, Oxford

Press, <https://economics.mit.edu/files/11496>: “Introducing laws that are in too strong a conflict with prevailing social norms may backfire and significantly increase lawbreaking, whereas more moderate laws that are not in discord with prevailing norms may reduce behavior without causing as much lawlessness – because they change social norms in the process.” See also, Ronie Elias, *Lessons of Prohibition on Contemporary Drug Policy*, Center for Alcohol Policy, https://www.centerforalcoholpolicy.org/wp-content/uploads/2015/03/Roni_Elias_Essay.pdf: “Once there was a disjunction between the rationale behind Prohibition and its practical effects, the law commanded less respect. If individuals could not square the reality of Prohibition with their expectations and their moral principles, they could feel freer to violate the law, at least around the edges . . . With such widespread disregard for a particular law, the law lost a good deal of its authoritative force. After Prohibition, it would always be easier to tolerate unlawful conduct and for citizens to assert their own morality over and above the law.”

42. [https://www.scientificamerican.com/article/impact-](https://www.scientificamerican.com/article/impact-activism-on-fur/)

[activism-on-fur/](https://www.scientificamerican.com/article/impact-activism-on-fur/).

43. Westfield, Massachusetts, once known as “Whip City,” was the largest producer of buggy whips in the 19th century; however, following the introduction of the automobile, forty-one of the forty-two manufacturers of buggy whips closed their doors, and by the year 2015 only one manufacturer remained. <https://www.succeedinginsmallbusiness.com/history-lesson-for-small-business-owners-dont-be-the-last-buggy-whip-maker/#.XNWBjY5KiUk>, viewed May 10, 2019.

44. See, e.g., Dupage County, Illinois’s “Puppy Mill Information Packet,” https://www.dupageco.org/uploadedFiles/DupageCo/Departments/Animal_Care_and_Control/DMS_Files/Puppy%20Mill%20Information%20Packet_October%202018.pdf, viewed May 13, 2019.

45. The definition of insanity is doing the same thing over and over and expecting a different result.

Burned out? Overwhelmed? Meet Dr. Diana Uchiyama and the Illinois Lawyers’ Assistance Program

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office.

Mary: Diana, before we discuss LAP and what you do, I’d like our readers to get to know you. Where did you grow up? What’s your educational history?

Diana: I grew up on the north side of Chicago after my parents immigrated here from Germany with my two older siblings. I attended public grammar school until the eighth grade and graduated from St. Scholastica Academy, an all girls’ college preparatory high school in Chicago. I received my undergraduate degree from the University of Illinois in Champaign and my Juris Doctorate from Pepperdine University School of Law. I attended Benedictine University for my MS in Clinical Psychology and Midwestern University for my PsyD in Clinical Psychology.

Mary: Who were your role models growing up? The influences in your personal and professional life?

Diana: I would say my parents and younger brother were the greatest role models in my life. My parents immigrated to the United States with two small children because my parents wanted to provide their children with a better quality of life than they had in Germany. My father was Assyrian from a Catholic family in Iraq, and they were a minority group that was

persecuted because of their religion. He moved to England to attend college and met my mother, who was from Germany, and they eventually got married in Germany. They had two children but neither of my siblings were German citizens, due to my father being a foreigner. My parents decided to move to the United States so that their children would have a national identity and more opportunities than in Germany.

My younger brother and I were born in Chicago and he was born with Down Syndrome. My parents always pushed all of us to become educated, to work hard, to speak up against injustice, and to give back through acts of public service and charity, which has been my biggest motivation in life. And because I have a brother with a disability, I was motivated to provide him with all of the opportunities that I had and to push him to rise above his disabilities, to be an independent human being with a purpose in life.

I think that growing up with parents who were from other countries and who gave so much of their lives to better their own children’s lives, made me want to pay it forward in my own career and my own sense of identity. I understand what it means to be poor, to work hard to get ahead, to have a sense of purpose, and to work for the greater

good. My parents instilled in me a desire to be motivated not just by money and title, but to better the lives of as many people as you can, regardless of who they are and where they are born.

Mary: Why did you decide to become lawyer?

I think that the circumstances of my childhood, including growing up with parents who were from other countries and often being judged by the fact that my parents had accents, influenced me greatly because I often felt different and like an outsider.

In my family what was really valued was education and hard work, instead of superficial things. Then, having a brother with a significant disability and watching my family fight to get him equal treatment in school and in life, made me passionate about being a voice for the voiceless or for those treated as “less than.”

I felt passionate about making sure that people were treated fairly and with a sense of justice and equality, regardless of where they were born. I had a strong desire to pursue a degree in law, specifically in criminal law as an Assistant Public Defender. I wanted to make sure that everyone’s rights were honored regardless of education, economic status, or nationality or race.

Mary: Diana, take us down through your career path and where it has led you.

Diana: After graduating from law school, I first practiced in international health care law, due to the fact that I speak fluent German, while I was waiting to find out if the Cook County Public Defender's Office was hiring. I then applied for a position there and happily was hired. I worked as an Assistant Public Defender for about 12 years assigned to various felony courtrooms, mostly at 26th and California.

I then decided to get my master's degree in clinical psychology and, after that, my doctorate. I have blended my work as an attorney and clinical and forensic psychologist. I previously worked at the Kane County Diagnostic Center doing forensic evaluations for the Court and as the Kane County Juvenile Drug Court Coordinator. I have also worked for the Cook County Juvenile Detention Center with adolescents who were charged criminally as adults. I was the Administrator of Psychological Services for DuPage County, working with a court-mandated population of clients who had substance use, mental health and/or domestic violence and anger management problems. I am now the Assistant Deputy Director of LAP.

Mary: What brought you to LAP?

Diana: There were a number of reasons that I came to LAP. I had several former legal friends and trial partners who were struggling with mental health and/or substance use issues and, when a few of them or their family members began reaching out to me regarding the problems they were facing, I thought initially that it was an isolated problem. After doing a presentation with a member of the ARDC, however, I found out that the substance use and mental health problems in the legal community were pretty common and very complicated.

Additionally, we had quite a few attorneys seeking mental health, domestic violence, and/or substance use assistance when I worked at DuPage County. Sometimes those attorneys had a difficult time in group settings with other group members. They often felt a great sense of shame at needing mental health or

substance use services. That made me feel tremendous empathy for them.

And finally, I have personally known attorneys with whom I was acquainted or worked with, who committed suicide. I felt great distress and sadness that this was happening to my legal community. As a result, I felt that all my education and training was well suited to understanding the specific needs of the legal community and appreciating how hard it is to reach out and access services to get the help needed.

I owe a lot of gratitude to people in the legal community who shared their passion, knowledge, and patience with me as I was learning to become a lawyer. I felt this great desire to give back to the legal community in general because that community had been so good to me when I was a practicing attorney.

Mary: What does LAP do?

Diana: LAP is a not-for-profit organization that helps Illinois lawyers, judges, law students, and their families concerned about alcohol or substance use or dependency, mental health issues including depression, anxiety, and suicidal thinking, or stress-related issues such as compassion fatigue and burnout.

LAP's services include individual and group therapy, assessments, education, peer support, and interventions. Our mission is threefold: To help lawyers, judges, and law students obtain assistance with substance abuse, addiction, and mental health problems; To protect clients from impaired lawyers and judges; To educate the community about addiction and mental health issues.

Everything at LAP is free and confidential and many of the staff are attorneys/clinicians or specialize in substance abuse issues. We have offices in Chicago, Park Ridge, Geneva, and satellite offices throughout the State of Illinois. LAP has a board of directors, an advisory committee, and an associate board comprised of lawyers and judges from all over the state.

Mary: Have you seen the wellness issues faced by attorneys change since you became an attorney in 1989?

Diana: In some ways, yes.

Mary: In what ways have those issues

changed?

Diana: Honestly, looking back I think that the problems in the legal profession with substance use and mental health problems were significant even when I practiced law. I believe, however, that I normalized it as a professional hazard. I felt that it was not unusual for members of my profession to drink heavily or to struggle with relationship issues, burnout, and compassion fatigue. I was surrounded by it on the bench, with my colleagues, and at legal functions I attended.

Until I stepped out of the field and entered into a different working arena, I never recognized that the work attorneys do--the tragedies and traumas we see on a daily basis, the win/lose attitude we all encounter, and the high case volumes we endure would cause a wear and tear and erosion of our physical and mental health. It was not until I began hearing stories about disastrous outcomes of people I worked with or knew, or was asked for treatment assistance or help, that I recognized that something was wrong and unhealthy with our profession.

I also knew that I had the educational ability and expertise to go back and help people with whom I strongly identify, relating to the personal qualities I share with them. Those qualities include perfectionism, competitiveness, being a problem solver, and possessing an inability to ask for help due to shame and fear. I feel very blessed to be able to do this work and help people realize that asking for help is a strength and not a weakness.

Mary: What issues do we as a profession face today that we may not have faced 20 years ago?

Diana: The level of stress and anxiety is dramatically increasing. We cannot turn off our brains. We are having higher levels of mental health issues in general, including depression. This is most likely due to poor sleep habits, the presence of social media, and the inability to separate work from home, due to the accessibility of people via email or text. The suicide rate for attorneys is very high and that means that people are suffering alone and in isolation. We need to do a better job of helping people, collectively and individually, in

the legal profession, so that no one feels that suicide is the only option to escape the hopelessness and sadness they may be experiencing.

Mary: Do the younger lawyers take advantage of LAP?

Diana: Younger people in general access LAP services more readily and this may be due to the lower levels of stigma associated with seeking help for mental health and substance use issues in this age group. It is also related to LAP's incredible outreach in the law schools, including staffing every law school in Illinois with monthly office hours using staff or volunteers to identify individuals who may be struggling, and offering them help before they enter the legal field. Forty percent of our clients are now coming from the law student population and over fifty percent of LAP clients are under age 40.

Mary: What issues do younger lawyers have that differ from the issues of more seasoned lawyers?

Diana: Young lawyers have significant financial issues related to educational debt. They are also just starting their careers, transitioning from being students to being adults with full-time work responsibilities, forming permanent relationships, having children, purchasing houses, and trying to establish themselves in their legal community. They often feel as though they lack the knowledge or expertise, despite their educational training. They face significant stressors that may increase mental health and substance use issues.

Mary: How did the Geneva LAP office come to be?

Diana: The Geneva office came to be due to increased demands for services in the western suburbs, including DuPage and Kane Counties. LAP recognized that the legal community there and in the far west, including Rockford and DeKalb, would not be able to easily access services in the downtown Chicago or Park Ridge areas due to distance. We received increased requests for services and felt we needed to meet the demand for an area that was underserved and needing significant assistance.

Mary: What services does LAP offer?

Diana: We offer assessments, evaluations, and individual therapy in

Geneva. I staff that office one or two days a week by appointment. We also provide peer support mentors and refer people to outside agencies as needed, including psychiatrists, therapists, and substance use providers.

Mary: What are your goals for the Geneva LAP office?

Diana: We hope to provide group therapy in the future as the demand increases and the desire for these types of services is requested. We also want to increase the involvement of the judiciary and the training of people in DuPage, Kane, and surrounding areas who want to volunteer with LAP. Individuals will be able to go to those volunteers and ask them questions about what LAP can do for them.

Mary: How do you envision your future?

Diana: I love my job and feel passionate about what I do, so I hope to be a part of LAP for a long time. I hope to increase LAP's ability to assist more people in the legal profession by expanding services statewide, creating more volunteer outreach, involving members of the judiciary and local legal communities with LAP, and increasing financial support for LAP through fundraising and donations.

I want to help people struggling with mental health and/or substance use issues to recognize LAP as a safe place to seek assistance and access services. We are in the business of aiding legal professionals in need, providing hope for people who are hopeless, and helping people become healthy and optimistic about their work and their futures. I am honored to be serving in this capacity.

Mary: Diana, it has been a pleasure and a privilege to interview you and learn about the great work you and LAP are doing for our legal community. How can our readers contact LAP?

Diana: They can call LAP's main telephone line at: 312.726.6607 or 1.800.LAP.1233. They may also email me directly at duchiyama@illinoislap.org. ■

Mary F. Petruchius serves on ISBA President James McCluskey's Special Committee on Health & Wellness. She is the PAI (Private Attorney Involvement) Plan Coordinator for Prairie State Legal Services' St. Charles Office. Mary came to Prairie State in July, 2018, after 26 years practicing criminal defense, juvenile, and real estate law.