

K. Currier • T. Eimermann • M. Campbell

INTRODUCTION TO PARALEGAL STUDIES

A Critical Thinking Approach

SEVENTH EDITION

Katherine A. Currier • Thomas E. Eimermann • Marisa S. Campbell

*Introduction to Paralegal Studies: A Critical Thinking Approach* frames concepts and practice within the authors' acclaimed focus on critical thinking and analysis. The fresh coverage, thoughtful updates, and dynamic approach of the Seventh Edition have made this perennial favorite even better.

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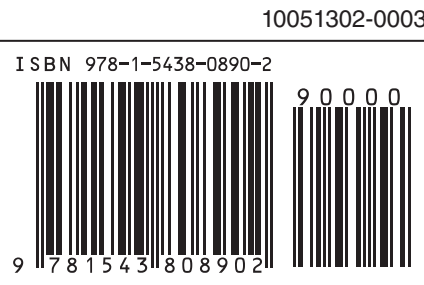
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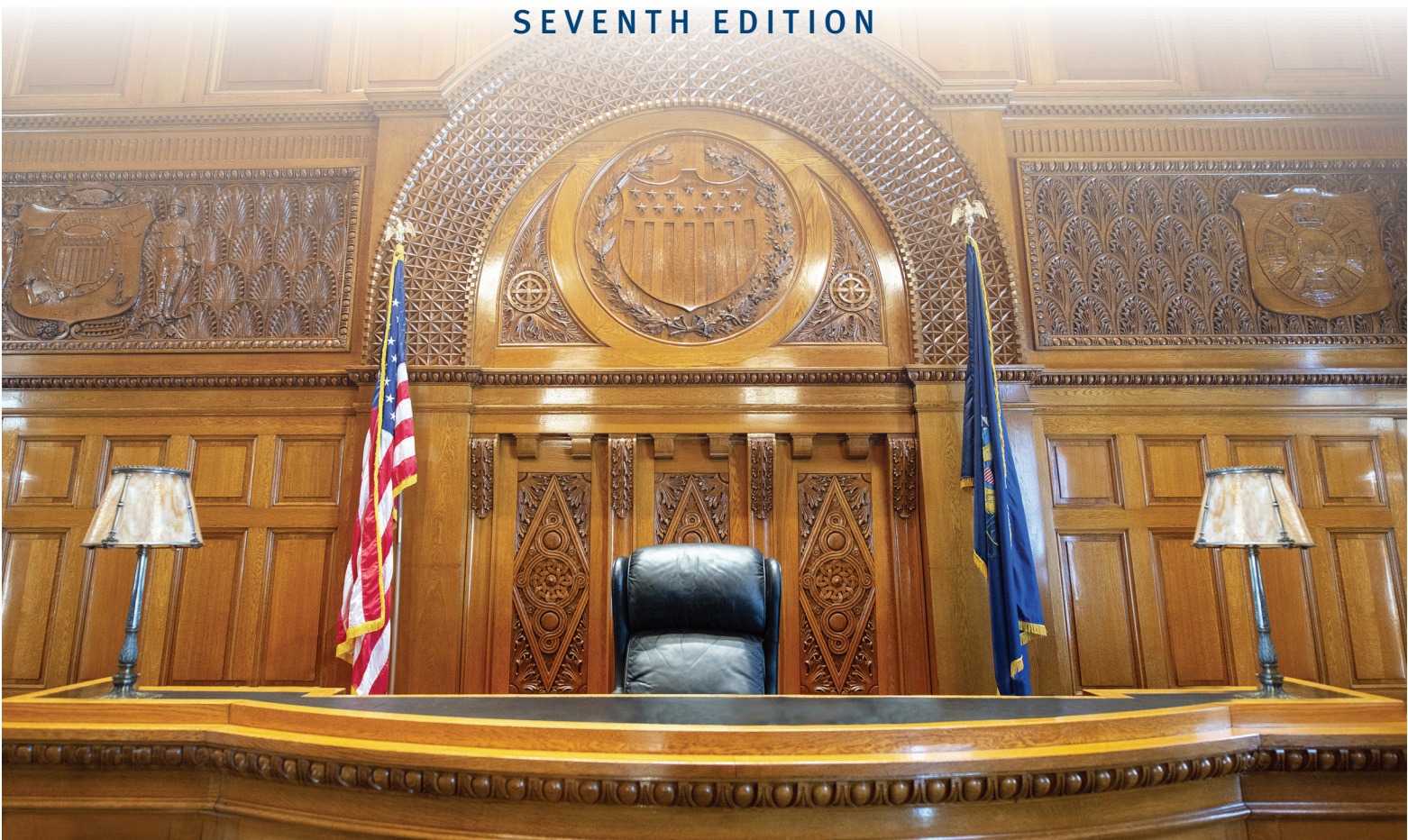
SEVENTH  
EDITION



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PARALEGAL STUDIES

A Critical Thinking Approach

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Wolters Kluwer







# Introduction to Paralegal Studies

## A Critical Thinking Approach

### Seventh Edition

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*To our spouses and children  
for their understanding and support*





# About the Authors

**Katherine A. Currier, J.D.**, served as the Elms College Paralegal and Legal Studies program director for many years. She developed and taught many law-related courses, including Legal Reasoning, Research, and Writing; Introduction to Legal Studies I and II; Law Office Computer Literacy; Law Office Applications; Interviewing, Counseling, and Negotiating; and Law and Literature. In addition to the three texts she has coauthored with Professor Eimermann, Professor Currier has publications in the areas of legal ethics as applied to paralegals and law office computing.

Professor Currier has been actively involved in the development of undergraduate legal education at both the regional and the national levels, particularly through her work with the American Association for Paralegal Education (AAfPE) and the American Bar Association (ABA) Approval Commission on Paralegals. Professor Currier served on the national board of AAfPE, first as its parliamentarian and then later as the elected representative of four-year paralegal programs. She served many years as the AAfPE publications chair, charged with the final responsibility for overseeing the *Journal of Paralegal Education and Practice* and *The Educator*. Professor Currier frequently speaks at both the AAfPE Northeast regional meetings and the annual AAfPE conferences on topics as diverse as the use of computer shareware, paralegals and the unauthorized practice of law, creative teaching techniques, and conducting legal research on the Internet. Professor Currier also chaired the American Bar Association Approval Commission on Paralegals, the body charged with conducting site visits of paralegal programs that are seeking their initial ABA approval or reapproval. She also served on the Board of Directors of the International Assembly for Collegiate Business Education (IACBE), an organization dedicated to promoting excellence in business education.

Prior to teaching at Elms College, Professor Currier taught at Suffolk Law School and Western New England College School of Law. She graduated magna cum laude with her B.A. in Political Science from Carleton College, with her M.A. in Political Philosophy from the University of California, Berkeley, and with her J.D. from Northeastern University Law School.

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In addition to this text, she coauthored the *North Carolina State Bar Paralegal Certification Exam Guide* in 2013 as well as numerous articles and manuscripts. She graduated with Honors in Political Science and Honors in Studies in Religion from the University of Michigan, Ann Arbor. She earned her Master in International Affairs from Columbia University and her J.D. from the University of Michigan Law School.

Currier, Eimermann, and Campbell have also authored *Introduction to Law for Paralegals: A Critical Thinking Approach* and *The Study of Law: A Critical Thinking Approach*.

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# Preface

## NEW TO THIS EDITION

This seventh edition keeps pace with many new developments in the law and the paralegal profession. We have added new topics, expanded others, and incorporated discussions of recent court decisions. We have also included new Legal Reasoning exercises, Discussion Questions, Review Questions, and updated the Web Exercises.

This edition was completed during the Covid pandemic; changes that were happening in the law and how the legal system works were accelerated during this time. We were able to capture those changes in this edition. We also made major organizational changes. Criminal Law and Procedure, Chapter 9 in the sixth edition, was split into two chapters, Chapter 8, Criminal Law and Chapter 9, Criminal Procedures. This change made the chapters more manageable for students to read and understand. We also made it easier to compare and contrast Criminal Law and Criminal Procedure with Civil Litigation and Torts by moving the chapter on Contracts, Chapter 8 in the sixth edition, to Chapter 10 in this edition. This also helped with the flow of the topics that followed in the chapter on Specialized Practice Areas.

## APPROACH

As the subtitle of this book indicates, it uses a critical thinking approach to paralegal studies. Paralegal studies focus on the functions and duties of paralegals in the American legal system. The critical thinking approach to paralegal studies places great emphasis on the development of analytical thinking skills.

We use this critical thinking approach because we believe it is the best way for students to learn the fundamental principles of law. By learning how to read and interpret statutes, cases, regulations, and court documents, students will be better able to learn how to perform paralegal duties in a variety of specialty areas. Therefore, this book emphasizes careful reading for detail, analytical thinking, and the written presentation of arguments.

Another key element of this critical thinking approach is the interactive nature of the book. We have included Hypothetical Cases, Discussion Questions, Legal Reasoning Exercises, Practice Tips, and Ethics Alerts to stimulate students to think about and discuss the underlying assumptions behind various aspects of the law and the ramifications of different approaches to legal problems.

We purposely dispersed these items throughout the chapters so that the students would be encouraged to think about them while the material is fresh from recent reading and to be readily available for instructors to use as springboards for classroom discussion. While we did relegate the Review Questions to the end of each chapter, we have labeled them with the pages they cover so that you can easily assign just part of a chapter with its accompanying review questions.

## ORGANIZATION OF THE BOOK

Part 1, Paralegals and the American Legal System, introduces students to the study of law, the organization of the legal system, and the role of paralegals in that system. It includes the classification of different types of paralegals and what they do, as well as coverage of the issues of paralegal education, registration, certification, licensure, and ethics. Chapters in this section also cover such topics as sources of the law, the different ways in which law is classified, the structure of the courts, and the various stages involved in litigation and alternative dispute resolution.

Part 2, Substance of the Law, introduces readers to the basic concepts involved in the areas of torts, criminal law, criminal procedure, and contracts and the Uniform Commercial Code. It also provides an overview of specialized practice areas, such as business law, employment and labor law, debt collection and bankruptcy, administrative law, immigration, real estate, intellectual property, estate planning and probate, and family law. Part 3, Legal Analysis and Research, contains chapters that build the critical thinking skills students need for reading and analyzing the law. Chapters 12 and 13 cover finding and interpreting statutory law and court opinions. Chapter 14 discusses basic legal research tools, and Chapter 15 shows students how to apply what they have found to specific legal problems. Chapter 15 also discusses how to use the IRAC approach to legal analysis and how to report research findings in a legal memorandum.

Whereas Part 3 builds skills for finding and analyzing the law, Part 4, Paralegals and the Work World, builds skills related to gathering and managing relevant factual information. Chapter 16 focuses on interviewing while Chapter 17 covers the gathering, preservation, and use of different types of evidence. Chapter 18 introduces readers to case management and the various types of computer programs that attorneys and paralegals can use to manage case information.

## KEY FEATURES

The many features that set this book apart are

- Chapter Objectives
- Discussion Questions integrated into each chapter
- Legal Reasoning Exercises
- Marginal definitions of key terms
- Practice Tips

- Ethics Alerts
- NetNotes
- Web Exercises
- Review Questions
- An appendix on the fundamentals of good writing
- A glossary that includes definitions for all bold-faced words and phrases found in the text

Because this book stresses the critical thinking approach, we illustrate our points with hypothetical situations and with real case decisions that students will understand and to which they can relate. Discussion Questions and Legal Reasoning Exercises force the students to synthesize and analyze the material rather than simply regurgitating an answer. The Practice Tips help connect the theoretical textbook learning to the reality of the work world. They provide checklists and other “words of wisdom” regarding practical paralegal tasks. By bringing the text to life, the Discussion Questions, Legal Reasoning Exercises, and Practice Tips all help maintain student attention and aid in the students’ retention of the material.

Ethics Alert boxes are placed throughout the text to draw attention to the ethical issues involved in various aspects of the law. These boxes warn students of actions that would be considered unethical; they also give advice on how to act appropriately. NetNotes provide students with handy links to key Internet resources, and Web Exercises require students to utilize the Internet to find specific types of practical information.

Because so much of learning the law involves mastering legal vocabulary, we have included marginal notes containing key definitions. The end-of-the chapter Review Questions also help students reinforce basic concepts.

Of special note are the appendices. Appendix A contains the U.S. Constitution. Appendix B provides students with a convenient and easy-to-understand primer on the basics of grammar, including verb tense, pronoun agreement, placement of modifiers, punctuation, and style. Appendix C provides a useful summary of all of the NetNotes found in the text.

An instructor’s manual that includes suggested answers for all the Discussion Questions, Review Questions, Legal Reasoning Exercises, and Web Exercises, as well as teaching tips, is available to help teachers make the most effective use of this book. Also available is a PowerPoint presentation to assist with classroom lectures and an electronic test bank. Instructors can download these materials at the product page that accompanies the text, at [www.wklegaledu.com](http://www.wklegaledu.com).

## RELATIONSHIP TO THE AUTHORS’ OTHER TEXTS

Those familiar with *Introduction to Law for Paralegals: A Critical Thinking Approach* and *The Study of Law: A Critical Thinking Approach* will recognize many similarities to this text. All three books emphasize the critical thinking approach to understanding the law. All three include Discussion Questions,

NetNotes, references to ethical questions, and either Legal Reasoning or Critical Thinking exercises. Topics such as sources of law, classification of the law, structure of the court system, overviews of civil and criminal litigation, overviews of torts, contracts, property, and criminal law, and analysis of statutes and cases are covered in all three books.

These books differ in terms of their intended audiences. *The Study of Law* is directed at a more general-education/pre-law audience, whereas both the *Introduction to Law for Paralegals* and this text are specifically directed at paralegals. Whereas *Introduction to Law for Paralegals* goes into more detail in its coverage of substantive areas of the law and includes excerpts from actual court opinions, this text provides greater coverage of the role of the paralegal and the types of skills involved in interviewing, investigations, and computerized case management.

## SPECIAL THANKS

Naturally, we owe a great deal of thanks to the many students, educators, paralegals, and attorneys who contributed ideas for this book. Special recognition should go to Victoria Joseph for her contribution to the criminal law chapter.

We would also like to thank the staff at Aspen Publishers for the excellent support we have received on the books we have done with them. We especially want to thank Betsy Kenny for the key role that she continues to play in the development of each new edition of our books.

Finally, we also want to thank our spouses and children for their continued support and understanding of our professional activities.

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1

# PART

## Paralegals and the American Legal System





# Chapter 1

## Introduction to the Study of Law and the Paralegal Profession

*[P]aralegals are capable of carrying out many tasks, under the supervision of an attorney, that might otherwise be performed by a lawyer.  
Justice William Brennan*

### Chapter Objectives



After reading this chapter, you should be able to:

- Give a commonly accepted definition of paralegal.
- Describe the various settings in which paralegals and lawyers work.
- Compare the educational requirements for becoming a lawyer with those of becoming a paralegal.
- List the major professional organizations that have an impact on paralegal education and practice.
- Describe the various types of paralegal credentials.
- Describe the various tasks that paralegals typically perform.

### INTRODUCTION

The purpose of this text is to help you understand the American legal system and how paralegals and lawyers work within it. People often turn to the legal system for help in planning their affairs. For example, a group of entrepreneurs may seek

legal advice regarding the best way to organize a new business, or a young, married couple may come to a lawyer for help with the purchase of their first home. Sometimes, however, people become involved with the legal system because they are in trouble. Perhaps they are facing criminal charges or have been injured in an automobile accident. Their stories illustrate how society has developed a set of rules to help people resolve conflicts they cannot resolve on their own.

Take a few minutes to read the following fact situations involving a distressed grandfather and a harassed student. We will be using their stories, and those of others, throughout this text to help you understand how the legal system works.

### Case 1: The Distressed Grandfather

Approximately one year ago, Donald Drake and his six-year-old grandson, Philip, were walking down a residential road on their way home from visiting one of Philip's friends. Philip was walking on the sidewalk approximately thirty feet in front of Drake. Suddenly, a car sped past Drake, seemingly went out of control, jumped the curb, and hit Philip. Drake ran to Philip's side, but it was too late. Philip had been killed instantly. The driver of the car, Wilma Small, was unhurt. Based on skid marks and testimony from both Small and Drake, the police investigation following the accident determined that excessive speed was the cause of the accident.

Drake said that at the time of the accident, his only concern was for the welfare of his

grandson because he himself was clear of the danger. Naturally, Drake suffered a great deal of mental pain and shock because of seeing his grandson killed. While being driven home from the accident, he suffered a heart attack that necessitated a lengthy hospital stay.

One year later, he still does not feel completely recovered and often suffers from nightmares reliving the accident and his grandson's death. Following the advice of trusted friends, he decided to make an appointment at the law office of Darrow and Bryan to see if he could sue Small to recover for his hospital bills, for his pain and suffering, and for the emotional distress he felt in seeing his grandson killed.

### Case 2: The Harassed Student

Wanda Smith, a 20-year-old college student, was walking past a construction site on campus when several of the construction workers began to whistle and make catcalls. Smith did not appreciate being treated as a sex object and greatly resented the way in which these construction workers were behaving. She avoided the construction site, regularly making her late for her contracts class.

After talking it over with a few of her friends, Smith decided to talk to one of the lawyers at Darrow and Bryan to see if she could take legal action. She does not want other women to have to undergo similar treatment and wondered if she could collect damages for mental suffering.

Keep these two stories in mind as you read this chapter and our explanation of how one goes about becoming a paralegal, how paralegals differ from lawyers, and the types of work paralegals typically do.

## A. PARALEGALS AND LAWYERS

While this book focuses on paralegals, you cannot understand or fully appreciate the role of paralegals without also knowing some basic things about lawyers. Remember that only lawyers can provide legal advice, appear in court, or set legal fees. The terms **lawyer** and **attorney** are generally used interchangeably to refer to a person who has been officially licensed to practice law. However, in some contexts, people use “lawyer” to refer to a person who is authorized to practice law and “attorney” to refer to a job title. Thus, an organizational chart may carry titles such as attorney, associate attorney, enforcement attorney, District Attorney, United States Attorney, or Attorney General.

In the late 1960s, the terms “paralegal” and “legal assistant” began to be used to refer to persons who assist lawyers in ways that go beyond the duties of traditional legal secretaries and file clerks. Because the term **paralegal** is the most common and the most generic, it will be the term most often employed in this book.

In the early 1970s, the legitimacy of this new occupational classification was established when it was officially endorsed by the **American Bar Association (ABA)**, the largest and most prominent national organization of lawyers. The ABA has periodically changed its definition of “paralegal.” Most recently, in 2020, the ABA amended its officially adopted definition to read:

A paralegal is a person, qualified by education, training or work experience who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity and who performs specifically delegated substantive legal work for which a lawyer is responsible.<sup>1</sup>

Because this is a rather long definition, we can better understand it by dividing it into its separate components. A paralegal is:

- “a person, *qualified* by education, training or work experience”
- “who is *employed or retained by* a lawyer, law office, corporation, governmental agency or other entity” and
- “who performs specifically delegated *substantive legal work*”
- “for which a *lawyer is responsible*.”

More than half the states have developed some form of definition for the term “paralegal” as well. None of the states require adherence to its definition for employment. Other definitions of paralegal have also been developed by NALA: The Paralegal Association and the National Federation of Paralegal Associations (NFPA). Each association is discussed later in this chapter.

While there are differences among these definitions, all of them suggest that paralegals perform many of the same tasks normally performed by lawyers. They gather and analyze facts relevant to legal disputes, perform legal research, draft legal documents, prepare witnesses and evidence for presentation at legal proceedings, and even represent clients in some types of administrative hearings.

### Lawyer

A person who has been officially licensed to practice law in a state or federal jurisdiction. Also referred to as an attorney.

### Attorney

A lawyer; a person licensed by a court to practice law. This term is often used to refer to a job title.

### Paralegal

A person who assists a lawyer and, working under a lawyer’s supervision, does tasks that, absent the paralegal, the lawyer would do. A paralegal cannot give legal advice or appear in court, nor can they set legal fees.

### American Bar Association (ABA) [americanbar.org](http://americanbar.org)

A national voluntary organization of lawyers.

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<sup>1</sup>Adopted by the ABA House of Delegates, February 2020.



However, even though paralegals carry out many of the same tasks performed by lawyers, paralegals are not licensed to practice law. Therefore, they can perform many of these tasks only when working under the supervision of a lawyer. In addition, even then, they are not allowed to give direct legal advice to clients or to represent clients in most types of judicial proceedings.

### DISCUSSION QUESTION

1. Until August 1997, the ABA definition of legal assistant read:

A legal assistant is a person, qualified through education, training, or work experience, who is employed or retained by a lawyer, law office, governmental agency, or other entity in a capacity or function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically-delegated substantive legal work, which work, for the most part, requires a sufficient knowledge of legal concepts that, absent such assistant, the attorney would perform the task.

You will see this definition quoted in most of the court opinions decided prior to 1997 that deal with the role of paralegals. In what ways do you think this definition differs from the one that the ABA adopted in 2020? Which ABA definition do you prefer? Why?

### B. PARALEGALS AND OTHER LAW-RELATED PARAPROFESSIONALS

Traditional paralegals are paralegals who work as employees or independent contractors and are supervised directly by attorneys. Paralegal employees can be found within law firms, corporate in-house law departments, governmental agencies, and non-profits. Paralegal contractors can be self-employed or work for an agency. According to the U.S. Bureau of Labor Statistics, by 2018 there were about 325,700 paralegal jobs. The Bureau projects that the number of paralegal jobs will grow 12 percent between 2018 and 2029, “much faster than average for all occupations.”<sup>2</sup>

An alternative and expanding group of law-related paraprofessionals go by a number of titles, including “legal document preparers (LDPs),” “limited licensed legal technicians (LLLTs),” and “lay advocates.” They are distinguished from traditional paralegals in that they deal directly with the public, without attorney supervision.

Finally, another exciting area of job growth is developing within nontraditional work settings. Here, we see paralegals taking the skills they have honed and applying them to a variety of nonparalegal but still law-related occupations.

As Karen Decrescenzo explains in her Paralegal Profile, paralegals who are employed by the government, such as in municipal law offices, work in a wide variety of legal areas.

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<sup>2</sup>Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, “Paralegals and Legal Assistants,” [www.bls.gov/ooh/legal/paralegals-and-legal-assistants.htm](http://www.bls.gov/ooh/legal/paralegals-and-legal-assistants.htm) (visited April 6, 2020).

## PARALEGAL PROFILE



### Karen Decrescenzo

*Principal Paralegal/Legal Intern Coordinator  
Office of the City Attorney, Civil Division*

I work in the office that services all of the legal needs for the city of San Diego. We have approximately 80 attorneys and 20 paralegals, with every four to five paralegals being supervised by one of four senior paralegals. It is my job to supervise those supervisors.

In addition, I am responsible for the process that leads to new hires. I chair the interview panels and make recommendations about whom to hire. I also hire and supervise temporary paralegals whom we hire to cover short-term spikes in the workload. Finally, I supervise the librarian and recruit, hire, and supervise legal interns (law students). In a nutshell, my job is managing everything that relates to the paralegal staff, librarian, and law clerks, including recruitment, interviewing, hiring, training and development, utilization, workload, workflow, performance management, rewards, and recognition.

The attorneys and paralegals in our office work on a wide variety of legal issues, as we handle civil litigation and advisory matters for all of the city's departments, such as police, fire, park and recreation, and water. Cases can range from allegations of civil rights violations, to trip and fall, to First Amendment issues regarding sign ordinances, to collections, condemnations, contract disputes—really, anything about which a city can sue or be sued. Working in so many different areas means that the paralegals are called upon to engage in a lot of legal research and writing. Our paralegals particularly enjoy working on temporary restraining orders to protect city employees who receive threats from the public, as the paralegals are able to appear in court for the preliminary injunctions, being careful, of course, to announce who they are and why they are there. As anyone who works for a governmental office can tell you, it's not about the money; it's about doing interesting, challenging, and rewarding work.

As with most governmental offices, ours suffers from a lack of resources. This lack of resources is both my biggest challenge and the greatest source of job satisfaction, as it forces me to be creative and innovative and to use my imagination to solve problems.

I think the best preparation I had for this job was being a parent. Being a parent taught me how to juggle multiple responsibilities and how to deal with sometimes difficult personnel issues. Those skills have come in particularly handy lately, as I have been working full-time while finishing my master's degree in public administration.

My parting advice to students is to say that I cannot stress strongly enough the huge benefits to be gained from joining paralegal associations. It is never too early to join. Students should become active in any clubs on their campus and investigate student membership in their local paralegal association. Through that networking, they will form relationships that will support and enrich them throughout their careers. Both the Association of Legal Administrators (ALA)

and the International Paralegal Management Association (IPMA) have given me tremendous networking opportunities. I was the first and only person to work in my position. When I found IPMA, I practically cried as I walked into the meeting room and found it full of people, all of whom do what I do and understand what it takes to do my job well. The connection I formed with them has helped me throughout the years. Because of my colleagues in IPMA, I never feel isolated.

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## 1. Traditional Paralegals Working as Employees

Approximately 70 percent of all paralegals work in private law firms. There are five main types of private practice: sole proprietorships, partnerships, limited liability partnerships, professional corporations, and office-sharing arrangements. We discuss each of these business types in Chapter 10. Other common places of employment include the legal department of a business and a governmental agency.

Paralegals may also be employed in the legal departments of private non-business organizations, such as labor unions, trade associations, consumer groups, and charities. The operation of such legal departments parallels that of a business corporation or a governmental agency.

Finally, you may find paralegals working for legal clinics or legal service offices. These terms are frequently used incorrectly and interchangeably. **Legal clinics** provide low-cost legal services on routine matters by stressing low overhead and high volume. They frequently operate out of storefront offices and make extensive use of paralegals. The lawyers who operate the clinic are usually organized as either a partnership or a professional corporation. **Legal services offices** are affiliated with the federal government's **Legal Services Corporation**. The lawyers who work in such offices are salaried employees of a not-for-profit corporation that receives both public funds and private donations to provide free legal services to the poor. They hold positions similar to lawyers working for a public defender's office, except that they handle civil rather than criminal cases. Such offices frequently rely heavily on the assistance of paralegals, as much of the work of a legal services office involves representation before administrative agencies, an area where paralegals are usually allowed to practice without running afoul of the unauthorized practice of law statutes.

## 2. Freelance/Independent Paralegals

Paralegals who work as **independent contractors**, rather than as employees of law firms or corporations, may also be referred to as **freelance paralegals**. Because freelance paralegals usually contract to do specific jobs for several lawyers at the same time, the lawyer supervising the paralegal will differ from one case to the next. The advantages of being a freelance paralegal include having the capacity to choose what kinds of projects you will work on and setting your own hours. Lawyers find that in this type of contractual relationship, they can use paralegals on an "as needed" basis without having to pay fringe benefits and unemployment compensation insurance and without worrying about what to do with the paralegals during a slack time in the business cycle.

### Legal clinic

Usually organized as either a partnership or a professional corporation, law clinics provide low-cost legal services on routine matters by stressing low overhead and high volume.

### Legal services offices

Affiliated with the federal government's Legal Services Corporation, these offices serve those who would otherwise be unable to afford legal assistance.

### Freelance paralegal

A paralegal who works as an independent contractor rather than as an employee of a law firm or corporation.

Some freelance paralegals are self-employed. Others work for specialized staffing agencies that provide law firms with qualified paralegals to work on a temporary basis, often on unusually large or complex cases.

## PARALEGAL PROFILE



### Jennifer Lerner

#### *Freelance Paralegal*

Although I worked in a personal injury firm while attending school for my paralegal degree, when I graduated I found I could make more money if I contracted my services than if I remained an employee. Freelance work also enables me to decide what types of duties I want to accept and allows me to work from my home. I do personal injury work for area attorneys, with a specialty in writing demands for completed cases to be sent to insurance claims representatives. The demands are based on the medical expenses incurred and the expectation as to future medical and hospital expenses, pain and suffering, and lost wages. I take the file, investigate it, make sure all of the information is there, and then come up with the price. I present the information as persuasively as possible, using spreadsheets and including particulars, such as how many hours the client had to wait in the doctor's office each week. I do all of my work on a disk that I give to the attorney. The attorney then makes any desired changes and sends the demand to the insurance company.

I like the variety that can come at you at any time and the unpredictability. I love working with the law because the whole concept of how conflicts arise and then how people go about getting rid of conflict is fascinating. For some, arbitration or mediation is the best choice. Working as a paralegal teaches you a lot about people. For example, people have very different ways of dealing with their injuries. We are in a people business, and what we do changes the lives of people.

Recently, I was also hired on a part-time basis to use my paralegal skills in an unusual way. A maritime company was interested in hiring someone to research regulations, to prepare documents for ships coming into port, to ensure that crew members have all required paperwork, and to communicate with ships at sea. Even though the company did not start out looking for someone with paralegal skills, during the interview process it became evident that those skills were exactly what they needed, and I got the job. Those skills include the abilities to sustain independent thought, understand the need to maintain confidentiality in negotiations, project a professional image, understand the intricacies of dealing with contracts and government regulations, and not make a judgment before having all of the necessary information.

Even if I didn't use any of my paralegal skills as a paralegal, the education and experience I have received have armed me for what the world may throw my way. It has helped me to deal with a lack of predictability and enabled me to reason and see both sides of issues. Rather than jumping to conclusions, I now tend to back up and think of all the reasons before choosing a course of action.

### 3. Legal Document Preparers, Limited Licensed Legal Technicians, and Lay Advocates

Traditional paralegals, whether working as employees or on a freelance basis, work under the supervision of a licensed lawyer. In contrast, those who fall under the terms described in this section are nonlawyers who provide legal services directly to the public without being under the supervision of a lawyer. They fall into three broad categories: **legal document preparers (LDPs)**, **limited licensed legal technicians (LLLTs)**, and lay advocates.

#### Legal document preparer (LDP)

A nonlawyer, not working under the supervision of a lawyer, who assists with the preparation of legal documents for individuals or companies representing themselves.

#### Limited licensed legal technician (LLLT)

A nonlawyer in Washington who meets certain educational requirements and is permitted to advise and assist clients in approved practice areas.

#### Pro se

Representing oneself in a legal matter.

Individuals who prepare standardized legal documents for people who are attempting to handle their own legal matters **pro se** (that is, to handle the case on their own without using a lawyer) go by various titles, but are generally referred to as LDPs. So long as they do not give legal advice, they are generally allowed to communicate about general, published, and factual information relating to the format and content of certain types of legal documents. They can also assist with the entering of information into those documents, so long as that information is supplied by their clients and the document preparer does not alter it in any way.<sup>3</sup>

Two states, California and Arizona, have carved out specialized areas for document preparers. In California, they have unlawful detainer assistants (UDAs) who are authorized to assist landlord and tenants in eviction proceedings, and legal document assistants (LDAs). Both must satisfy very basic educational requirements and be registered with the state. They cannot offer legal advice, but they can assist consumers in filling out complex forms. In Arizona, LDPs can prepare documents and give general legal information, but not legal advice. They must meet certain education or work experience requirements and pass an examination that includes “legal terminology, client communication, data gathering, document preparation, ethical issues, and professional and administrative responsibilities pertaining to legal document preparation.”<sup>4</sup> A third state, Louisiana, gives notary publics some authority to draft legal documents for the public.

The role of nonlawyers dealing directly with the public is controversial, but many states have created commissions to study enlarging the role of nonlawyers in the legal system. Advocates for expanding the role of nonlawyers argue that legal aid lawyers and lawyers providing *pro bono* legal services have not been able to fully serve the needs of indigent clients who cannot pay the going price for regular legal services. On the other hand, many opponents are concerned about the quality of the services that nonlawyers could provide and the enforcement of the ethical duties that go with such representation.

Two states, Washington and Utah, were among the first to apply a more expansive approach to allowing nonlawyers to deal directly with the public. In 2012, the Washington Supreme Court adopted a rule that authorized LLLTs who

<sup>3</sup>See Chapter 2 for a discussion on the unauthorized practice of law.

<sup>4</sup>Arizona Code of Judicial Administration, Part 7: Administrative Office of the Courts, Chapter 2: Certification and Licensing Programs, Section 7-208: Legal Document Preparer, [www.azcourts.gov/Portals/26/ACJA%20Code/7-208\\_Amend\\_2013.pdf](http://www.azcourts.gov/Portals/26/ACJA%20Code/7-208_Amend_2013.pdf) (visited April 6, 2020).

meet certain educational requirements to advise and assist clients in approved practice areas. Family law was chosen as the first practice area for these new licenses. In June 2020, the Washington Supreme Court sunsetted the LLLT program, citing administrative costs and the low number of LLLTs. The current LLLTs and those in the process of applying for LLLT status may continue to practice, but no new LLLTs will be allowed to apply.

The Utah Supreme Court approved a new class of legal professional, called the **licensed paralegal practitioner (LPP)**. Similar to the Washington approach, LPPs can assist clients with family law, eviction, and debt collection issues. The first 4 LPPs were licensed at the end of 2019, and it is anticipated that there will be 20 LPPs by 2021 and 200 by 2029.<sup>5</sup>

Finally, a **lay advocate** is generally a nonlawyer who is authorized to represent clients in administrative hearings. Statutes that establish administrative agencies sometimes allow for representation by nonlawyers or give the agency the power to decide who may represent clients in agency matters.

#### **Licensed paralegal practitioner (LPP)**

A paralegal in Utah meeting certain educational requirements, who is permitted to advise and assist clients in approved practice areas.

#### **Lay advocate**

Generally a nonlawyer who represents persons before administrative agencies that permit this practice.

## **DISCUSSION QUESTIONS**

2. The state of Washington's LLLT system initially applied only to certain types of family law tasks. In what other areas of the law do you think there would be a role for LLLTs?

3. Do you think there are any situations in which nonlawyers, working either independently or under supervision, should be allowed to give legal advice?

### **4. Other Law-Related Positions**

In her Paralegal Profile on page 9, Jennifer Lerner talked about how she was able to take the skills she had developed as a paralegal and use them to attain a position with a maritime company. Curtis Linder's Paralegal Profile on page 12 provides another example of using the knowledge and skills acquired as a paralegal to open up other occupational opportunities. This ability to take a specific skill set and refashion it into a variety of nontraditional jobs is something that is becoming more and more common. Paralegals are moving into a wide variety of new positions. These include work as investigators, law librarians, claims representatives, risk management professionals, compliance officers, legal technology specialists, sales representatives for legal software vendors, contract negotiators, and office managers. While these positions do not carry the title of paralegal, they require similar skills and aptitudes: namely, an ability to communicate effectively, both orally and in writing; analytical reasoning skills; top-notch research capabilities; and a sense of professionalism.

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<sup>5</sup>Lyle Moran, *Utah's Licensed Paralegal Practitioner Program Starts Small*, Above the Law, Dec. 12, 2019, [abovethelaw.com/2019/12/utahs-licensed-paralegal-practitioner-program-starts-small/](https://abovethelaw.com/2019/12/utahs-licensed-paralegal-practitioner-program-starts-small/) (visited April 6, 2020).



## PARALEGAL PROFILE



### Curtis A. Linder

*Founder and President  
Linder Legal Staffing Inc.*

As part of my political science major, I took several paralegal courses and had two outstanding internship experiences: one with a general practice law firm and the other with a circuit court judge.

I started my paralegal career working as a temporary/contract paralegal in a Chicago law firm, where I reviewed and indexed discovery documents in a federal antitrust suit. The documents I was indexing were located in off-site storage, and I was told to dress appropriately for warehouse work and was given a handheld tape recorder. I created audio cassette tape recordings that were later transcribed into documents—indexes—of what were in those hundreds of bankers boxes. I really enjoyed the energy, pace, and excitement of working on such a large and important case.

And that is how I found my passion: in temporary staffing. I was then hired by the staffing company to work at their offices to interview and place paralegals, lawyers, and other support professionals on assignments with law firms and corporate legal departments throughout Chicagoland. I also later managed the legal divisions of two staffing companies before founding my own firm.

For the better part of the past three decades, I have been in the paralegal placement and staffing field. Since the late 1980s I have interviewed, hired, and placed hundreds of legal professionals—mostly paralegals but also lawyers. And as the legal profession (business!) has grown, this has come to include other key support staff such as law firm marketers, conflicts managers, and other types of critical project support staff.

On a day-to-day basis I meet with and personally interview two to four candidates each day. I try to meet with as many different types of law-related candidates as possible because I never know what my clients (Chicago-area law firms and companies large enough to have an in-house legal department) will ask for.

I strongly advise recent graduates of paralegal programs to consider the benefits of working with a firm like mine. Landing a temporary assignment is usually a faster way to get hired than searching and applying for direct-hire positions. In fact, you might get interviewed by the staffing firm on a Wednesday and start an assignment the following Monday. These temporary assignments provide on-the-job experience, and many contract assignments result in the paralegal getting an offer for a permanent position. If you do receive an offer to stay on as one of their regular employees, you will be better able to evaluate the offer in light of what you already know about the quality of the firm and the people that work there.

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