

How to Create an **EFFECTIVE LAW FIRM PRO BONO PROGRAM**

BY MELANIE KUSHNIR

A report recently released by the Legal Services Corporation found that at least 80% of the civil legal needs of low income Americans are not being met.¹ Now, more than ever, the voices of those unable to obtain legal representation must find expression through effective advocacy. In light of the increased demand for legal services for the poor, bar associations and private law firms across the country increasingly encourage private lawyers to fulfill their professional obligations by providing the legal representation needed to address the unmet needs of the poor.

Correspondingly, major law firms have shifted from largely ad hoc and informal pro bono programs to structured, proactive efforts supported by top firm leadership, overseen by active and respected pro bono committees, managed by full-time experienced lawyers, and focused on maximizing pro bono participation by lawyers across practice areas, offices, and seniority.

These firms have discovered the benefits of organized pro bono programs, including enhanced opportunities for recruiting top law school graduates, providing training and professional development for all lawyers in the firm, improvement of lawyer and support staff morale, and enhancement of the firm's reputation in the community. In addition, pro bono work benefits lawyers by providing a sense of responsibility, autonomy, and accomplishment, and offers earlier professional skills development and client contact opportunities that may otherwise be unavailable in many large firms.

Yet, despite the countless hours of pro bono service being contributed by lawyers in private firms, there are several obstacles that constrain them from doing more. A recent ABA survey indicates that these obstacles include lack of

time, billable hour expectations, and the lack of specific expertise or skills in the required practice areas.²

At the 2006 ABA Annual Meeting, the House of Delegates adopted a policy presented by the Commission on the Renaissance of Idealism in the Legal Profession that urges all law firms to participate in pro bono and public service activities.³ It also recommends effective strategies to provide lawyers with opportunities to do pro bono work and urges firms to adopt specific internal policies and procedures to support such work.

The Commission's report provides guidance on how various law practice settings can successfully promote a culture of pro bono. Whether you are a professional development director seeking to initiate a pro bono program or are charged with carrying out an established program, this article provides information on the Commission's recommendations and discusses the key elements of an effective law firm pro bono program.

LEADERSHIP FROM THE TOP

The most critical element of a law firm pro bono program is the unambiguous support of the firm's leadership. It is essential that management recognizes that creating and managing an internal pro bono program requires full-time dedication and ongoing responsibilities. The firm's commitment must be strong and communicated regularly to the lawyers in the firm.

ADOPT A FORMAL POLICY

An essential ingredient of any pro bono program is a policy statement that sets forth the firm's commitment to pro bono work. Adoption of a formal pro bono policy signals to potential

Melanie Kushnir is Assistant Staff Counsel for the ABA Center for Pro Bono. This article was submitted on behalf of the NALP Public Service Section.

Continued on page 4

volunteers that the leadership supports pro bono work and encourages firm-wide participation. In addition, it addresses important policy issues up front, organizes them in one place, and provides a useful resource for volunteers.

At a minimum, the policy should include:

- **A definition of what constitutes pro bono legal work.** Law firms vary in the manner in which they define pro bono. Firms seek guidance from ABA Model Rule 6.1, the Pro Bono Institute's Law Firm Pro Bono Challenge^{SM4}, *American Lawyer* magazine⁵, individual state ethical rules, and state and local bar associations.
- **Billable hour credit for pro bono work.** It is essential that pro bono hours be counted as billable hours and that they also count toward annual billable hours targets, requirements, or expectations. The failure to treat pro bono hours as billable hours sends a signal that the firm does not truly value and support this work.
- **Annual goals regarding the number of hours to be contributed through firm pro bono programs and the number of lawyers who will participate.** By setting goals, firms can continually monitor participation while demonstrating their commitment to pro bono and public service to their lawyers, clients, and prospective recruits.
- **Treatment of lawyers' commitment to pro bono activity as a favorable factor in advancement and compensation decisions.** If a pro bono culture is to flourish, the lawyers who engage in pro bono work need to know that their efforts will be viewed favorably by the firm when the time comes to make advancement and compensation decisions.

Policies might also include information about how pro bono will be handled logistically, including:

- **Procedures for accepting cases and conflict checks.** The policy should address who must review and approve pro bono work and set

forth provisions for lawyers who wish to bring their own pro bono projects to the firm.

- **Policies about permissible use of firm resources.** In order to integrate pro bono work fully into the firm's practice, it is essential to make sufficient resources available to lawyers handling pro bono matters, including paralegal and secretarial support staff services.

CREATE SYSTEMS TO EFFECTIVELY MANAGE THE PROGRAM

Another essential building block of an effective pro bono program is an administrative mechanism for handling pro bono representation by firm lawyers. Coordination of pro bono activities is vital because most lawyers, summer associates, and paralegals lack the time, resources, and initiative to look into pro bono opportunities suited to their interests. Many firms rely on a pro bono coordinator, often a partner, to facilitate and monitor all pro bono work performed by lawyers within the firm.

Many large firms also utilize a pro bono committee, generally consisting of partners and associates from all offices and practice groups. Pro bono committees are often charged with tasks such as marketing opportunities within their offices or groups, establishing procedures for obtaining and screening referrals, distributing assignments, providing supervision and mentorship, and reporting on the good work and honoring lawyers for their service.

CONTACT LOCAL LEGAL SERVICES AND PRO BONO PROGRAMS FOR PARTNERSHIP OPPORTUNITIES AND CASE SOURCES

The program coordinator or a representative from the committee should be in regular contact

with the legal services and pro bono programs serving the area. He or she should clearly communicate what the firm can and cannot do.

Major firms are increasingly finding creative and exciting ways to partner with legal service programs in delivering pro bono services.⁶ Examples include:

- **Signature or Thematic Projects.** Many firms have chosen to focus their pro bono work either thematically or geographically, selecting an issue, client group, or a neighborhood of need and dedicating significant efforts to it. This allows a range of law firm resources to be directed at problem-solving for the identified area.
- **Rotation Programs.** Many firms have developed rotation models, sometimes called externships or fellowships, that lend an associate to a community nonprofit group or legal service provider for a period of weeks or months.
- **Transactional Work.** This work can significantly impact low-income communities and the community groups that work with them. Since many legal service programs are aware of the need but lack adequate resources, these partnerships are increasingly on the rise.

PROVIDE SUPPORT TO VOLUNTEERS

Volunteers should be provided with case support and training. Case support can include a thorough summary of the facts and accurate assessment of what will be required to handle a particular case; specialized manuals (often provided by established pro bono providers online and in hard copy) in the various substantive law areas; sample pleadings; paralegal, administrative, or law student assistance; and mentoring and co-counseling where appropriate.

Training is also vital if lawyers take pro bono cases in subject areas in which they do not practice. Lawyers may also need training in practice before local or administrative courts, alternative dispute resolution techniques, or specific practice rules.

RECRUIT VOLUNTEERS

In order to ensure active participation, volunteers must be regularly solicited, both orally and in writing. If the program has strong support at the top, particularly by key firm leaders personally volunteering to handle cases or staff intake sessions, and it is publicized regularly and in a positive manner, recruitment should not be difficult.

Some methods of recruitment include:

- In-house luncheons to explain various projects
- Free CLE seminars in areas of significant need
- Monthly firm nights at a local clinic
- Partner-to-associate solicitation
- Weekly or monthly electronic listings of available opportunities
- Questionnaires to match opportunities with attorney preferences
- Orientation session to introduce new associates to the firm's program

RECOGNIZE YOUR VOLUNTEERS

It is very important to recognize the contributions and achievements of volunteers. Recognition encourages lawyers to continue to participate and helps to recruit others.

Some ideas for recognition include:

- An honor roll of all lawyers who contribute a certain number of hours
- Articles about the program participants and firm successes
- Award nominations
- Firm sponsorship of seminars, clinics, and events
- A special reception, luncheon, or dinner recognizing outstanding pro bono service

REPORT TO LAW SCHOOL CAREER SERVICES OFFICES SPECIFIC INFORMATION REGARDING PRO BONO POLICIES, PRACTICES, AND ACTIVITIES

More and more law students want to know what pro bono opportunities they will have with a prospective employer. Because compensation is relatively equal at large firms in the same geographic market, issues other than pay – including quality of life and pro bono – often become the deciding factors when a lawyer is choosing where to work.⁷

At the 2006 ABA Annual Meeting, the House of Delegates adopted a policy that urges law schools to require legal employers that recruit on campus to disclose, and to make available to the schools' students and alumni, specific information regarding the employer's pro bono policies, practices, and activities.⁸ Students also need assistance in feeling comfortable asking about a firm's pro bono policy and in getting accurate information about the reality of a pro bono practice within a law firm during the interview process. Full disclosure about a law firm's pro bono activities will provide incentives for law firms to meet their goals in order to favorably compare with firms competing for the best and the brightest law school graduates.

SUPPORT THE PRO BONO COMMITMENT AND INVOLVEMENT OF SENIOR AND RETIRED LAWYERS

As lawyers near the age when they are ready to retire or wind down their practice of law, having the support of the law firm to do pro bono work provides added incentive for them to stay engaged. In addition, these lawyers can serve as mentors for younger lawyers in the firm who take on pro bono assignments.

TO LEARN MORE

This article is intended to offer firms assistance in their journey toward establishing a pro bono program. For further information and support, see the ABA Center for Pro Bono website at www.abaprobono.org. In addition, law firm representatives are invited to attend the ABA/NLADA Equal Justice Conference, including a half-day preconference program and conference workshops exclusively for law firm pro bono managers on March 21-24 in Denver, Colorado. See www.equaljusticeconference.org for information on this conference. ■

ENDNOTES

- 1 *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, Legal Services Corporation (September 2005).
- 2 *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, The ABA Standing Committee on Pro Bono and Public Service (August 2005).
- 3 ABA House of Delegates Resolution and Report No. 121A — *Supporting and Promoting Pro Bono in Law Practice Settings*, Adopted August 7-8 2006.
- 4 See www.probonoinst.org for more information about the Pro Bono Challenge, including a list of participating firms.
- 5 *American Lawyer* includes pro bono in the set of criteria used to determine whether a law firm will make its "A-List." See www.americanlawyer.com.
- 6 Information obtained from Legal Service Corporation "Highlights of Private Attorney Involvement Panel Presentation" summary notes from 01/27/06 meeting presentation. See <http://www.lsc.gov/pdfs/01-27-06PROVISION.Open.pdf> for full transcript.
- 7 Esther Lardent, "Pro Bono Service — Doing Well by Doing Good," *Perspectives Magazine* (Spring 2004).
- 8 ABA House of Delegates Resolution and Report No. 121B — *Law School Support and Promotion of Pro Bono*, Adopted August 7-8 2006.