

Introduction to  
**Paralegalism**  
Perspectives, Problems, and Skills

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Third Edition

William P. Statsky

# INTRODUCTION TO PARALEGALISM

Perspectives, Problems, and Skills

Third Edition

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*Western State University College of Law*  
*(San Diego)*

***Paralegal Series***

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## **A STUDENT STUDY GUIDE**

A study guide has been developed to assist students in mastering the concepts presented in this text. It reinforces chapter material presenting it in a concise format with review questions. An examination copy is available to instructors by contacting West Publishing Company. Students can purchase the study guide from the local bookstore under the title *Study Guide to Accompany Introduction to Paralegalism, third edition, prepared by William P. Statsky*.

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# INTRODUCTION TO PARALEGALISM

**Also by William P. Statsky**

*Case Analysis and Fundamentals of Legal Writing*, 2d ed. St. Paul: West Publishing Company, 1984 (with J. Wernet)

*Family Law*, 2d ed. St. Paul: West Publishing Company, 1984.

*Inmate Involvement in Prison Legal Services: Roles and Training Options for the Inmate as Paralegal*. American Bar Association, Commission on Correctional Facilities and Services, 1974

*Legal Research and Writing: Some Starting Points*, 3d ed. St. Paul: West Publishing Company, 1986

*Legal Thesaurus / Dictionary: A Resource for the Writer and Computer Researcher*. St. Paul: West Publishing Company, 1985

*Legislative Analysis and Drafting*, 2d ed. St. Paul: West Publishing Company, 1984

*Torts: Personal Injury Litigation*. St. Paul: West Publishing Company, 1982

*Rights of the Imprisoned: Cases, Materials and Directions*. Indianapolis: Bobbs-Merrill Company, 1974 (with R. Singer)

*The Legal Paraprofessional as Advocate and Assistant: Roles, Training Concepts and Materials*. Center on Social Welfare Policy and Law, 1971 (with P. Lang)

*What Have Paralegals Done? A Dictionary of Functions*. National Paralegal Institute, 1973

*For  
Patricia Farrell Statsky:  
A person whose ability  
and love has sustained  
more than she knows*

The pain and the excitement of paralegalism, and indeed of the law itself, is that the problem we are given will often be smaller than the problem we find.

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## Preface

This book grows out of a still-developing career whose members may one day outnumber lawyers in the traditional law office. The day has long passed when so many had to ask, "What's a paralegal?" Today, even the United States Supreme Court has taken note of the development and the potential of paralegals. A great deal has happened since the publication of the first edition of this book in 1974 and the second edition in 1982. Yet the dominant themes of the field continue to be challenge, promise, and the opportunity to rethink the major assumptions that have characterized the practice of law.

It is difficult to name all the individuals who have given me guidance in the preparation of this book. I owe a great debt to Jean and Edgar Cahn, founders of the Antioch School of Law; Bill Fry, Director of the National Paralegal Institute and a valued colleague since our days together at Columbia Law School; John Wernet, a collaborator in education; Professor Dan Oran, who helped me plan the first edition and who wrote drafts of some of the early chapters; and MaBel Hill, Willie Nolden, and Linda Saunders, some of my early students who taught me so much.

William P. Statsky

San Diego, California  
January 1986



*The “expanded use of well-trained assistants, sometimes called ‘paralegals,’ has been an important development. Today there are . . . double the number of . . . schools for training paralegals [than the number of schools for training lawyers]. . . . The advent of the paralegal enables law offices to perform high quality legal services at a lower cost. Possibly we have only scratched the surface on this development.”*

Warren E. Burger, Chief Justice  
of the United States Supreme Court, February 3, 1980

*“Paralegals are an absolutely essential component of quality legal services in the future.”*

James Fellers, President,  
American Bar Association, April 4, 1975

*“The number of job openings for legal assistants is expected to increase significantly through the mid-1990s, . . .” Employment in this field will “grow much faster than the average for all occupations.”*

Bureau of Labor Statistics, April 1984

# INTRODUCTION TO PARALEGALISM

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# --- *Part I*

## The Paralegal in the Legal System ---

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- Chapter 2 Paralegal Employment
- Chapter 3 On the Job Realities: Assertiveness Training for Paralegals
- Chapter 4 The Regulation of Paralegals
- Chapter 5 How to Study Law
- Chapter 6 Introduction to Our Legal System





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# 1

## The Emergence of a New Career in Law

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### **Section A. THE QUESTIONS, THE FRUSTRATION, AND THE CHALLENGE**

Welcome to the field! You probably fall into one or more of the following categories:

- You have never worked in a law office and have many questions about the career of a paralegal.
- You are employed or were once employed in a law office and now want to upgrade your skills.
- You have not made up your mind about whether to become a lawyer and see the paralegal career as a way to learn more about the legal profession.

As Chief Justice Burger points out in the quote at the beginning of this book, the paralegal career is still in a state of “development.” By definition, therefore, a number of important questions still exist. The task of the first part of this book is to address these questions:

- What is a paralegal?
- Where do paralegals work?
- What are the functions of a paralegal?
- How do I obtain a job?
- What is the difference between a lawyer and a paralegal?