

Equal Justice Conference: Beyond the Basics Session

May 12, 2009 12:30 – 5:00 p.m.

Basic outline: three topics:

1. Developing and Leveraging Your Resources
 - a. Introduction
 - b. Report from Breakout Session
2. Leadership and Management in Challenging Times
 - a. Introduction
 - b. Report from Breakout Session
3. Maximizing the Value of Pro Bono in your Legal Services Organization
 - a. Introduction
 - b. Report from Breakout Session

1. Developing and Leveraging Your Resources

a. Intro:

We'd like to use a model of appreciative inquiry to talk about the positives and how we can work together. Sharing and leveraging resources. Three primary types of collaborative opportunities: Program, people and money.

- Program – can include funding, and also around project areas, mortgage foreclosure programs.
- People resources – sharing attorneys across programs, mentors in legal services program (for pro bono attorneys) and trainings for wave of deferred associates. Don't we have new or newer attorneys we can incorporate into that training? Why just on the people who are just in this for the year.
- Money – fundraising collaborations. Including joint fundraisers, which can raise more money than individual fundraisers. Some joint appeals and joint grants on programmatic areas. Had some ground rules, but seemed natural given other collaborations and that anniversary dates matched up. Some issues – who got what money, what lists were distributed. After a year, it was very successful. (Raised more money than they anticipated, new found money. Since then, have done separate fundraising and haven't raised as much.)

- Issues that can come up – subrogation – who’s on top. Priorities and what means. Personalities. Keys to success – communication and flexibility and focusing on our end game.

Report From Break Out Session

- **Appreciative inquiry – research behind it, etc. Basics – talk about the positives rather than the negatives. What doing well and right and how improve upon it, rather than pick things apart and focus on the problems.** So we thought it would be inspiring to talk about what’s working well in our programs and doing right and what want to do. Whole website on the process if google it.
- **Group was mainly volunteer attorney programs and two legal services organizations. We shared many of the same challenges, including geographical challenges (resources not where the need is), financial challenges (funding) and some competing for financial resources. Details on some of our programs**
 - Stand alone 501(c)(3) with board of directors, but part of state-wide organization which has coordinating oversight (per the Supreme Court) and in close partnership with the bar foundation and bar association. Divided into different districts – very rural.
 - Stand alone 501(c)(3), geographical challenges. All financial challenges (building up a reserve), have reduced from staff of 22 to 15. May go down more or reduce office hours. Huge fight with legal aid over reputation, resources, money. Now created access to justice commission with all partners. Funding sources – IOLTA, bar, indigent legal services. She writes grants. Every year, the funding sources are different. Following the funding, so mission is shifting constantly. Issues with funding have to do with getting a committed source of funding for pro bono services. The 12.5% LSC funding is going to legal aid run pro bono attorney programs.
 - Developing projects and seeking funding for them. Funding ranges from IOLTA only to PAI funds, grantwriting, creating projects, mortgage foreclosure funding, foundations, golf tournament. They send a weekly alert to 70 attorneys, sanitized cases that put out there.
 - Legal Aid Foundation of LA. Legal services corporation program – get direct legal services appropriation. Don’t actually get money for pro bono. They’re required to spend 12.5% of money working with attorneys, PAI is our hours we spend working on PAI involvement. When an attorney co-counsels on a case with someone, the hours that that attorney spends on the case doesn’t count. Count up volunteer hours, recruit volunteers, co-counsel with cases – meeting that nut - that we spend X dollars working with PAI. Focus on firms and relationships with firms because they’ll take big batches of cases that she can co-counsel on. About 6 million people in service area. (The second program has been cultivating diversified funding. Dilemma – has Public Counsel in their area, which is a stand alone

pro bono program. Challenge is that the larger law firms are downtown, far from them. So she's working with small attorney law offices. They don't take cases as much as clinics. **LSC doesn't want clinics to be counted towards PAI funding.** And private attorneys don't want to spend money on interpreters and want the legal services program to provide the interpreters.

- **Ideas for collaborations on volunteer resources**

- **IN - Collaborations with area law school - law students do all the intake**, and a professor at the law school teaches meditation and ships them out all over the place. Also collaboration for homeless services.
- **NH – the private attorneys are providing the mentors for the legal services attorneys. In other areas, the legal services organizations are the ones providing the mentors for the private pro bono attorneys (even though in some cases, it's not faster to mentor the attorney, but the legal services organizations get the PAI credit for those hours, even if the private attorney doesn't stay for other cases).**
- **The firms often bring something to the table, the big litigation cases, that the legal aid programs don't have.**
- **Foreclosure cases – good response from bar at large, in part because they have the time and often expertise, and in part for the hours.**
- **In IN - Mandatory mediation for all foreclosure cases after May 1 – mediation between attorney for the lender and the party being foreclosed upon. Opportunity for collaborations**
- **Ideas for maximizing language/interpreter resources:**
 - Have an LEP plan which provides specifically how the organization will provide access.
 - **when we recruit a lawyer, we put the various language that they speak into KEMPS, and look for different languages when need to staff.**
 - **Have bi-lingual staff.**
 - **We use www.volunteermatch.org to get volunteer interpreters** and volunteers for office work, too. If upgrade, you can ask all persons interested in volunteering to answer three questions, which can wean out those who aren't really serious about volunteering. We ask questions to get at whether we are a good fit for them, they are a good fit for us, and whether they can commit to our mission.
 - **Use law students to interpreter.**

- **Post volunteer signs at university offices which attract international students or language majors.**
- Helps a lot to have job descriptions and distribute to both the volunteer attorneys and the volunteer interpreter the best practices for interpreters and best practices for working with interpreters.
- **Governor come to recognition lunches – to meet the prestige needs** of volunteers
- **Leveraging volunteer attorneys**
 - Indiana law schools who need to come home for a while because their job on the coast was cut. Tap them through the law schools career services offices. **And PS Law Net – post a position. Public Service Law Net – post a position.** Whatever your state service clearing house. There is also a green box on abaprobnon.org – content they’ve developed involving pro bono and public services in this time of economic stress. Pro bono net also. In some larger cities, there are funnel organizations which bring together lawyers/law students and public service organizations. National resource was cobbled together in last several months. LA has received seven lawyers. Anyone actually have any attorneys from this service?
 - **NH stand along pro bono program– has two attorneys but has some knowledge that will help with mortgage foreclosure project and a clinic they have bringing people to advise them what their rights are, etc. An attorney has great clinical experience.**
 - **LA legal aid organization has seven.**
 - **Then the attorneys calling who want to volunteer. What do with them? Can be huge drain on resources if they don’t stay.**
 - **Talk with law schools about unemployed folks and whether have a program to have those who are public interested stay with us for six months. And law schools can report the students as placed.**
- **Money and joint fundraising**
 - Sara Woods – joint fundraiser in Philadelphia three years ago. They are exploring whether to do it again with the next big number (15, 25, 40), which luckily happens the same year for all of them (multiplies of five).
 - **How split when jointly fundraise? They used budgets and how much they got initially (with the understanding that no organization will get less than they were getting on their own).**
 - **Fundraising based on partnerships. Mortgage foreclosure partnerships, DV stimulus money – having the relationships and staying on top of it. Things are happening really fast. Need to develop relationships over time and when time to ask for stimulus money, will be in a position to do it.**

- **Jointly work at state legislature to get funding.** Successful in increasing funding over last three years. Last year, the legal services provider kept his level of funding and the rest got cut. Tried again with this program director, and at last minute, the program director said, are you going to hold us to this or are you going to make us lose \$. One big lump sum allocated for all three – so how will they work it out – will they agree to the same percentages as got before.
- **CRA requirement of banks, other agencies successful in targeting banks (especially credit counseling). But maybe banks will underwrite your events with this money, even though they're not giving much for legal services.**
- Indiana – funded only by IOLTA, two fat years now cut. They can't do it yet – growing since 2001. All local grants are county-specific and she has seven counties. If she wants to apply for VAWA grant, she could, but no time to do fundraising because running the volunteer attorney program.
- **In HA, the State Bar Association has a dues check off box to support the volunteer attorney program. It typically raised about \$70,000. It's now \$135,000 because the ED of the pro bono association writes letters to the state bar association members, including one which describes what it's like to be homeless. She bought the state bar mailing list and uses nonprofit rate to send out the appeals letter.** (Also served as part of a marketing awareness-raising campaign.)
- Joint fundraising campaign with legal services. Best to have a change agent, like Sharon Browning. Collaborations and able to convince others to do it. They talked about all 30 of them do a collaboration fundraising effort managed by the bar foundation, but ended up with three.
- NH has a joint campaign with three organizations. Suggestion: when have differences and strong leaders who aren't agreeing, **if there is someone all the groups respect, that person could convene people.**
- Competition:
 - On one hand, people spend years developing programs, and then someone else gets the funding. Cut throat atmosphere.
 - On the other, can shift the paradigm – the capacity is out there to give time and money. Donors don't like the competition, they prefer the collaboration, the efficiency. With collaborations, to minimize bad feelings, **treat the collaboration like a business, have written agreements that are renewed. And have to be willing to give up some things at times.**
- Jamming for justice – fundraiser for organization. Fun, raise visibility, and raises money.

- **Have funders sit in on client screening decisions - they get to see us make the difficult decisions of who we help and who we turn away.**
- **Recognition luncheons – have funders come too. Brings awareness of being part of a larger community.**
- **Attorneys and judges and paralegals who create art in spare time and have an art gallery and have a silent auction – gets media coverage.**
- **Support walks – clearing houses. These firms are walking – are you walking? – could schedule the same time as other walks for justice. The ambulance chase run.**
- **Senior lawyers projects**
- **Pledge campaigns – pledge hours of their time.**
- **Face book page – messages, twittering, RSS feed for our events calendar.**
- **Weekly email through *constant contact*. Pay \$200 a year – nice service, training events, etc. Counts then number of hits you get – how many people open it. So if you get a low turn out, you can change your method.**
- **Membership campaigns.**

Leadership and Management in Challenging Times

Intro

- Example: collaborated with NPR Wait Wait Don't Tell Me. Fourteen judges in the audience. When all said and done, walked with a profit of \$18,000. With not a lot of work, just encouraging attorneys who listen to NPR and familiar with the program. Interesting where you can find ways to make money.
- Now more than ever, need to talk about how work more closely with legal services, as stand alone programs. Helenka's organization is part of a 32-county legal aid line, which is high tech and where all the cases come from. (Issue - how educate legal aid line to not give pro bono attorneys the cases they don't want, e.g., where the client filed a grievance).
- With decrease in money that they've seen, **they are looking to attorneys and creating small committees of attorneys to help with infrastructure.** Volunteer attorneys help to do the every day things, like talking with clients on the phone, recruiting attorneys on the phone, finding attorneys who want to be in front of the judges. Their program has an advantage of being housed in the bar association. And more than half of the board of directors they have are judges. The board does recruitment, mainly the judges. She does no recruitment on her own!

- She'd like to talk about **how utilize the small bar associations, and medium sized bar committees to help you do some of the things they can not do because not as much staff.**
- Pro bono is a full-time job.

Report From Break Out Session

- **If you feed them, they will come.** Cookies or water. Getting people to know who you are. Issues about what each of us does in our own program, starts off with the basics. Talk to me like I'm a little kid – break it down. What issues are out there. Four steps/issues:
 1. It starts out with a person coming to the organization – who's going to do the intake, is it a problem we can handle? Do we place it in-house, etc.
 2. Kinds of cases that we get – dealt with by giving advice or should not be placing with private attorneys (like a very simple case). Maybe a DV case fighting over property – maybe that's a case that is kept in-house.
 3. Who's taking the case – staff or private attorneys
 4. Support of staff – budget cuts so we aren't able to replace our staff. Have to do a lot of case placement out to private attorneys and have them shoulder the ____.
- We're here because we have different issues, when we go back on Monday, the people haven't stopped calling. Our main focus is a deal with people who are calling. **Who is going to be the champion for you – the people in your own back yard – your advisory board, your board of directors, your attorneys, the law firms, the judges. They can recruit, help fundraise, help reward volunteers.**
- **The board – maybe not on same page – maybe in it for name only. A hot topic – are they willing to do the work and if not, what should we do? Because they are the key stakeholders and have influence, but it's your program.**
- Urban and rural programs.
- **Consensus – each of us walk out with someone else's phone number, business card because we have answers for each other.**
- Talked about intake a lot and how much intake is a difficult for pro bono programs, whether it's a legal aid line or large centralized intake or individual VAP – there is a separation between legal aid and pro bono and the type of cases that should be given to pro bono attorneys. **One suggestion – include pro bono attorneys into the intake process whether it's on the review team in-house at legal services.** To allow legal services and pro bono attorneys to interact and get to know each other and issues.

- **Recruiting need to be done by peers and maybe pro bono programs can't be doing the recruiting they're doing now, but needs to be farmed out to committees.**
- **Need to give out good cases also to keep good word of mouth.**
- **ABA social networking site**
- **Embarking on if LSC funded program is an online intake system that won't be for all intake but will be three programs and with interview questions that will direct people to the right program. A way to direct the cases to pro bono that are appropriate. (On the other hand, many people are considering doing their own intake because centralized intake does not satisfy the needs of pro bono.)** Many of us have more pro bono attorneys than cases. Certain areas that are common to all of us, whether type of program.
- **NAPBPro listserv deals with a lot of this.** Had all these great ideas – just starting the whole process over – leave. **At the very least, know that there are people out there to talk with out there.**

Maximizing the Value of Pro Bono in your Legal Services Organization

- They'll be talking about maximizing the value of pro bono in the legal services organization. They were especially interested in expectations. **Managing people is easy, managing expectations is hard.** Many initiatives can start in LA with the large law firms and they do so with outrageous expectations. E.g., Rita and Katrina. When heard that 25,000 people were coming across the desert, more than 700 attorneys and several hundred law students were trained in disaster issues, but got no more than 100 clients total.
- **Veterans and veterans benefits current issues.** Lots of people calling up because they want to help veteran without any real understanding of what that entails. How to convince them that you want to help veterans and deal with the worst bureaucracy in the history of the planet. Pro bono attorneys who want to help with adoptions, but don't have realistic expectations of what that means (representing the adoptive parents not the child), etc.
- In LA – they have three LSC programs within their county, along with a large number of pro bono and smaller staff model programs. Trying to coordinate and build the expectations. The EDs meet regularly to discuss various substantive and personnel issues.
- Discuss with potential volunteer not only who you want to help, but what specific activities (or type of experience) do you want. Get a commitment not only based on who you want to help but what do you want to learn.

- Family law ideas– keeping in mind about being clear from the beginning. Family law is now almost impossible to place; reasons from the attorneys: being caught in a case for 18 years; being too emotionally involved; or counting silverware. What she’s found is at least in LA where have a family law form that say you’re only substituting in for a particular issue or hearing, they are able to **sell pieces of cases. Can use for DA and TRO hearings. Especially if you have a clinic that does the papers and ex parte. Great success with people who want to go to trials.** Getting attorneys to commit to clinic days to do the paperwork as long as the MOU is that they are there that day, and that’s their entire relationships. Almost anything, if get past the conflict issue. **Certain trial firms willing to do it without wanting to re-write the previous attorney’s work because they are trial attorneys, not litigation attorneys. Desperate for court appearances.** Unbundling has been successful in family law. Better if the issue is one hearing rather than multiple hearings.
- Working with potential volunteer in a new subject area for the volunteer – how do you manage the expectation? On the veterans’ side – it was **downplaying the expectation that they could accomplish anything quickly.** And the attorney wants to be competent. The younger ones are more flexible about that. In a firm that requires a partner supervisor, often they are the ones to get gun-shy making it difficult to get supervising attorneys. The VA requires a three-hour CLE training for representing veterans. Overcome fears by analogizing to things they are already working on or an area of practice they’d like to move into.
- **Importance of trainings in managing expectations. When you develop a new program, develop CLE programs, a manual, a list of mentors, and explain what the expectations are for that type of case or clinic.**
- California is different from other states – the court has developed mandatory forms for almost any cause of action or pleading, especially for family law. So there are fewer original pleadings. There are mandatory forms for discrete representation (unbundling). Use of these establishes that there is no ongoing responsibility, the attorney is just handling the hearing, not the pleading. The forms are the same, and are used for all civil actions.
- **Concerned about the quality of legal services that you get when unbundling.** A lawyer has a need to control the strategy of the case. But when someone does not care enough and there is a lapse between representation (in caring about what happens). The gap – what does the program do when a number of cases come back in the middle of the representation and are unable to place the balance of the case? Handle them all in-house? LAFLA files the TRO pleadings in pro per, the tries to place the Permanent Restraining Order appearance with a pro bono attorney.
- **How do we communicate the expectations and how gauge whether the lawyer gets it?**
 - Explain the various points of the case – how much time it will take. Get the feedback from the attorney as to whether the attorney is understanding it. If the staff attorney says she keeps getting asked the same question over and over, include it in the manual or FAQs. Staff attorneys may think that responding to an email in five days is okay, while

large firm attorneys may expect mentor attorneys to be on call 24-7. You must take time to bridge the two cultures. Conduct trainings on how to deal with difficult clients and poverty law clients. Have to make pro bono attorneys aware of some of the challenges.

- Pro bono is personal. An experienced pro bono manager knows which client to give to which attorney – they know the attorneys and the clients.
- **Other options for handling a new volunteer and to feel them out - meet with them or use the provider's board of trustees. Spend a lot of time determining what specific kind of cases (or experience) they are interested in. We have luncheons, functions where we get to know attorneys. If you don't have a board, then you create a committee of those attorneys you've known for a long time, and you have them recruit their peers and tell you want those attorneys would be good at. The attorneys that aren't so good – she has notes about.**
- **Analysis – a staff member meets with each volunteer. Notes are kept on any crazy ones in case management software or the volunteer's file. Also a lot is included with the training, including a contract or handbook. A provider requires each new volunteer to watch a 30-minute video that talks about the key issues about working with pro bono clients.**

Report From Break Out Session

- Main ideas – managing expectations – how can get those expectations to not only be realistic but also interact with legal services organization.
- **Trainings should be tailored and at a level reasonable for attorney or case you're talking about.** E.g., divorce seminar with judges and attorneys – high levels of detail – didn't meet the needs of the types of cases they're referring out of the program. Better to have a divorce 101 – here's the simple types of issues you'll see.
- Mentoring – staff attorneys (LSC organization) need to provide support and expand staff and volunteer knowledge. **Balancing the needs with three parties all have a good understanding of expectations** - 1) the volunteers (well trained and understanding what types of cases will be taking and our expectations of them once they begin working with client: 2) client (need to have the conversation with the client – please don't call the attorney 10 times, etc; how to work with the volunteer the best and maximize chance of good result for themselves); 3) staff attorney (need to manage the expectations of the people they're working with – training them and understanding their role as mentors, and their roles as screeners for types of cases you're looking for).
- **Donations – Pro bono or volunteer involvement doesn't necessarily translate into donations. If the volunteers are impressed with the professionalism of the organization, then they are likely to donate money as well as time. If the program is unprofessional and disorganized, then the volunteer is more likely to only donate time.**

- **Volunteers having different roles – be flexible for volunteers. Some mentors, litigators, advisors at clinics, pro se assistance. In any event, manage the expectations of what they will be doing.**
- **Variety in difficulty of problem areas for different volunteers.** Divorce case – will sometimes send out easy cases to a volunteer attorney and then they will be more willing to take a more difficult case. After an especially tough case, then send them a few easy cases. This will encourage continued participation in the program while also getting some of the difficult cases placed.
- Take the client and facts of the case out of the abstract and make it personal. **Have a volunteer meet with the client just to give advice.** If the attorney then wants to take the whole case, she can. If not, then she doesn't have to. But if well-planned, most will take the case after hearing the client's story first-hand. By giving them the opportunity to say no, they can meet the client w/o risk and will often take it because it's more personal.
- Pro bono models are the key to success. Some have clinics, some assisted pro se programs, some direct representation. Different types of pro bono models. **Have a way to understand different models so we can look at the programs to see what fits and doesn't fit.**
- **Before starting a new pro bono project, discuss with all stakeholders within the legal services provider what their expected outcomes are.** This helps avoid the situation in which people aren't as happy at the end because the outcome is not what they expected. . The objectives must be more than just "we want to help more clients." That is the goal of every pro bono program. If fundraising is the objective, involve a number of firms. If efficiency is the goal, try to get one or two firms to take a regular volume of cases and develop in-house expertise, so they are less dependent on mentor attorneys at the provider. **Get specific objectives – like we want to help people save their homes or extend the time they can stay in their homes by connecting them with area resources.** By having the discussion in the first place, you're able to narrow down to objectives and if have huge outcomes, it's great, but you didn't fail because you didn't meet the huge goals
- Fiefdom – tension between staffed programs and pro bono programs. The former often don't want to share more than a few bones – how deal with that tension? Different intake models:
 - Screened for eligibility and then legal aid programs route them to the staff attorneys and the staff attorneys will send cases to pro bono attorneys. Maybe better to flip it around. From financial eligibility, the pro bono program should screen the cases, take the best cases and send rest to staff. If able to do it, it's not that staff will end up with nothing, but the pro bono cases will get the "best" cases, ones that meet their expectations in the first place. Rather than having staff figure out what cases the volunteer attorney will take, the volunteer attorney programs decide what cases the volunteer cases will take. (Divorce cases – has no problem placing them because she's screened them.) Staff attorneys still get the impact litigation

- **Difficulty in educating attorneys about poverty law, helping volunteer attorneys understand the culture of poverty. Train volunteers on the culture of poverty. ABA brochure** – great resource on how to interact with clients. ABAProbono.org – can be downloaded and have your organization’s name or logo added to it, and it is a popular resource.
- Clients need to understand how to work with volunteers. **And many programs send something out to the clients. One program attends the first meeting between pro bono attorney and client to help establish a good working relationship, and to** o make sure everyone is on the same page.
- Having pro bono attorneys or funders attend staff case acceptance meetings. “That’s the kind of case we’d like to send to the pro bono attorneys,” to help them understand what you’re looking for. Or to show funders they types of cases you have to reject for lack of resources.
- Tension between LSC-funded and pro bono pro bono programs because the PAI requirement of 12.5% is too much money, that money spent could have gone to fund six or seven attorneys in the staffed program, and why waste it on the volunteer program? Educate the staff to help them know what the value of the program is, how much place, type of cases placed. Dollar and cents value – **every year she calculates how much something should take – multiplies by the billable rate of the attorneys, then told her ED – that was \$800,000 of donated legal services! Helps staff and also ED and board understand the value of the pro bono service you’re able to obtain for the clients.**
- Talking to staff that there is an expectation that they support pro bono case placements, not just give their number and not call them back. When they go to a bar meeting, they should not sit in a corner but interact with the pro bono attorney. Every employee should know at least **five bullet points about what they do, so you’re educating the private attorneys about what the program does And so they can stay on message and give a consistent message.**
- All about the clients – even if a tension between the VAP and the staff attorneys, it’s not about fiefdom, it’s about serving the clients. By having a productive pro bono program, you’ll find ways to give services to the clients, and that will free up staff attorneys to do other services. Suggestions to help bridge that gap –
 - Pro bono attorneys and staff – co-counsel on cases. They can learn from each other, break down stereotypes about qualifications and motives.
 - Programs pay bar dues for their staff attorneys and the staff attorneys should be told that it is part of their duty to join a bar committee so our message gets out to these different groups, and so private and government attorneys can connect a face to legal services programs.