

**THE LEGAL SERVICES CORPORATION  
REPORT OF THE PRO BONO TASK FORCE  
JULY 2012**

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## Executive Summary

The United States has one of the best justice systems in the world, but, unfortunately, millions of Americans cannot access it simply because they cannot afford to do so.<sup>1</sup> There has been a sharp rise in demand for legal services over the past few years, as economic turbulence has caused the number of people living below the poverty line to soar. Many people are seeking legal services for the first time, looking for help in defending against an eviction or foreclosure, dealing with an abusive spouse, dealing with custody issues, or other life-changing legal problems, while veterans returning from Iraq and Afghanistan are facing both economic strain and unique legal issues of their own. In these challenging times, more and more people are faced with the prospect of navigating the legal system alone.

The Legal Services Corporation (LSC) is the largest single funder of civil legal services in the country. Its grantees, along with a network of other legal services nonprofits, face the challenging task of providing legal counsel to tens of millions of Americans who cannot otherwise afford a lawyer. Despite the sharp increase in those seeking assistance in recent years, LSC and its grantees are under considerable budgetary strain because of reductions in funding on a number of fronts.

In the face of this great demand, and in light of the budgetary pressures on legal aid, one critical means of increasing the supply of legal services is through assistance from pro bono counsel. Large and small firm lawyers, government attorneys, in-house counsel, retired lawyers, law students, and even many non-lawyers are eager to give back by donating their time. And, although pro bono volunteers cannot replace the excellent work of legal services lawyers, many of whom are subject-matter experts in the unique issues faced by the poor, the private bar can make important contributions to closing the justice gap.

In 2011, LSC convened a Pro Bono Task Force, comprised of judges, corporate general counsel, bar leaders, technology experts, leaders of organized pro bono programs, law firm leaders, government lawyers, law school deans, and the heads of legal services organizations, to consider how to effectively increase pro bono involvement by all lawyers. (For a list of Task Force members, click [here](#)). The Task Force divided into five working groups: Best Practices Urban, Best Practices Rural, Obstacles, Technology, and Big Ideas. Each working group spent months conducting interviews, identifying significant practices, sharing ideas, and ultimately reporting their findings and recommendations to the LSC Board of Directors. This report synthesizes those findings

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<sup>1</sup> According to the 2011 World Justice Project Index, the civil justice system in the United States is independent and free of undue influence, but it remains inaccessible to disadvantaged groups, ranking 21st out of 66 countries examined. [http://worldjusticeproject.org/sites/default/files/wjproli2011\\_0.pdf](http://worldjusticeproject.org/sites/default/files/wjproli2011_0.pdf), at 23. With regard to the relative cost and availability of civil legal assistance the index ranked the United States ranked 52nd of the 66 countries examined. *See also* [http://www.abajournal.com/magazine/article/unequal\\_justice\\_u.s.\\_trails\\_high-income\\_nations\\_in\\_serving\\_civil\\_legal\\_need/](http://www.abajournal.com/magazine/article/unequal_justice_u.s._trails_high-income_nations_in_serving_civil_legal_need/), citing <http://worldjusticeproject.org/rule-of-law-index/> (discussing the findings of the World Justice Project Index).

and recommendations and suggests the following steps that LSC, its grantees, and the legal profession can take to increase pro bono participation in a meaningful and thoughtful way.

Specifically, the Task Force has compiled the following list of recommendations to LSC and its grantees. In reviewing these recommendations, readers should be cognizant of the fact that effective pro bono work cannot be done without significant infrastructure, guidance, and support, which requires an equally-significant investment of time and resources by legal services agencies. Thus, although pro bono programs can be an effective means of closing the justice gap, they cannot exist unless legal services organizations are adequately funded to support them.

### **Recommendations to LSC and its Grantees**

#### **Recommendation 1:**

**LSC should serve as an information clearinghouse and source of coordination and technical assistance for pro bono.** Specifically, LSC should:

1. **Develop a comprehensive pro bono toolkit**, which includes noteworthy practices in pro bono and provides high-level, web-based training to its grantees' pro bono managers and program directors. This toolkit should:
  - a. **Include a plan for evaluating programs, including guidance on best practices in metrics and evaluation.** LSC can do this by helping to create clear data collection standards and methods; creating systems for grantees to share best practices for data collection and analysis; and educating grantees and program evaluators on how to use metrics and evaluation to their benefit (for example, in securing new funding for full-time pro bono staff);
  - b. **Provide guidance on creating effective volunteer support**, such as quality screening, training, mentoring, and recognition of volunteers;
  - c. **Help grantees tailor recruitment to a range of possible volunteers**, including small firm and solo practitioners; emeritus, senior, and inactive lawyers; government lawyers; and in-house counsel, with attention to the differences between lawyers in rural, suburban, and urban areas. This tailoring should focus on client needs first;
  - d. **Include mechanisms for involving non-lawyer volunteers**, including law students, paralegals, administrative personnel, students in other professional schools, and other non-lawyers;
  - e. **Involve pro bono volunteers in providing limited assistance to pro se litigants;**

- f. **Promote collaboration, networking, and sharing of resources among stakeholders**, including LSC grantees, other providers of legal aid, law firms, government lawyers, the judiciary, bar pro bono programs, and in-house legal departments;
  - g. **Encourage immediate, systemic adoption of up-to-date technology by all of its grantees.** LSC could help in this process by:
    - i. Encouraging innovation through competition, such as through newly-funded competitive challenge grants;
    - ii. Encouraging the creation of collaborative online environments that can serve as virtual legal networks, or “one-stop-shops” for pro bono lawyers and for clients, and that take advantage of new technologies, such as Smartphone apps, text messaging, social media, and cutting-edge client management software; and
    - iii. Encouraging efficiency and resource-sharing by developing collaborative, statewide pro bono platforms.
  - h. **Reduce overall demand for legal services by using pro bono volunteers and advocating for the creation of ombudsman programs.**
  - i. **Offer guidance on developing a strong pro bono culture**, including by hiring full-time pro bono coordinators and establishing pro bono advisory committees to help oversee and support pro bono programming;
  - j. **Encourage efforts to ensure that pro bono programs are adequately resourced**, both at the federal and state level and also through private sources.
2. **Create a professional association specifically for pro bono managers at LSC grantees**, bringing them together for training, relationship-building, and support; and
  3. **Recommend that Congress create a Pro Bono Innovation/Incubation Fund**, modeled on the successful Technology Initiative Grant (TIG) program, and aimed at encouraging innovations and best practices in pro bono. We recommend that this grant be a newly-funded program, with mechanisms for evaluation built in, and that funding for it not be taken out of critically-needed, existing funds for LSC grantees. We also recommend that private donors consider supporting this program.

## **Recommendation 2:**

**LSC’s board should review certain aspects of LSC’s Private Attorney Involvement (PAI) Regulation**, a rule which requires LSC grantees to spend 12.5% of their funding in support of pro bono legal services. Potential changes to the regulation should focus on

providing greater flexibility in how the regulation governs: (a) resources spent supervising and training law students, law graduates, deferred associates, and others, especially in “incubator” programs; (b) resources invested to enhance screening, advice, and referral programs, even when those programs do not result in cases for LSC grantees, but where they support pro bono programs; and (c) the application of LSC case-handling requirements to PAI matters.

### **Recommendation 3:**

**LSC should partner with other stakeholders to launch a public relations campaign on the importance of legal services and pro bono.** To begin with, LSC should convene a small committee, perhaps including Task Force members, to examine the feasibility of such a campaign, as well as to answer questions related to scope, funding, and implementation. In doing so, LSC should partner with other national stakeholders who also are interested and invested in this issue.

### **Recommendation 4:**

**LSC should work with law schools and law firms to create a new civil legal services fellowship program for recent graduates designed to bridge the gap between firms and legal services organizations. It also should consider the feasibility of a similar program for senior or emeritus lawyers.** Again, LSC should begin by convening a small group to develop a work plan and garner support for creating such a program.

### **Requests for Assistance from the Legal Profession**

The Task Force recognizes that, although LSC has an important leadership role in encouraging pro bono, none of the recommendations made above can be implemented without strong support from bar leaders, the judiciary, policymakers and, indeed, the legal profession as a whole. We therefore call for assistance from all of these stakeholders to encourage and support efforts to effectively engage the private bar. As members of the Task Force, we also recognize that our work begins rather than ends with this report – and we remain enthusiastically committed to assisting LSC and its grantees in making these recommendations a reality.

Specifically, we ask that:

#### **1. Bar leaders and the judiciary:**

- a. Use their influence, consistent with applicable judicial conduct rules, to recruit new pro bono lawyers, especially in rural areas and among solo practitioners, to draw attention to the crisis in legal services, and to advocate for additional funding at the state and federal levels.
- b. Amend attorney practice, judicial ethics, and CLE rules to support pro bono by, for example, providing CLE credit for pro bono (as is already done in some states), permitting judges to ethically advocate for pro bono involvement, allowing private lawyers to take on limited-representation

matters, relaxing certain conflict of interest rules, and allowing certain lawyers (e.g., government, in-house, and emeritus attorneys) to provide pro bono support in jurisdictions other than where they are barred.

- c. Consider either creating or strengthening state Access to Justice Commissions to consolidate and support pro bono efforts.

- 2. The legal profession as a whole, as well as state and federal policymakers:** Recognize the importance of providing every American with access to our justice system, the role that pro bono lawyers can play in offering that access, and at the same time, the cost of developing and maintaining effective pro bono programs. LSC and its grantees should receive sufficient funding to carry out this important aspect of their mission.



# Legal Services Corporation Report of the Pro Bono Task Force

## I. Introduction: The Current Crisis in Legal Services

This country's system for providing civil legal services to the poor is in the midst of a perfect storm. The United States is now five years into the worst financial crisis since the Great Depression. An estimated sixty-five million Americans – 1 in 5 – will qualify for civil legal assistance funded by LSC in 2012 (these families earn less than \$28,813/year for a family of four).<sup>2</sup> This number represents an increase of over 16 million people since 2006 and a jump of 8.6% since 2010 alone.<sup>3</sup> The numbers are projected to continue growing through 2014. There has been a spike in demand for legal help as a result of the financial crisis in some practice areas, such as foreclosure, and also has created a group of newly poor, who are seeking free legal services for the first time in areas such as housing, employment benefits, and family law. Veterans returning from Iraq and Afghanistan also have faced a challenging environment that has left a number of them in poverty and in need of civil legal assistance.

In short, there has been an explosion in the demand for legal services. Yet, although the United States has one of the best justice systems in the world, millions of Americans cannot access this system because they cannot afford to do so.<sup>4</sup> Despite a network of government and non-profit agencies dedicated to providing free civil legal services to the poor, including those funded by the LSC,<sup>5</sup> at least 50% of people seeking help from LSC-funded organizations – and eligible to receive it – are turned away because of insufficient resources.<sup>6</sup> Other studies have found that 80% of the civil legal needs of low-income people go unmet.<sup>7</sup> In short, there is an insufficient supply of assistance for the current swell in demand for legal services.

Recent revenue reductions for legal services have exacerbated these problems. In 2011, LSC-funded organizations alone reduced their headcount by 833 positions and anticipate shedding 393 employees, including 163 attorneys, in 2012.<sup>8</sup> These cuts have serious

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<sup>2</sup> U.S. CENSUS BUREAU, INCOME, POVERTY, AND HEALTH INSURANCE COVERAGE IN THE UNITED STATES: 2010 at 20 (Sept. 2011), available at <http://www.census.gov/prod/2011pubs/p60-239.pdf>.

<sup>3</sup> *Id.*

<sup>4</sup> See *supra*, note 1.

<sup>5</sup> <http://www.lsc.gov/>

<sup>6</sup> LEGAL SERVICES CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW INCOME AMERICANS 2-3 (Sept. 2009), available at [http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf).

<sup>7</sup> Laura K. Abel & David Pedulla, *Reform Federal Civil Justice Policy to Meet the High-Stakes Legal Needs of Low-Income People*, BRENNAN CTR. FOR JUSTICE AT THE NYU SCH. OF LAW BLOG, (Jan. 5, 2007), available at [http://www.brennancenter.org/blog/archives/reform\\_federal\\_civil\\_justice\\_policy\\_to\\_meet\\_the\\_high\\_stakes\\_legal\\_needs\\_of/](http://www.brennancenter.org/blog/archives/reform_federal_civil_justice_policy_to_meet_the_high_stakes_legal_needs_of/).

<sup>8</sup> The survey was conducted in late December 2011 and January 2012. Responses were provided by 132 of the 134 nonprofit legal aid programs currently funded by LSC.

consequences for the poor, as studies consistently show that access to legal counsel makes a significant difference for litigants.<sup>9</sup>

In the midst of this perfect storm, assistance from the private bar is critical. Pro bono cannot replace the enormous contributions of full-time legal aid programs, either in terms of volume or expertise. But it is an essential mechanism for narrowing the justice gap, especially where efforts to engage pro bono lawyers are adequately resourced and supported. Of course, there are many excellent existing programs for lawyers who wish to volunteer their time and services, and many, many lawyers in the profession have answered the call to give back, especially in light of the current crisis. But the effective engagement of the private bar is uneven across the country and there is a need for significant energy, innovation, and attention to pro bono delivery by the entire profession, including by the courts, bar associations, Access to Justice Commissions, private attorneys, government attorneys, corporate counsel, law schools, legal services organizations, and, of course, LSC itself.

This report considers how LSC, its grantees, the legal profession, and other stakeholders can narrow the justice gap through the effective engagement of pro bono lawyers. It is the outcome of many months of work by a dedicated and distinguished Pro Bono Task Force convened by LSC's Board of Directors and made up of leaders from legal services organizations, major law firms, law schools, bar associations, in-house legal departments, the government, and the courts. The work of the Task Force focused strategically on ways in which pro bono can be used to increase the supply of lawyers and others available to provide legal services, while also engaging pro bono lawyers to reduce demand for those services – for example, by recruiting them to tackle systemic issues that generate legal issues for the poor. The Task Force also considered ways in which pro bono volunteers could be better and more efficiently matched with client need. The resulting report focuses chiefly on what LSC and its grantees can do to encourage increased and effective pro bono participation, although it contains recommendations for other sectors, including the judiciary, bar associations, law schools, in-house lawyers and legal departments, firm lawyers, and others.

In making its recommendations, the Task Force recognizes that there currently are other significant efforts underway to address the justice gap, including those of the National Legal Aid and Defender Association (NLADA), as detailed in its 2011 report, *A Blueprint for Action*, as well as those of the American Bar Association, through its Center

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<sup>9</sup> See, e.g., Howard H. Dana, *Report to the House of Delegates: ABA Resolution Civil Right to Counsel 2006*, 15 TEMP. POL. & CIV. RTS. L. REV. 507, 517-18 (2006) (citing Barbara Bezdek, *Silence in the Court: Participation and Subordination of Poor Tenants' Voices in the Legal Process*, 20 HOFSTRA L. REV. 533 (1992); Carroll Seron et al., *The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment*, 35 LAW & SOC'Y REV. 419 (2001)). The Boston Bar Association, for example, recently documented that in eviction cases, having some form of legal assistance, including full representation in targeted cases, substantially increased tenants' likelihood of staying in their homes and even receiving a damage award. *The Importance of Representation in Eviction Cases and Homeless Prevention*, <http://www.bostonbar.org/docs/default-document-library/bba-crtc-final-3-1-12.pdf>

on Pro Bono and its Pro Bono Summit, which took place in late 2011.<sup>10</sup> There likely will be significant overlap in these efforts. The Task Force encourages a collaborative approach to addressing the legal services crisis and welcomes the chance to work with these other bodies in implementing their collective recommendations.

Finally, the Task Force recognizes that developing and supporting effective pro bono programs requires the investment of valuable time and resources by already strapped legal aid organizations. To put it more simply: pro bono is not free. The Task Force therefore encourages funders to make infrastructure investments in pro bono to facilitate the engagement of pro bono volunteers.

## II. Recommendations to the Legal Services Corporation and its Grantees

### **Recommendation 1: LSC should serve as an information clearinghouse and source of coordination and technical assistance for pro bono.**

Every LSC grantee is required to devote a portion of its resources to engaging private lawyers, but there is great variation among them in terms of the size, quality, efficiency, and effectiveness of their pro bono programs. Good pro bono programs require effective infrastructure, and while some guidance exists on how to build a model pro bono program,<sup>11</sup> the Task Force's research did not identify any complete, high-level "toolkit" for doing so.<sup>12</sup>

The Task Force therefore recommends that LSC:

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<sup>10</sup> For information on the ABA's Pro Bono Summit, see <http://www.abanow.org/2011/10/aba-president-to-national-pro-bono-summit-progress-is-what-we%E2%80%99re-here-for/>.

<sup>11</sup> Existing resources for building an effective pro bono program include:

- LSC's own Performance Criteria, <http://www.lsc.gov/sites/default/files/LSC/pdfs/LSCPerformanceCriteriaReferencingABAStandards.pdf>;
- The ABA Center for Pro Bono's, "Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means," *available at* <http://apps.americanbar.org/legalservices/probono/standards.html>;
- LSC Program Letter 07-2: Guidance to LSC Programs for the Development of Enhanced Private Attorney Involvement, *available at* <http://lsc.gov/sites/default/files/LSC/pdfs/ProgramLetter07-2.pdf>;
- The Michigan Nonprofit Association's "Basic Infrastructure Checklist," *available at* <http://mnaonline.org/CMDocs/MNA/Principles&Practices/checklist.pdf>;
- PILnet's "Pro Bono Clearinghouse Manual: Resources for Developing Pro Bono Legal Services," *available at* <http://mnaonline.org/CMDocs/MNA/Principles&Practices/checklist.pdf>;
- Emerging from the California Pro Bono Summit, the development of a seven-chapter "best practices guide" reflecting basic "how to" concepts for legal services and private law firms on the development and administration of pro bono best practices; and
- Training related to infrastructure sometimes is offered in national conferences. For example, a "nuts and bolts" pre-conference for new pro bono managers is offered annually at the Equal Justice Conference, in addition to "Beyond the Basics," coordinated by the National Association of Pro Bono Professionals (or NAPBPro) for more experienced pro bono coordinators and directors.

<sup>12</sup> LSC's own website contains some resources, but they are limited and reportedly not well-trafficked.

- Work with other stakeholders to develop and maintain a comprehensive pro bono toolkit, which would accumulate and report on best practices, and provide high-level training, curricula, and resources to legal services agencies in a number of areas, including in the art and skill of managing volunteers. This toolkit should contain guidance on how to effectively evaluate pro bono programs, as described in more detail below. We recognize that, to be done right, this recommendation requires the infusion of significant resources that are required to support and leverage pro bono time. Congress, foundations, and other interested donors should consider funding such an effort, including funding a position at LSC to oversee the project. This funding should be given in addition to, and not in lieu of, other critically-needed funding for legal services.
- Create an association of pro bono professionals who work at LSC-funded organizations, in partnership with existing networks such as the National Association of Pro Bono Professionals (NAPBPro) or the ABA Center for Pro Bono.<sup>13</sup> Provide them with the means to develop relationships with one another, for example by providing them with an LSC listserv, offering training on effective pro bono infrastructure, setting up regular conference calls, and, where possible, facilitating in-person meetings, for example, at the annual ABA/NLADA Equal Justice Conference. The association would offer these pro bono managers with a forum for discussing and sharing innovative ways to utilize PAI funds and build strong pro bono cultures within their organizations. LSC also should encourage the professionalization of the role of the pro bono manager within grantees.
- Recommend that Congress or LSC, through funds raised independently from the private bar or interested foundations, create a challenge grant, as it has done through the successful Technology Initiative Grant (TIG) program, aimed at encouraging innovations and best practices in pro bono. We specifically recommend that this challenge grant be a newly-funded program, and that funding not be taken from critically-needed existing funds for LSC grantees.

This report begins the process of creating a toolkit of best practices by identifying the key elements of a successful pro bono program, including:

- Strong evaluation and metrics that go beyond counting the number of cases or matters handled to ensure that pro bono programs are serving clients and engaging pro bono volunteers effectively;
- Volunteer support, including effective case screening, training, mentoring and oversight, recognition, and malpractice insurance;

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<sup>13</sup> We recognize that both of these organizations already have excellent resources available for legal services agencies; however, what we propose is sub-group that would be specifically for pro bono professionals working at LSC grantees.

- A range of opportunities that reflect the particular interests of and challenges faced by certain segments of the bar, including in-house lawyers, law-firm lawyers, small firm and solo practitioners, inactive and senior lawyers, and government lawyers. Of course, this always should be done with the overall goal of effectively serving clients in mind;
- Mechanisms to engage non-lawyers, including law students, paralegals, administrative personnel, students at other professional schools, and other non-lawyers;
- Mechanisms for involving pro bono volunteers in providing limited assistance to pro se litigants and otherwise empowering pro se parties;
- Collaborations among legal services organizations, courts, law schools, bar associations, firms, in-house legal departments, and other members of the bar to increase efficiency across systems and to make the most of limited resources for pro bono;
- A system that incorporates best practices and innovations in technology;
- Pro bono projects aimed at decreasing overall demand for legal services, such as by engaging private lawyers to tackle systemic issues faced by the poor;
- A strong pro bono culture within the LSC grantee organization; and
- A fundraising strategy to support the program, as pro bono programs require the investment of time and resources by legal services staff.

We include more detailed findings about each of these categories below.

a. **Strong Evaluation and Metrics**

Over the past decade, the philanthropic sector and, more recently, government funders have pushed grantees in all social service sectors to collect data, evaluate performance, and assess outcomes. This has been a challenge for the non-profit sector, especially at a time when concern about diverting funds away from services is particularly acute and justified. Nonetheless, metrics are very important and should be included in every pro bono program.

Current efforts to evaluate pro bono programs are very much a work in progress. To the extent grantees collect data, most are focused on basic case processing, such as the number of clients served or hours donated, with some use of client or volunteer surveys. While there are several efforts underway to develop more sustained and rigorous evaluations of client outcomes and program effectiveness, particularly in partnership with academic institutions, these efforts are in their early stages. It is essential that LSC and its grantees focus on this issue by developing more robust standards for evaluating pro bono programs, not only in response to funders, but also to guide program development,

maximize efficient use of limited resources, better understand the client needs, and increase public awareness of the social and economic value of legal services. LSC can then train its program reviewers on using these standards to meaningfully evaluate grantee pro bono efforts.

Evaluation should be done with careful consideration of the results, starting with the question of what the pro bono program hopes to achieve and then developing methods of measurement designed to assess whether the program has met its goals. Grantees should measure all program areas, including limited representation and pro se assistance services. The resources for such efforts should not come at the expense of funding for client services.

To improve data collection on pro bono activities by LSC-funded organizations, it is recommended that LSC:

- Explore the most effective means of evaluating programs, and provide grantees with support, training, and guidance so that they can do the same. In particular, the legal services community would benefit from the establishment of standards concerning research, assessment, and data collection;
- Provide technical support and training to help grantees implement improved data gathering and outcomes measurements;
- Consider potential partnerships with business schools, public administration schools, and consulting firms to help develop effective evaluation systems for grantees; and
- Work closely with other organizations, including the American Bar Association, NLADA, the Pro Bono Institute, law schools, law firms, Interest on Lawyers Trust Accounts (IOLTA) programs, Access to Justice Commissions, the judiciary, researchers, and others that are looking for ways to develop effective evaluation mechanisms.

LSC's work in this area should build upon the work that already is underway to develop better assessments of pro bono programs. Examples of these efforts can be found [here](#).

**b. Volunteer Support**

Private attorneys who undertake pro bono work want: (a) a clear sense of the merits of the case; (b) training; (c) a commitment that there is someone at the legal aid organization they can call for advice and encouragement; (d) malpractice insurance coverage;<sup>14</sup> (e) an

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<sup>14</sup>The availability of malpractice insurance is often cited as a concern of would-be pro bono volunteers. Grantees should advertise that professional liability insurance is available at affordable rates to the sponsoring entity that reflects the exposure and risk involved in the types of cases undertaken and, except for solo practitioners, often at no cost to pro bono volunteers. NLADA offers professional liability insurance to PAI volunteers, bar association sponsored pro bono programs, private firms offering pro bono

up-front indication of the professional development opportunities the case will provide; and (f) a sense of timing of the case, as well as potential costs. The kinds of matters that LSC grantee attorneys historically encounter generally do not change – they most frequently work on housing, domestic violence/family law, benefits, veterans, and consumer issues. Therefore, while creating high-quality toolkits and training on substantive areas of law for pro bono lawyers involves an initial time investment, that investment results in a resource that can be used for a long time, and the benefits can be substantial. Additionally, engaging pro bono lawyers to help develop substantive training materials is an excellent way to utilize volunteers in a manner that has a continuing impact.

Grantees that appoint a full-time, skilled pro bono manager (sometimes incorporating training or development responsibilities) find that they can identify and follow through on pro bono opportunities more effectively than grantees that make pro bono recruitment part of everyone's (and therefore no one's) job duties. A pro bono volunteer who gets the support outlined above is likely to continue taking cases, may recommend that others do the same, and may even make a financial contribution to the organization.

c. **Providing a Range of Pro Bono Opportunities to Engage All Segments of the Bar**

Not all lawyers have the time or resources to take on major litigation, and many transactional lawyers would prefer not to. Similarly, private lawyers, whether in-house, in the government, or at a large or small firm, often face conflicts that make it impossible for them to take on certain types of civil matters. Many of these lawyers still wish to contribute their time and energy. Effective pro bono programs, therefore, should include creative opportunities for limited representation, projects that require only a finite time commitment, and projects that do not pose actual or positional conflicts.

Of course, in designing these programs, the first priority should be fulfilling client need and, in particular, there should be a concerted effort to match pro bono resources with the highest-priority needs of low-income people. Too often, other pro bono opportunities are perceived as being more glamorous and thus garner a large share of the available resources, while poor people struggle to find help addressing legal problems that threaten basic human survival. Great pro bono programs are able to communicate the importance of basic civil legal services and then match the interests and skills of volunteer lawyers with that client need.

The following is a summary of the unique challenges facing certain groups of lawyers, including: (1) small firm and solo practitioners, (2) rural lawyers, (3) emeritus/senior lawyers, (4) government lawyers, and (5) corporate counsel – as well as suggestions for better engaging each group.

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services, other nonprofit projects, and solo practitioners. The coverage extends to any volunteer performing pro bono services on behalf of the policyholder. For information on the NLADA insurance program, see *NLADA Insurance Program*, NLADA, [http://www.nlada.org/Insurance/Insurance\\_Home](http://www.nlada.org/Insurance/Insurance_Home) (last visited June 26, 2012).

1. ***Small Firm and Solo Practitioners:*** Lawyers at small and medium firms often lack the institutionalized support, resources, and infrastructure that large firms have. Particularly in rural areas or for solo practitioners, covering out-of-pocket costs can also be a challenge. Yet small and solo firm practitioners are the mainstays of many LSC grantee programs. To the extent possible, LSC grantees wishing to engage smaller firms thus may consider assisting with out-of-pocket expenses, such as travel costs, legal research, deposition transcripts, and expert witness fees, and should investigate ways to provide the same types of institutional supports that larger firm lawyers enjoy. To see a few examples of how LSC grantees and other agencies are effectively engaging lawyers at small and medium firms, click [here](#).

2. ***Rural Lawyers:*** Engagement of lawyers to serve clients in rural areas can be particularly challenging for a variety of reasons. There often are large geographic distances and sometimes natural barriers (mountains, deserts, forests, and impassable roads) between lawyers, clients, and the courthouses that make representation difficult. The limited number of lawyers in a given area also can create conflicts issues. Where lawyers are present, they typically are solo practitioners or at very small firms with small support staffs and few resources. There may be a mismatch between rural lawyers' practice expertise and rural clients' legal needs, and clients may face issues in accessing technology or transportation. Finally, rural lawyers may require technical expertise to work with special populations, such as migrant farm workers or the Native American community.

Legal services organizations that operate in rural areas are familiar with these challenges, so their participation is critically important to developing and maintaining effective pro bono programs in rural communities. Under their leadership, there are several things that can be done to successfully engage the private bar to serve rural areas, including:

- Engaging the local judiciary and bar leaders to actively support pro bono efforts;
- Offering free training for CLE credit (which can be particularly valuable for solo and small firm practitioners in rural areas) in exchange for a commitment to handle a pro bono case. This training can be specialized to focus on uniquely rural legal issues, such as how to draft Indian wills;
- Building urban-to-rural bridges. Urban agencies can offer volunteers, expertise, technology, sample forms, model pleadings, legal research, volunteer law students, and guidance on law firm pro bono practices. Rural organizations can, in turn, provide cultural training and local counsel support. Rural programs should not over-rely on urban lawyers, however, as distances and cultural divides can create problems;
- Taking advantage of student rural outreach programs and spring break and summer programs;



- Leveraging local resources, such as libraries, faith-based groups, and social service agencies to reach client populations and gather volunteers;
- Creating local and county-level pro bono task forces that include community leaders, such as local town mayors, county executives and council members, community and religious leaders, directors of social services agencies, and bar leaders;
- Engaging the law departments of corporations located in rural areas;
- Offering pro bono opportunities that allow for limited representation or finite time commitments;
- Creating local pro se assistance programs that can be staffed by pro bono lawyers;
- Using technology to share resources among agencies, reach clients in remote locations, and train volunteers (while recognizing that technology cannot begin to cover what local lawyers or legal services agencies do on behalf of clients); and
- Encouraging stakeholders to look at access to justice issues on a statewide level, so that systems are developed and resources allocated to rural as well as urban populations. This concept is discussed in further detail below.

A few examples of programs that are effectively operating in rural communities can be found [here](#).

3. ***Emeritus/Senior and Inactive Lawyers:*** By 2020, retirees will account for almost half of all lawyers.<sup>15</sup> Programs engaging senior and retired lawyers in pro bono work have existed for many years, but interest in mobilizing senior lawyers has been heightened because of the imminent enormous growth in this segment and because of the wealth of experience and talent in this potential pool of pro bono lawyers. Inactive lawyers also are a potentially significant resource, as it includes not only senior lawyers, but also those who are not working as lawyers for various reasons but still wish to be engaged, as well as law professors who are not otherwise practicing.

While there have been some innovative projects for engaging inactive lawyers, no model has emerged to date that has proven to be scalable. Due to varying state emeritus rules,

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<sup>15</sup> Marc Galanter, “*Old and in the Way:*” *The Coming Demographic Transformation of the Legal Profession and Its Implications for the Provision of Legal Services*, 1999 WISC. L. REV. 1081, 1085 (1999).

senior lawyers also may face obstacles to doing pro bono work.<sup>16</sup> Some suggestions for effectively engaging them include:

- Providing access to resources, including office space, support staff, mentors, and research materials;
- Providing training, supervision, and mentoring;
- Creating opportunities that accommodate flexible schedules and allow attorneys to work from home;
- Informing would-be volunteers that malpractice insurance is available to them; and
- Amending state practice rules to encourage and remove obstacles to participation (further discussed in the state practice rules section below).

For examples of programs that have effectively engaged senior and inactive lawyers, click [here](#).

4. ***Government Lawyers:*** Well over 100,000 attorneys work for the federal government, and thousands more are employed by state and local governments.<sup>17</sup> Government lawyers are potentially a major resource for pro bono assistance, but they also face unique obstacles. Unlike law firm volunteers, government attorneys generally cannot handle pro bono cases during work time and cannot rely on their employers to provide clerical support or cover out-of-pocket costs. Federal government lawyers frequently are not members of the bar in the jurisdictions where their offices are located. Both federal and state government lawyers cannot handle cases that might put them at odds with their employer and are subject to additional statutory conflict of interest restrictions that may prevent them from taking on certain types of cases. There can also be a perception that because their full-time jobs are public service, they have a lesser (or no) obligation to perform pro bono work. Some also believe that allowing government attorneys to perform pro bono work during business hours is a misuse of public dollars.

There are, however, proven strategies for addressing the challenges government lawyers face, and there has been significant growth in recent years in the involvement of government lawyers in pro bono work.<sup>18</sup> For example, the District of Columbia has a

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<sup>16</sup> These obstacles include formal retirement, years of service, age, licensing, disciplinary, dues, CLE, certification, filing, and malpractice insurance requirements.

<sup>17</sup> See Fedscope, <http://www.fedscope.opm.gov/>. “Legal positions” includes attorneys as well as administrative law judges, various administrative and managerial positions, and paralegals.

<sup>18</sup> Presidential Executive Order 12988, issued in 1996, directs federal agencies to develop appropriate programs to encourage and facilitate pro bono legal service by federal government employees. The order designated the Department of Justice to lead the effort and to convene the Interagency Pro Bono Working Group comprised of representatives from each federal agency that adopts a pro bono policy and establishes a pro bono program. The American Bar Association’s Standing Committee on Pro Bono and Public Service

special exception to its unauthorized practice of law rule, D.C. Appellate Rule 49(c)(9)(C), that allows federal government attorneys in good standing in another jurisdiction but not admitted in the District to undertake pro bono cases under the auspices of a free legal services provider, if they are supervised by an active member of the D.C. Bar.<sup>19</sup> Additionally, in several states that exempt government attorneys from particular fees or CLE requirements as long as they do not practice law outside of their government jobs, the rules explicitly state that pro bono work does not waive the exemption.<sup>20</sup>

In general, the most successful pro bono programs for government lawyers do not require bar membership in the jurisdiction, involve matters that are not adverse to a government entity, and require only finite time commitments outside of work. To see a few examples of such programs, click [here](#).

5. **Corporate Counsel:** There has been a significant increase in the number of in-house departments engaging in pro bono work over the past few years.<sup>21</sup> Engaging corporate counsel can have many benefits beyond the client services they provide, as corporate counsel can leverage their law firm contacts to bring even more lawyers into the fold. For example, some corporate law departments now include specific questions about pro bono when soliciting law firms for billable work and in their overall evaluation of law firms. Many legal departments also provide financial support for civil legal services.

In engaging corporate legal departments, it is important to understand the motivations that guide corporate counsel, as well as the special constraints under which they work. In terms of motivations, many corporate departments wish to create pro bono programs that tie into their corporate responsibility (CR) efforts. Thus, if the company's CR policies focus on homelessness, the in-house lawyers may wish to focus their pro bono work on homelessness. In-house lawyers also often use pro bono as a means of team-building within their legal departments, involving staff as well as lawyers on pro bono projects.

Working with corporate counsel, however, presents challenges similar to those involved in working with government lawyers. Many in-house lawyers are not located in the jurisdictions in which they are admitted, may face conflicts as a result of their particular

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has an excellent web page devoted to the issue of government attorneys and pro bono, *available at* [http://apps.americanbar.org/legalservices/probono/government\\_attorneys.html](http://apps.americanbar.org/legalservices/probono/government_attorneys.html).

<sup>19</sup> See <http://www.dccourts.gov/dccourts/docs/rule49.pdf>. Thirty-seven federal agencies in D.C. have established pro bono programs. Fifteen of those agencies recently have adopted policies that grant administrative leave to lawyers performing pro bono legal work. Pro Bono Net has a useful website that includes a compilation of existing pro bono policies from various federal agencies, information on malpractice insurance, links to information on practices in other states and jurisdictions and other useful information for federal attorneys seeking pro bono opportunities in Washington, DC. See <http://www.probono.net/dc/about/#Policies>.

<sup>20</sup> See, e.g., Hawaii Supreme Court Rule 17; State Bar of California Rule 2.54(b).

<sup>21</sup> See, e.g., <http://www.cpbo.org/resources/best-practice-profiles/> and David P. Hackett, Ed., *Pro Bono Service by In-House Counsel*, PRACTICING L. INST. (2010), for examples of robust in-house corporate pro bono programs.

practice, and likely do not have malpractice insurance. In addition to changing state practice rules to address these issues, as discussed in further detail below, opportunities to overcome these obstacles include:

- Partnering in-house lawyers with law firms and other outside organizations to make taking on a pro bono matter more manageable;
- Creating projects that are time-limited and predictable in nature, such as pro bono clinic opportunities or limited scope engagements;
- Providing extensive training and mentoring to encourage in-house counsel to venture outside of their primary practice areas;
- Using technology to interact remotely with pro bono clients, where appropriate; and
- Creating in-house pro bono teams so that colleagues can step in if scheduling conflicts or workload issues develop.

Finally, engendering support for pro bono programs at the general counsel or other senior level is essential for an effective program, both to reinforce that pro bono is highly valued and to help resolve workload issues. For examples of programs that engage in-house counsel, click [here](#).

d. **Empowering Non-Lawyers and Enabling Pro Se Litigants**

One LSC grantee pro bono manager interviewed for this report told us that she receives many calls from paralegals and law students who want to volunteer, but that she does not know how to engage them. This likely is a common issue, and yet there are ways in which non-lawyers, particularly law students and paralegals, can make real contributions. LSC and its grantees should collect significant practices for the engagement of non-lawyer volunteers – including (1) law students, (2) paralegals and administrative staff, (3) other non-lawyers, and (4) pro se litigants – and educate grantees about how to use them.<sup>22</sup> Of course, this should be done with the knowledge of the limitations of using non-lawyers and pro se services, including the training and supervision required. The following is a brief summary of the Task Force’s findings with regards to these groups.

1. ***Law Students:*** The engagement of future lawyers in pro bono work can instill an early commitment to and support for that work. Law schools take varying approaches to pro bono. Some schools, such as Columbia, Harvard, and Loyola University, Los Angeles, make it a mandatory requirement for graduation. Others, such as NYU, Roger Williams University, and Stanford, achieve high levels of participation by actively promoting pro bono.<sup>23</sup> Of course, many schools engage students through clinics. And there are efforts underway to consider new ways to involve law students, such as through

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<sup>22</sup> For a discussion of recommended changes to the PAI rules affecting LSC grantees’ use of law students, see Section II.b, *infra*.

law school [Cyber Clinics](#), which offer credit to law students who help develop content for statewide legal aid websites. Several other innovative models for involving law students outside the traditional law school clinic context can be found [here](#).<sup>24</sup>

Of course, using law students, especially outside of a clinical setting, is complicated by their lack of experience, limitations on their ability to practice law, and the lack of any coordinated effort to guide student advocates toward areas of practice where the need is greatest. These constraints must shape any effort to engage law students and necessitate a special premium on training and supervision.

LSC also should consider looking beyond law schools for pro bono help, for example by launching a pilot initiative to involve some of the country's business and public administration schools, or within paralegal training programs. These students, for example, could advise LSC grantees on non-profit management, help them create strategic plans, or assist law students with intake at a legal clinic. Similar partnerships could be created with medical or other professional schools. By creating early bridges within these communities, budding community and financial leaders will learn about the importance of legal services and, we hope, make a lifetime commitment to the issue.

2. ***Paralegals and Administrative Staff:*** In addition to engaging private attorneys, LSC grantees should consider ways in which they can involve other members of the law firm community in pro bono – including paralegals and other administrative staff. These staff members often have a wealth of knowledge about the legal profession and an enormous amount of experience.

3. ***Other Non-Lawyers:*** Several federal programs permit non-lawyers to serve clients, including in applying for Medicaid, food stamps, housing, Social Security, immigration, and veterans benefits. The Colorado Cross Disability Coalition (CCDC), for example, uses non-lawyers to file benefits applications, appear in administrative law proceedings, present evidence, prepare and file briefs, or simply listen to client stories. The Benefit Bank (TBB) provides another, online model for engaging non-lawyers. A proprietary web-based resource, TBB provides web-based guidance to help volunteers conduct an eligibility assessment and file applications for programs such as the Supplemental Nutrition Assistance Program (SNAP, otherwise known as Food Stamps), Medicaid, Medicare Part D, child care subsidies, Temporary Assistance for Needy

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<sup>23</sup> The ABA Center on Pro Bono has a very content rich website for and about law school pro bono programs, *available at* <http://apps.americanbar.org/legalservices/probono/lawschools/home.html>. Among other things, it includes a directory of schools with programs – there are 176 schools listed as of June 24, 2011. The website also includes guidance and resources for creating or enhancing a program, information about the various models in use, and contact information for the relevant personnel at each school.

<sup>24</sup> Whether faculty members do pro bono work typically is a matter of individual choice, but the additional capacity faculty can add (whether as inspirational leaders, advocates, or supervisors) suggests an area that might be encouraged profitably. Faculty members are typically expected to perform (and are evaluated on) service activities, which could include pro bono activities, including support for law student and legal services work. For a discussion of current law school efforts, see [http://apps.americanbar.org/legalservices/probono/lawschools/pb\\_programs\\_chart.html](http://apps.americanbar.org/legalservices/probono/lawschools/pb_programs_chart.html).

Families (TANF), and various other federal programs. To learn more about CCDC and TBB, click [here](#).

4. ***Pro Se Litigants:*** Pro se drop-in clinics, help desk programs, and online resources are an important means of empowering those who otherwise would not otherwise have legal assistance. At the same, these models offer a limited-representation opportunity to lawyers who may not be able to make a larger commitment of time or resources – including government, in-house, or rural lawyers and solo practitioners. In Chicago, for example, the Coordinated Advice and Referral Program for Legal Services (CARPLS) uses paid and volunteer staff to screen and refer more than 60,000 cases a year. CARPLS also provides self-help materials to empower callers to proceed pro se. The Volunteer Lawyers Network (VLN) in Minneapolis recruits and trains lawyers to staff a local self-help center. VLN provides onsite staff support, recruits student volunteers, and provides screening, forms, and informational materials. There also are a number of comprehensive websites and tutorials aimed at empowering pro se litigants, such as the Connecticut Network for Legal Aid.<sup>25</sup> You can read more about other programs working to empower pro se litigants [here](#).

e. **Create Networks That Provide Opportunities for Collaboration and Resource Sharing**

A recent report issued by the American Bar Foundation found that the network of non-profits and other agencies providing legal services across the country lacks coordination and, as a result, the overall quality of legal services delivery varies greatly on a state-by-state and region-by-region basis.<sup>26</sup> LSC and its grantees have a real opportunity to change that trend by bringing together key stakeholders, both at a state and local level, to address access to justice issues in a more coordinated and efficient manner. Led by LSC, these collaborative efforts should include LSC grantees, the judiciary, bar associations, law schools, and the private sector.

There are so many ways in which the legal community can work together to address the justice gap and promote pro bono. They can collaborate on fundraising and drafting grant proposals. They can work together to train pro bono lawyers, or combine recruiting efforts. Private lawyers and law firms can team up to tackle critical systemic issues facing LSC grantees' clients. Community members can work together to publicize the need for civil legal services and the importance of doing pro bono work. They can share the cost of hosting events to recognize volunteers. And community stakeholders can form partnerships (such as a judge teaming up with a local legal aid program and a corporate in-house department to create and staff a help desk at a local court) to tackle a tough problem in the community. The Pro Bono Collaborative in Rhode Island, for example, uses a staff of two part-time attorneys to act as an intermediary and form partnerships between non-profit community organizations, law firms, and law schools to work on pro bono matters together. In Richmond, Virginia, a consortium of 10 law firms has

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<sup>25</sup> See CONNECTICUT NETWORK FOR LEGAL AID, <http://ctlawhelp.org/>.

<sup>26</sup> Sandefur & Smyth, *supra* note **Error! Bookmark not defined.**

developed the “Firms in Service” model to facilitate collaboration rather than competition among firms for pro bono projects.

With recent changes in technology, in particular, there is great potential for people to work together through virtual legal networks, which can match pro bono lawyers with opportunities to volunteer, offer training and mentoring, highlight pro bono successes, and provide administrative support, all in a single, on-line platform. Such networks also can offer legal services organizations the chance to reduce costs by sharing resources and providing pro se litigants with information.

Illinois Legal Aid Online (ILAO), for example, offers a library for would-be pro bono lawyers and pro se litigants, a list of volunteer opportunities, a calendar of upcoming trainings, and opportunities for mentorship. It also highlights successful pro bono and legal aid lawyers on its home page and is working to create a statewide online platform for legal aid providers so that they do not each have to shoulder the expense of creating their own.

Many other legal services organizations are collaborating to share one IT platform so they can screen clients quickly and effectively. For many reasons, it makes sense to only have one such platform in a given community – it provides the opportunity to share the cost of operating only one system, creates a one-stop option for clients, and tracks outcomes and needs on a system-wide basis. This is what legal aid providers in Philadelphia are doing, working together to develop a common case-management software system that allows one organization to screen a case, refer it to another without rescreening, and even track outcomes and trends after services are provided. These systems can make pro bono programs more efficient as well. Using similar collaborative technology, cases can be referred to private attorneys with some assurance that the salient information about the case has already been gathered.

Additional examples of the ways in which these collaborations are currently happening throughout the country can be found [here](#).

f. **Technology**

The greatest change in the practice of law over the past thirty years has been the revolution in information technology. Since 2000, when Congress first appropriated special funds for its Technology Information Grant (TIG) program, LSC has been a leader in the development and use of technology among its grantees, including for use in administering their pro bono programs. In 2008, LSC issued a report entitled *Technologies That Should Be in Place in a Legal Aid Office Today* (commonly referred to as the “Baselines Report”), which addresses best practices in technology related to management of client and case data, intake and telephone advice, support for private attorneys, data security, and training. The Baselines Report continues to serve as an important resource for the civil legal aid community today.

New technologies have emerged since the Baselines Report was issued, however, including cloud computing, new means of data storage and information sharing, social

media, and the rise of the virtual office. LSC therefore should update the report to include those technologies. In doing so, LSC also could gather information and make recommendations on how technology is being used collaboratively at the state and local levels.

Specifically, we make the following recommendations for technologies that each LSC grantee should, to the extent possible, have in place for the management of its pro bono programs.

- **A Pro Bono Website:** Early in its work, TIG developed two website templates, eliminating the need for LSC and other legal services organizations to undertake their own development. Grantees and other organizations in the vast majority of states and territories use one of these two templates. They currently are being adapted for mobile browsing. Ideally, every website should:<sup>27</sup>
  - o Allow pro bono lawyers to review available cases and to volunteer to take them online. At the very least, case opportunities should be sent to volunteers via e-mail. A pro bono computer program currently in development, LawGives, attempts to recommend specific pro bono opportunities to lawyers that are most in line with their practice areas, geography, and expressed interests;
  - o Include calendars for training opportunities;
  - o Provide online training and resource materials for pro bono lawyers. This should include access to recorded trainings and, where allowed under state rules, the opportunity to obtain CLE credit for viewing them, as well as sample pleadings and forms;
  - o Provide live online help for volunteers. Several states' pro bono sites now use such a "live chat" feature to help volunteer lawyers. Pro bono managers can take turns being available to staff this feature while they are doing other work, responding to any questions that pop up on the pro bono manager's computer; and
  - o Have the ability to push information out through an RSS feed.<sup>28</sup> Programs such as Outlook and Google have RSS readers that users can subscribe to. Subscribers then are notified automatically when new information is posted to the website rather than having to go to the website to find it. The GeorgiaAdvocates.org site, for

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<sup>27</sup> For examples of other pro bono websites the Technology Working Group found, click [here](#).

<sup>28</sup> RSS (originally RDF Site Summary, often dubbed Really Simple Syndication) is a family of web feed formats used to publish frequently updated works – such as blog entries, news headlines, audio, and video – in a standardized format. An RSS document (which is called a "feed," "web feed," or "channel") includes full or summarized text, plus metadata such as publishing dates and authorship.



example, pushes out material posted on its news page to subscribers using this method.

- **A Case Management System (CMS) for Pro Bono Cases:** Generally, LSC grantees' case management systems are used for keeping track of cases reported to LSC and recording time. They can be used to facilitate pro bono as well. For example, a pro bono manager can use a CMS to match a prospective client with an attorney by searching for selected criteria. For example, the manager could look for a lawyer with no open pro bono cases who speaks Spanish to take on a divorce case in a particular county. The system might even do some of the work for the manager. Rather than having to do a search, when the manager clicks the "Assign Case" button, only those attorneys who match the criteria are selected as possibilities. The following are other CMS features that might facilitate pro bono work:
  - o The ability to integrate form e-mail and other correspondence, which can be modified and personalized. Some CMS systems allow for the creation of a complete referral packet consisting of letters to the client and pro bono attorney, any documents the client has supplied, and legal information on the case type with links to automated forms, any of which can be tailored for a particular type of case.
  - o Many CMS programs can collect information pertinent to the client's legal problem. Volunteer lawyers can access that information via a secure log-in and record case notes and time records so they are all stored in one place.
  - o CMS programs should have the ability to track the progress of a case, record attorney time, and track expenditures.
  - o When legal services staff identify a case as a candidate for pro bono representation, the CMS program should allow them to designate it as such, type in a short description, and directly push that information to a website, post it on social media such as Facebook, and send it to volunteers via e-mail. The system can even tailor opportunities so they only go to specific volunteers and control how many of these e-mails an attorney receives in a specified period of time.
- **Voice over Internet Protocol (VoIP) with Remote Log In:** As discussed above, one way to increase participation is to provide pro bono opportunities that involve only a limited-time commitment, such as the chance to give advice and brief services over the phone. Phone systems can be set up so that a volunteer can log into a CMS system to show availability, and then calls can be routed to the volunteer. If the volunteer is trained to do an eligibility screen, callers can be routed to the volunteer initially – even on the basis of

case type and/or language capability. This capability can be added by using a hardware Session Initiating Protocol (SIP) Phone,<sup>29</sup> by using a software solution known as a softphone, or by routing to a cell phone. Many cloud-based PBX providers (a phone system that lives in the cloud, not at the office) offer these features.

- **Social Media:** The use of social media, including blogs, Twitter, Facebook, and LinkedIn, has grown exponentially over the past five years<sup>30</sup> and these tools can help attract potential volunteer lawyers. Social media is particularly useful for generating new ideas, ongoing conversations, and feedback among volunteers.<sup>31</sup> LSC itself can be found on Twitter under the handle @LSCTweets.<sup>32</sup> The ABA Center for Pro Bono (which itself maintains a blog about pro bono)<sup>33</sup> recently documented current and potential uses for social media in support of pro bono service delivery, focusing on five areas in which social media can assist in supporting or strengthening a program: marketing, recruitment, fundraising, intelligence gathering, and extending accolades.<sup>34</sup> Below are a few more specific examples of how social media can best be used, including to:

- o Inform the public and lawyers of pro bono news and upcoming events, such as clinics and training. The State Bar of Alabama Volunteer Lawyers Program uses Twitter during the annual ABA

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<sup>29</sup> SIP phones connect to the Internet to place and receive calls. The device will have a unique IP address so calls can be routed to it just as if it were connected to the system internally.

<sup>30</sup> There has been much written about the use of social media by lawyers, including by legal aid lawyers. For example, Building Community Engagement through Social Media provides a summary of social media and its use for building awareness of a program's mission, recruiting volunteers, and learning about a program's community. A 2010 report, *Using Social Media to Engage Your Supporters*, highlights the social media efforts of several legal aid and pro bono entities. Finally, the Legal Services National Technology Assistance Project (LSNTAP) provides an online listing of legal aid programs that have self-reported their social media presences at [http://lsntap.org/Legal\\_Aid\\_Social\\_Media\\_List](http://lsntap.org/Legal_Aid_Social_Media_List). Katherine Bladow & Joyce Raby, *Using Social Media to Support Self-Represented Litigants and Increase Access to Justice*, FUTURE TRENDS IN STATE COURTS, at 35 (2011), available at <http://ncsc.contentdm.oclc.org/cgi-bin/showfile.exe?CISOROOT=/ctmedia&CISOPTR=29>.

<sup>31</sup> *Social Media and Pro Bono*, Lisa W. Borden (June 8, 2011), available at <http://thebeye.probonoinst.org/2011/06/08/guest-blog-social-media-and-pro-bono>.

<sup>32</sup> In 2010, Technola published a blogroll listing legal aid and pro bono programs and staff who maintained public interest blogs, available at <http://www.techno.la/promo/blogroll/>. It also published a 2009 "Twitter List of Legal Aid & Pro Bono Organizations," available at <http://www.techno.la/2009/11/articles/technologies/social-networks/twitter-list-of-legal-aid-pro-bono-organizations/>.

<sup>33</sup> This blog, called the ABA Center for Pro Bono Exchange, can be found at: <http://centerforprobono.wordpress.com/>.

<sup>34</sup> *Social Media and Pro Bono: An Essential for Program Success*, ABA DIALOGUE (Fall 2011) available at [http://www.americanbar.org/content/newsletter/publications/dialogue\\_home/dialogue\\_archive/ls\\_dial\\_fa11\\_probono1.html](http://www.americanbar.org/content/newsletter/publications/dialogue_home/dialogue_archive/ls_dial_fa11_probono1.html).

Pro Bono Celebration. The ABA Center for Pro Bono uses Twitter to highlight pro bono news and events across the country.

- o Fundraise and recruit additional volunteers, including those (like many emeritus lawyers) who might lack office space or work from a virtual office.<sup>35</sup> The State Bar of Georgia Pro Bono Project tweets links to its online volunteer pledge forms and to the subscription page of its statewide volunteer lawyers support website.
  - o Recognize volunteers and highlight success stories, as Pro Bono Net does via Twitter.
  - o Include members of the pro bono community in local, regional, or national pro bono events by broadcasting event highlights, news, and resource links.
  - o Mobilize lawyers and the community. For example, the State Bar of Georgia Pro Bono Project uses Twitter to communicate updates about how lawyers may assist following a disaster.
  - o Provide practice support to lawyers in remote pro bono clinics or other service settings.
  - o Stage and support virtual pro bono training and conferences.
  - o Deliver legal information and resources directly to clients.
  - o Publicize and inform about the importance of pro bono and civil legal services.
  - o Conduct community surveys about the need for legal services.
  - o Create virtual legal networks of courts, foundations, local bar associations, and other potential community partners.
- **Mobile Computing, Smartphones, and Texting.** Between May 2011 and February 2012, Smartphone ownership among adults earning less than \$30,000 per year went from 22% to 34%.<sup>36</sup> Even those who do not have

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<sup>35</sup> For example, pro bono programs should consider encouraging volunteers to complete the section on LinkedIn that asks users to include “Volunteer Experience & Causes” in their profile. A pro bono program’s loyal volunteers could use that tool to send a message to their LinkedIn colleagues about how they value pro bono in their legal careers. More information about the “Volunteer Experience & Causes” field in LinkedIn can be found at: <http://press.linkedin.com/node/870>.

<sup>36</sup> Aaron Smith, *Nearly Half of American Adults are Smartphone Owners*, PEW INTERNET (Mar. 1, 2012) <http://pewinternet.org/Reports/2012/Smartphone-Update-2012/Findings.aspx>.

Smartphones often have the ability to send and receive text messages. There is great potential, therefore, for LSC grantees and pro bono lawyers to use Smartphone and texting technologies to reach clients. Several grantees already are building apps for their volunteers, such as the ones offered by the Arkansas Access to Justice Foundation, Illinois Legal Aid Online, and Pinetree Legal Assistance in Maine. Ideally, as they are developed, these apps will be integrated with agencies' case management systems so that legal services lawyers can designate a case for pro bono placement, type a short description of the case, and then have that case displayed on an available case list, all without accessing a computer. Placing automated forms on these apps (through online forms generation software, like [LawHelp Interactive](#)) has the potential to make brief services models even more efficient. Coupled with the e-filing systems used by many courts today, documents can potentially be e-filed right from brief services clinics without ever generating paper copies.

Text messaging technology could, if integrated into a CMS, also be very helpful in addressing the issue of clients failing to make their appointments (which can be very discouraging to would-be pro bono volunteers) by providing reminders, directions, and a list of documents that the client needs to gather in advance of the appointment. Texts also can be used to remind clients of court dates. These reminders can even be integrated into a CMS and sent automatically.

- **Collaborative Pro Bono Platforms:** Having cutting-edge technology requires an infusion of time and resources, and thus presents a perfect opportunity for collaboration. Although there are some promising collaborations out there, too often organizations are working independently to create the same systems within a given city, state, or region, and are not sharing information with each other as they do so. LSC and its grantees should consider where they can partner with other legal aid organizations and with the private bar to create systems that operate across users. Examples of where this is being done can be found [here](#). This is one area in which LSC can and should be a leader to effect widespread change, ultimately encouraging the development of a portal to which all parties in the community could connect their technology.

Finally, LSC should consider using challenge grants to spur innovations in technology or seek pro bono assistance from technology companies to further legal pro bono. Under the America Competes Reauthorization Act of 2010, Congress made \$45 billion in funding available for investments in science, technology, and education. The Act authorized the use of challenges in order to foster innovation. Since 2010, agencies across the federal government have issued more than 150 challenges, with many of them seeking the development of mobile applications and other broadband technology to solve vexing

problems.<sup>37</sup> In the first year alone, thirty-six agencies awarded prizes of over \$38 million.<sup>38</sup> LSC should explore the feasibility of conducting and funding its own such challenge to build an integrated platform of the type discussed above. Once again, any funding for such a grant should not come at the expense of existing funding.

g. **Decrease the Demand for Legal Services Through Pro Bono and Ombudsman Programs**

There is great potential for using pro bono lawyers to help address systemic issues that would reduce the demand for legal services. Pro bono lawyers can be well-positioned to take on larger projects or litigation that LSC grantees themselves may not be able to handle, conduct background research, or add a powerful voice in support of reform. LSC grantees therefore should invest time in considering potential opportunities to engage volunteers at the systemic level.

The Legal Aid Society of the District of Columbia, for example, created an Appellate Advocacy Project to address issues that contributed to ongoing concentrated poverty in the District. Through the project, lawyers collaborate with other members of the civil legal services community to identify emerging or unresolved issues, to develop cases that can present those issues, and to monitor the docket of the D.C. Court of Appeals for amicus opportunities. The project has won important decisions concerning the rights of tenants, persons with disabilities, and victims of domestic violence. Such appellate work can be a fruitful area for pro bono partnerships between legal services providers and private firms. Examples of other organizations that have successfully used private lawyers to reduce demand for legal services can be seen [here](#).

In addition to using pro bono lawyers to reduce demand, LSC, pro bono lawyers, and other stakeholders should encourage the appointment of ombudsmen to look for systemic problems in state and federal benefits programs that may be driving up demand for legal services. Oftentimes, public benefits attorneys see issues arise repeatedly that advocacy from an ombudsman could help alleviate. For example, caseworkers may repeatedly calculate medical expenses incorrectly when determining food stamps eligibility. Having an ombudsman who could make caseworkers aware of such issues and, when necessary, advocate for procedural changes that would help clients by avoiding incorrect

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<sup>37</sup> The American Recovery and Reinvestment Act also provided funds to expand broadband access in the United States through the Broadband Technologies Opportunities Program (BTOP). *See* <http://www2.ntia.doc.gov/about>. In 2010, BTOP provided \$1.9 million to North Carolina Central University School of Law to “upgrade broadband services and deploy videoconferencing in five legal assistance facilities,” and \$4.1 million to the EdLab Group Foundation to “expand the capacity of local public computing centers,” including “five rural courts . . . where residents can apply for public assistance, access online legal resources, . . . and seek the help of legal volunteers.” *See* <http://www2.ntia.doc.gov/grantee/north-carolina-central-university>; <http://www2.ntia.doc.gov/grantee/edlab-group-foundation-formerly-known-as-the-puget-sound-center-foundation-for-teaching-lear>.

<sup>38</sup> These crowd-sourcing contests are detailed more fully in [www.Challenge.gov](http://www.Challenge.gov).

terminations or denials of benefits, LSC grantees by alleviating their caseloads, and the agencies by saving the resources required to participate in constant administrative hearings.<sup>39</sup>

LSC and legal service providers should advocate for the appointment of ombudsmen in areas where they see systemic problems.<sup>40</sup>

#### h. Creating a Pro Bono Culture

A successful pro bono program requires support from the top. Good pro bono programs cannot exist without legal aid lawyers, and leadership of legal aid organizations must commit to pro bono in order for it to be effectively ingrained in an organization's everyday culture. There are several steps that leaders can take to show that support. First, leadership should actively participate in pro bono programs. They should encourage and celebrate it, while being honest (in a positive way) about some of the challenges of working with pro bono lawyers. They should ensure that well-respected staff members view private involvement as an important part of their jobs, and hold up examples of successful pro bono work. They should encourage staff to be creative in recruiting and managing pro bono volunteers, assign a capable and well-respected lawyer to manage the organization's pro bono program, and make themselves available as a resource for that manager. LSC can take a role in supporting these efforts by directing some of the information and resources contemplated in the toolkit recommendation above to sharing successful efforts by grantee leadership to shape and create pro bono cultures.

Organizations also should consider, if appropriate, establishing a special advisory committee to help manage their pro bono programs, composed of key organization staff and private lawyers, corporate counsel, bar leaders, and law school representatives. Such a group can help set policy or guidelines, help oversee the program, champion pro bono legal services delivery, develop new connections to increase the pool of available volunteers, help fundraise for the organization's pro bono program, and ensure adequate

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<sup>39</sup> One LSC grantee interviewed for this report said that a state benefits program she frequently works with had an ombudsman in the late 1980's or early 1990's that was quite effective. The ombudsman was an internal state employee who assisted individuals with problems obtaining benefits and dealt with systematic issues. The attorney interviewed did not know why the position was eliminated; however, from her perspective, the ombudsman was very useful.

<sup>40</sup> Several federal statutes require an ombudsman or ombudsman-type position, including the Department of Education Federal Student Aid Ombudsman, Long-term Care Ombudsman, Medicare Beneficiary Ombudsman, and IRS Taxpayer Advocate Service. Wendy R. Ginsberg & Frederick M. Kaiser, *Federal Complaint-Handling, Ombudsman, and Advocacy Offices*, CONG. RESEARCH SERV., Aug. 4, 2009, available at <http://www.fas.org/sgp/crs/misc/RL34606.pdf>. There also are several professional organizations that provide information on the various value-adds of the ombudsman function, trainings, and general guidelines on how to develop and operate an ombudsman program, including the ABA, the United States Ombudsman Association, the Coalition of Federal Ombudsmen (CFO), and the International Ombudsman Association (IOA). *See id.* at 15. Interested parties could utilize resources such as these to encourage the development of additional public benefits ombudsmen to reduce the demand for related legal services.

attention to systems and issues. The advisory committee also could conduct peer-to-peer recruiting for pro bono services within the community. This will help not only lift the profile of pro bono lawyers within the organization, but in the larger community as well. As noted above, LSC itself can support pro bono managers at its grantee organizations by providing them with a professional organization through which they can connect, find support, and highlighting their successes.

i. **Adequately Resourcing Pro Bono Programs**

Creating a quality pro bono program requires a commitment of money and other resources, and the Task Force recognizes that many of the recommendations in this report would be costly – which is especially challenging in the current economic environment. Below are a few steps that LSC and its grantees can take to adequately resource their programs:

- To the extent they are not already doing so, LSC and its grantees should participate in groups, such as state Access to Justice Commissions, that are studying and recommending ways to create new funding sources (new fees, such as *pro hac vice* fees, or voluntary contribution check-offs on dues forms); and
- LSC should provide training to grantees on development. It also can advocate with potential funders, including foundations and the legal community, about the importance of supporting pro bono programs.<sup>41</sup>

**Recommendation 2: LSC’s board should review certain aspects of LSC’s Private Attorney Involvement (PAI) Regulation.**

LSC’s PAI regulation, promulgated in its current form in 1985, directs grantees to expend an amount equal to 12.5% of their basic field grants to “encourage the involvement of private attorneys in the delivery of legal assistance to eligible clients.”<sup>42</sup> Specifically, it provides that private attorney involvement “shall be an integral part of a total local program undertaken” to further the “statutory requirement of high quality economical and effective client-centered legal assistance to eligible clients.”<sup>43</sup> Decisions about how to implement the “substantial involvement” requirement rest with the local organization and its board, but are subject to “review and evaluation” by LSC.<sup>44</sup>

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<sup>41</sup> The Management Information Exchange annual fundraising conference is one such source of training. The ABA Resource Center on Access to Justice Initiatives is another valuable source of technical support in the fundraising area. *See Legal Aid Funding: Resources and Technical Assistance*, ABA STANDING COMM. ON LEGAL AID & INDIGENT RIGHTS, [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/funding\\_civil\\_legal\\_services.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/funding_civil_legal_services.html) (last visited June 26, 2012).

<sup>42</sup> 45 C.F.R. § 1614.2(a).

<sup>43</sup> 45 C.F.R. § 1614.2(c).

<sup>44</sup> *Id.*

The PAI regulation has resulted in increased collaboration between LSC grantees and private attorneys; however, because of changing realities in the legal market, there are certain areas where the regulation might productively be revised to ensure that LSC grantees can expend such funds to foster pro bono participation. Section 1614.3 of the regulation describes the range of activities that may be counted to satisfy the PAI requirement and the ways costs related to the PAI effort are to be identified and accounted for. The regulation as applied in practice poses complications in certain areas for LSC grantees. More specifically, LSC could productively reexamine the regulation in the following areas.

(a) *Allow resources spent supervising and training law students, law graduates, deferred associates, and others to be counted toward grantees' PAI obligations, especially in "incubator" initiatives.* The regulation by its terms does not cover law students or law graduates not yet admitted to the bar because they are not considered "private attorneys."<sup>45</sup> Assistance from law school clinics can be counted only if a private attorney supervises the students (including a professor because the professor can be characterized as a "private attorney").<sup>46</sup> Engaging students and instilling a lasting commitment to pro bono work is wholly consistent with the aims of the PAI regulation. The LSC Board therefore should consider amending the regulation to allow grantee organizations to count as PAI expenses the funds they expend on training and supervising law students.

Similarly, in recent years there has been a large increase in the number of private attorneys and law graduates who are not employed. Many of these individuals have sought to gain skills and experience while giving back to their communities through pro bono work. One LSC grantee wanted to create an "incubator" program under which it would train attorneys and recent graduates and then pay them to take cases after they left the program (and in the case of the recent graduates, after they passed the bar). The program was designed to benefit the attorneys by giving them a start in practice, the grantee by providing trained attorneys to handle cases for a modest payment, and low-income clients by increasing the supply of available lawyers. In Advisory Opinion 2009-1007, LSC held that the payments to attorneys after they left the "incubator" could only count toward the grantee's PAI obligation if the payments were not more than 50% of the attorneys' total compensation. Whether the funds are counted therefore depends on whether the lawyer is able to find another job. As a practical matter, this makes the use of PAI funds for these programs very difficult since attorneys who are not otherwise employed are unlikely to know how much of their income will come from the grantee and how much from other sources until the end of the year. This leaves the grantee uncertain about whether its payments count as PAI until the end of the year as well.

(b) *Allow grantees to spend PAI resources to enhance screening, advice, and referral programs that often attract pro bono volunteers and meet the needs of low-income clients.* LSC grantees cannot count money spent to support centralized screening and referral services as PAI, even where those referral services are needed to support pro

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<sup>45</sup> External Opinion 2005-1001.

<sup>46</sup> *Id.*



bono programs. In Advisory Opinion 2009-1004, for example, one LSC grantee used non-LSC funds to pay for a statewide hotline that provided advice and referrals and then sent LSC-eligible clients back to the four LSC-funded organizations in the state. Such a system of regional collaboration is a cost-effective and efficient way of handling access issues, and takes advantage of the grantee organizations' core competencies for referred cases. LSC concluded that the attorneys on the hotline were not "private attorneys," because more than 50% of their compensation came from the LSC-funded organization that set up the hotline. Thus, the organization that funded the hotline could not count the expense toward its PAI obligation and none of the organizations that accepted referrals from the hotline could count them as PAI cases either. The Task Force has seen and has reported on how useful it is to have integrated intake and referral systems and how difficult it is to find outside funding for them. The LSC Board of Directors thus should consider amending the regulation to allow such models.

The issue came up again in Advisory Opinion 2011-001, where an LSC grantee was not permitted to count the staff salaries it paid a centralized screening and referral unit as PAI expenditures. The unit screened cases before referring them to a network of volunteer attorneys through local bar associations in the grantee's service area. The clients served met LSC's eligibility guidelines but were not counted as part of the grantee's caseload, and the grantee did not take on the responsibility of determining the outcome of the referrals. Given that the key to any effective pro bono referral system is good screening at the outset and that the contributions of LSC grantees in this area are especially important, review of the regulation to allow such assistance is warranted.

*(c) Reexamine when the PAI rule should require adherence to certain aspects of LSC grantee case handling requirements, including that matters be accepted as grantee cases.* LSC grantees are under strict guidelines about what cases they can and cannot handle. Furthermore, resource constraints often force grantees to make tough decisions about what types of cases they can take on. Yet, under the PAI regulations, grantees cannot count placement of any cases that they are not themselves able to accept. The regulation poses challenges to effective pro bono collaborations given the impacts of LSC case handling, monitoring, and tracking requirements. The issue is illustrated by Advisory Opinion 2008-1001. There, an LSC-funded organization serving a large rural area in the Midwest provided organizational assistance and technical support to a number of walk-in clinics in its service area (sponsored by churches, local bar associations, and government social welfare agencies). These clinics did not screen clients for LSC eligibility and, at the insistence of the organizations that supported the clinics, the LSC-funded organization did not treat the people who came to the clinics as its own clients. The program, which is located in an area with few private attorneys and where it has been very difficult to establish successful PAI programs in the past, sought to count the cost of the organizational assistance and technical support against its PAI requirement. But LSC found that the people served by the clinics had to be screened for LSC eligibility, determined to be eligible, and accepted as clients of the LSC-funded organization before the costs of the program could count for PAI purposes.

As noted elsewhere in this report, effective coordination of resources and provision of services in a variety of settings are critical to expanding legal services to low-income

people. LSC grantees often are asked to contribute the substantive expertise of their attorneys to collaborative efforts to serve people. Especially when those resources are sought to be combined with pro bono programs, a degree of flexibility is required in the rule.

In summary, the PAI regulation poses challenges as local organizations attempt to develop innovative programs to promote efficiency and effectiveness in their partnerships with others. The Task Force therefore recommends a thoughtful effort to reexamine the PAI regulation to ensure that it effectively encourages pro bono participation.

**Recommendation 3: LSC should partner with other stakeholders to launch a public relations campaign on the importance of legal services and pro bono.**

Members of the private bar can help alleviate the justice gap, but many either do not know about the justice gap or do not know how they can help. Lawyers may not know about the extraordinary need for their pro bono contributions. Policymakers often are not aware of the importance of legal aid. Leaders in the legal community therefore should work together to create public concern about the fact that so many people in our country cannot access the legal system because they cannot afford to do so, the extent to which lawyers can make a difference, and the impact of recent revenue reductions.

LSC should convene a small group to consider and explore launching such a national public relations campaign.<sup>47</sup> The campaign would do the following: (1) raise awareness, both within and outside of the legal profession, about the continuing crisis in legal aid for the poor; (2) encourage members of the bar to help solve that crisis by taking on pro bono matters and donating to legal aid organizations; and (3) generally promote and celebrate the accomplishments of legal aid lawyers across the country.

The idea of educating the public about the importance of legal aid is not new. Over the past ten years, several organizations – most notably NLADA, the Center for Law and Social Policy, and statewide Access to Justice Commissions – have done important work in this area. Furthermore, there is a developing trend among individual legal aid organizations either to hire a marketing professional or to include marketing in their development staff’s list of responsibilities.

The largest such campaign to date was launched in 2001 when NLADA and the Center for Law and Social Policy developed a large national campaign to educate the public on the importance of legal services. They started by conducting a series of ten focus groups and a national survey to see what Americans knew and thought about legal aid, as well as what messages would work with the public. NLADA then issued a report that included a review of its research findings, recommendations about the type of messages that could best be used to promote civil legal aid, and ad prototypes for national, state, and local communications efforts. Their key research findings are available [here](#). Although much work was done after the study was released, eventually funding for the project ended.

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<sup>47</sup> LSC already has retained a media consultant to produce a public service announcement (PSA) for LSC-grantees, which 20 LSC programs have signed on to use.

Thus, while the results of this research and the materials prepared are still largely relevant and useful, they are not currently being actively used and are an excellent starting point for further action in this arena.

A number of states have launched statewide campaigns aimed at increasing pro bono work among private attorneys. This includes the [One Campaign](#) in Florida, a statewide campaign with the message that every lawyer in the state should take on *one* pro bono case; Maryland's Access to Justice Commission media kit entitled, [My Laws, My Courts, My Maryland](#); and similar programs in Arkansas, Illinois, Texas, and Washington. The [ABA](#) and [National Pro Bono Week](#) websites both provide speeches, videos, and other resources for launching a public relations campaign.

Our recommendation is to build upon the excellent work already done by these organizations, starting with the report issued by NLADA and Center for Law and Social Policy, and work with a small group of key national stakeholders (including representatives of organizations like LSC, NLADA, the Pro Bono Institute, and the ABA) to launch and coordinate a national campaign based on the findings and recommendations contained in that report. This group will need to address a number of challenges and open questions, including the question of how to pay for the campaign, who the audience should be, and how to administer and implement the campaign.

**Recommendation 4: LSC should work with law schools and law firms to create a new civil legal services fellowship program for recent graduates designed to bridge the gap between firms and legal services organizations. It also should consider the feasibility of a similar program for senior or emeritus lawyers.**

One of the working groups that the Task Force convened for purposes of this report was tasked with developing “Big Ideas” for drastically increasing involvement by pro bono lawyers. This Big Ideas Working Group suggested that LSC develop a prestigious, national fellowship program for recent law school graduates, comprised of incoming associates at participating law firms who would, under the supervision of more senior firm and LSC grantee lawyers, devote their first year to handling cases from and building relationships with host LSC grantees. The proposed fellowship is unique in that its focus is on building long-lasting connections between law firms and LSC grantees in an effort to increase pro bono participation.

Interested law students would apply and be selected for the fellowship by both the firm and the host LSC grantee either during or shortly after their 2L summer programs with participating firms. Fellows would select a legal focus area for their fellowships, such as domestic violence or housing, which would allow them to become subject-matter experts within their firms. After being selected, incoming fellows would prepare during their 3L year by taking part in relevant clinics, externships, or coursework so that they could begin the fellowship with some level of knowledge and experience. This also would involve law schools by encouraging them, in turn, to make relevant education (such as providing clinical programs) a priority. After graduation, fellows would join their law firms at the same time as the other incoming associates; however, they would not go into practice groups or do billable work. Although they would be considered firm employees, eligible

for firm benefits, their salaries would be commensurate with the salaries of Equal Justice Works fellows or employees of LSC grantees. For a proposed budget for this program, click [here](#). They would participate in regular firm training and, as firm employees, the firms could count the fellows' hours towards their pro bono hours reporting. Fellows would devote their first year to performing pro bono work under the supervision of firm lawyers and the host LSC grantee, gaining valuable practice skills. They also would be tasked with building subject matter expertise within their firms, referring cases to their colleagues, coordinating training, and offering continued support as others take on cases. Thus, the firms would have a steady stream of pro bono referrals and relevant training, building a stronger overall pro bono commitment.

At the end of the year, fellows would join their firms as second-year associates, but remain a point of connection between the firm and the grantee throughout their careers.

Of course, there are a number of open questions to be considered before such a proposal becomes a reality, including: who will administer the program and recruit firms to participate;<sup>48</sup> where the fellows will be housed; who will supervise the fellows' work; and how the program could be used to benefit grantees in rural areas. Another possibility is to create a similar emeritus fellowship program to formally engage senior lawyers or expand the fellowship to reach law student interns over the summer. We recommend that LSC convene an exploratory working group to address these open questions and make this proposal a reality.

### III. **Requests for Assistance from the Legal Profession**

#### a. **Requests of Bar leaders and the judiciary :**

1. **Bar leaders and the judiciary, consistent with applicable judicial conduct rules, should use their influence to recruit new pro bono lawyers, especially in rural areas and among solo practitioners, to draw attention to the crisis in legal services, and to advocate for additional funding at the state and federal level.**

A common finding of the Task Force working groups was about the power of courts and bar associations to increase pro bono participation. In New York, Chief Judge Jonathan Lippman's announcement about a pro bono service requirement for new lawyers illustrates the extent of influence effective judicial leadership can have.

New York State's new prerequisite will require prospective lawyers to show they have performed at least 50 hours of pro bono service before being licensed to practice law in the state. Chief Judge Lippman announced the new pro bono service requirement on Law Day, May 1, 2012, noting that it is intended to instill and foster a culture of service among members of the bar and reinforce the ethical and social responsibility of lawyers to volunteer time and resources to provide legal services for those in need. The

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<sup>48</sup> One possibility is that firms would pay a per fellow fee to some centralizing body, possibly LSC, to underwrite the cost of administering the program.

requirement will serve to address the state's urgent access to justice gap, while helping prospective attorneys build valuable skills and imbuing in them the ideal of working toward the greater good.

An Advisory Committee on New York State Pro Bono Bar Admission Requirements is working to facilitate the implementation of the new prerequisite. The Committee currently is seeking input from all of the affected constituencies in New York State and will provide its recommendations to the Chief Judge and the Presiding Justices of the four Appellate Departments – whose respective Committees on Character and Fitness oversee and approve all admissions to the bar – by fall 2012. Thereafter, the new requirement will be effective January 1, 2013.

New York's experience will provide a template for other states considering a similar requirement for bar admission, and we look forward to the release of the new rules and the potential impact on other states of the implementation of New York's pro bono requirement.

As this example illustrates, the judiciary can play a significant role in addressing the justice gap. There are a number of additional examples of how the judiciary can engage. With assistance from the National Center for State Courts (NCSC),<sup>49</sup> the Conference of Chief Justices (CCJ), the Conference of State Court Administrators (COSCA),<sup>50</sup> State Bar leaders, the ABA Judicial Section, and other similar resources, judges can play a number of other roles in addressing this crucial issue. First and foremost, the judiciary should ensure adaptation of rules that facilitate access to justice. They can, where appropriate, actively recruit pro bono volunteers; publicly recognize volunteer contributions;<sup>51</sup> write and speak about the importance of pro bono; act in an advisory capacity to pro bono programs; issue resolutions encouraging pro bono; consider asking state legislatures to increase funding for civil legal services organizations (which was successful in Texas); consider special procedural or scheduling accommodations for pro bono lawyers; and support new delivery methods or reorganize their own operations to better accommodate programs and help pro se litigants (such as through court-sponsored help desks). Simple actions by courts can make an enormous difference. For example, when the Illinois Supreme Court sent a letter to all lawyers in the state encouraging them to take a pro bono case, Land of Lincoln Legal Aid saw a 10% increase in its volunteer

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<sup>49</sup> NCSC is a tremendous resource for data and information on efforts by state courts to increase pro bono participation.

<sup>50</sup> CCJ and COSCA, comprised of the judicial and administrative leaders of state courts, are influential organizations that can impact widespread change and garner significant support for specific policies or programs.

<sup>51</sup> For example, Colorado's Supreme Court recognizes on its web site those law firms, solo practitioners and in-house counsel groups who inform the court of their voluntary commitment to achieving the goal of 50 hours of pro bono legal services per year. See Colorado Supreme Court, *Pro Bono Legal Service Commitment and Recognition Program*, [http://www.courts.state.co.us/Courts/Supreme\\_Court/Pro\\_Bono.cfm](http://www.courts.state.co.us/Courts/Supreme_Court/Pro_Bono.cfm). Similarly, the District of Columbia Court of Appeals and the Superior Court recognize those who have provided more than 50 pro bono hours per year on the Capital Pro Bono Honor Roll. See D.C. Courts, *Pro Bono Honor Roll*, <http://www.dccourts.gov/internet/about/probonohonorroll/main.jsf>.

rate. The CCJ has demonstrated that this is something they are invested in by issuing resolutions highlighting the importance of pro bono representation and urging state courts to take steps to increase pro bono service by their bar members.<sup>52</sup>

The Best Practices Rural Working Group devoted significant attention to the role of the local judiciary in encouraging, promoting, and rewarding pro bono and made the following suggestions about what LSC and its grantees can do to increase the role of the judiciary and bar leaders:

- Meet in person with members of the judiciary to actively enlist their support – emphasizing the importance of pro bono not only to the client population but to the efficient functioning of the judiciary itself, and also asking them to enlist the support of other judges;
- Ask judges to serve on access to justice commissions, or regional and local pro bono committees;
- Invite judges to speak at local bar meetings and otherwise promote legal services and pro bono participation;
- Enable judges to create some form of personal recognition of those involved in pro bono efforts. This can be as simple as thanking pro bono attorneys from the bench or as formal as the 7th Circuit Bar Association’s Annual Pro Bono Awards, which are given at a formal dinner every year; and
- Encourage the judiciary to format rules and procedures to help pro se litigants and pro bono lawyers.

One particular recommendation for the judiciary is to emulate efforts by courts around the country to create innovative court-based programs aimed at increasing pro bono participation in their jurisdiction. For examples of such initiatives, click [here](#).

Finally, bar associations serve as critical intermediaries in efforts to provide leadership and find resources for pro bono programs. In New York City, for example, the City Bar Justice Center runs a dozen programs and uses its unique vantage point as part of the bar to both reinforce the value and importance of pro bono service and to recruit participants.

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<sup>52</sup> See CCJ, *Resolution 7: Encouraging Pro Bono Service in Civil Matters*, (Feb. 1997) available at <http://apps.americanbar.org/legalservices/probono/doc/resolutionvii.pdf>; CCJ, *Resolution 23: Leadership to Promote Equal Justice*, (Jan. 2001) available at <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol23Leadership.html>.; ABA STANDING COMM. ON PRO BONO & PUBLIC SERV., *Judicial Promotion of Pro Bono*, <http://apps.americanbar.org/legalservices/probono/judicial/resolutions.html>.

2. : **State-level judges and bar leaders should amend attorney practice, judicial ethics, and CLE rules to support pro bono.**

i. **Providing CLE Credit for Pro Bono Work**

One way of encouraging pro bono work is to provide a limited amount of CLE credit for that work. A number of states have adopted rules that do just that, and the Task Force recommends that these rules be expanded and adopted in other states. As noted in several of the sections above, bar rules can be a serious impediment to effective private attorney engagement. Government and in-house lawyers, for example, may not be able to contribute because they are not licensed in the jurisdiction where they practice. Emeritus lawyers may be deterred by the cost of maintaining active bar status, or may move outside their home jurisdiction upon retirement. There are several ways in which bar rules can be changed to encourage pro bono.

However, the Task Force recommends that states refrain from placing too many administrative hurdles on participation. Otherwise, such rules have not been effective. For example, Washington State adopted a CLE for pro bono rule that also required that lawyers undergo a certain amount of training before they could obtain CLE credit for their pro bono work. Lawyers did not take advantage of the rule because it was difficult, especially for lawyers in rural areas, to access that training. For a summary of the working group's research on state rules allowing CLE credit for pro bono, click [here](#).

Based on the state programs surveyed, a proposed model rule would:

- Minimize the number of administrative hurdles for lawyers seeking CLE credit;
- Provide a manageable ratio of pro bono hours to CLE credit awarded, so as to make the opportunity attractive to lawyers who would otherwise simply watch a webinar or attend a short course on another topic;
- Provide ethics or professionalism credit; and
- Provide a maximum number of CLE credits that can be obtained by performing pro bono to address concerns that it will hurt MCLE providers financially or replace traditional CLE.

ii. **Revising Judicial Codes of Conduct**

Some judges abstain from encouraging pro bono efforts out of concern that doing so violates ethical norms. By revising codes of judicial conduct, state high courts can offer judicial leaders more leeway to encourage lawyers to take on pro bono matters.

Five years ago the ABA House of Delegates approved Rule 3.7 of the New Model Code of Judicial Conduct, which allows judges to encourage lawyers to provide pro bono legal services. A comment to the rule states that, in addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to

justice by encouraging lawyers to participate in pro bono legal services, if in doing so the judge does not employ coercion or abuse the prestige of judicial office. According to the comment, the encouragement may include providing lists of available programs, training lawyers to perform pro bono legal work, and participating in events that recognize lawyers for pro bono service. Many states have adopted or proposed identical or similar rules, allowing their judges to encourage pro bono service to varying degrees.<sup>53</sup>

Those courts that do permit more extensive judicial involvement in the promotion of pro bono demonstrate not only that a robust judicial role is ethical conduct, but also that leadership by the judiciary greatly advances the goal of increased access to justice for indigent citizens.

### iii. Other State Rule Changes

There are other changes that can be made to state practice rules that would encourage additional pro bono work by the private bar. For example, allowing lawyers, especially in-house, government, and military lawyers, to provide pro bono services in jurisdictions where they are not barred, sometimes in limited circumstances (such as after a major disaster) could erase huge barriers to pro bono.<sup>54</sup> Other rule changes could permit lawyers who are retired or inactive to continue to provide pro bono services without having to pay bar dues or fulfill CLE requirements.<sup>55</sup>

Many states' rules allow for unbundling of legal services or limited scope representations.<sup>56</sup> Under these rules, lawyers can perform some, but not all, of the tasks commonly included in full service representation. This allows lawyers to provide valuable services without having to commit to long-term representation of the client.

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<sup>53</sup> [http://apps.americanbar.org/legalservices/probono/judicial/statejudicialconduct.html#SI\\_KS](http://apps.americanbar.org/legalservices/probono/judicial/statejudicialconduct.html#SI_KS). How far judges may go in encouraging and promoting pro bono service depends on each state's code and other rules.

<sup>54</sup> See Rule XXII of the Rules Governing Admission to the Bar of Texas, <http://www.supreme.courts.state.tx.us/miscdoCKET/10/10917100.pdf> (military lawyers allowed to represent service members and their families); D.C. App. Rule 49, <http://www.dcappeals.gov/dccourts/docs/rule49.pdf> (federal government lawyers); ABA STANDING COMM. ON CLIENT PROTECTION, *State Implementation of ABA Model Court Rule on Provision of Legal Services Following Determination of Major Disaster*, [http://www.americanbar.org/content/dam/aba/migrated/2011\\_build/probono\\_public\\_service/katrina\\_chart\\_2011.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/2011_build/probono_public_service/katrina_chart_2011.authcheckdam.pdf) (temporary admission for out-of-state lawyers rendering pro bono after a major disaster); CORPORATE PRO BONO, *Multijurisdictional Practice: In-House Counsel Pro Bono*, <http://www.cpbo.org/archive/resources/resource1367.pdf> (in-house counsel); ABA House of Delegates Resolution 108, <http://www.abanow.org/2012/01/2012mm108/> (encouraging state and local bars to allow military spouses to practice in other jurisdictions).

<sup>55</sup> ABA COMMISSION ON LAW AND AGING. *State Emeritus Pro Bono Practice Rules* (Updated April 4, 2011). <http://www.americanbar.org/content/dam/aba/migrated/legalservices/probono/emeritus.authcheckdam.pdf>

<sup>56</sup> See ABA Model Rule 1.2. See also ABA chart on variations of Rule 1.2 among states, [http://www.americanbar.org/content/dam/aba/migrated/cpr/pic/1\\_2.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/cpr/pic/1_2.authcheckdam.pdf).



Other states relax conflicts rules for lawyers participating in legal service hotlines or other similar short-term representation programs.<sup>57</sup>

Finally, by requiring or encouraging lawyers to report their pro bono hours or communicating expectations that lawyers should provide pro bono services, state bars can play a role in promoting these important services.<sup>58</sup> At the very least, these rules help to put pro bono in front of lawyers on a regular basis. Hopefully, they will encourage some to act.

**3. : State judicial and bar leaders should consider either creating or strengthening Access to Justice Commissions to consolidate and support pro bono efforts.**

Many states' high courts have created Access to Justice Commissions (AJCs) or similar statewide entities to address the delivery of legal services to indigent clients on a statewide level.<sup>59</sup> They are usually composed of bar representatives, judges (including retired judges), legal aid providers, professors and law students, and other stakeholders. These commissions may, among other things, conduct studies on legal needs, produce reports and recommendations, hold educational and media campaigns to raise awareness, and engage local corporate law departments. They also work to serve clients who cannot be served with LSC funds. AJCs create task forces, conferences, training and support for legal aid staff and volunteers. Some also work to improve access to courts for pro se

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<sup>57</sup> See ABA Model Rule 6.5. See also ABA chart of variation of Rule 6.5 among states:

[http://www.americanbar.org/content/dam/aba/migrated/cpr/pic/6\\_5.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/cpr/pic/6_5.authcheckdam.pdf).

<sup>58</sup> ABA Model Rule of Professional Conduct 6.1 states that every lawyer has a professional responsibility to provide legal services to those unable to pay for them and should aspire to provide at least 50 hours of pro bono service each year. A majority of states have adopted Rule 6.1 in whole or in part and many states specify an annual pro bono hours target within their rule. See ABA STANDING COMM. ON PRO BONO & PUBLIC SERVICE, *State-By-State Pro Bono Service Rules*,

<http://apps.americanbar.org/legalservices/probono/stateethicsrules.html>; ABA STANDING COMM. ON PRO BONO & PUBLIC SERVICE, *Overview of State Pro Bono Reporting Policies*,

[http://www.americanbar.org/groups/probono\\_public\\_service/policy/reporting\\_of\\_pro\\_bono\\_service.html](http://www.americanbar.org/groups/probono_public_service/policy/reporting_of_pro_bono_service.html).

<sup>59</sup> Robert Echols, *Examples of State Access to Justice Commissions: Creation, Structure and Accomplishments*,

[http://www.law.stanford.edu/display/images/dynamic/events\\_media/Examples%20of%20ATJ%20MIE%202008\\_1.pdf](http://www.law.stanford.edu/display/images/dynamic/events_media/Examples%20of%20ATJ%20MIE%202008_1.pdf). See also ABA STANDING COMM. ON LEGAL AID & INDIGENT DEFENDANTS, *State Access to Justice Commissions: Lists and Links*,

[http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/state\\_atj\\_commissions.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/state_atj_commissions.html).

There are currently statewide Access to Justice Commissions in 25 states and the District of Columbia (AL, AR, CA, CO, CT, HI, KY, ME, MD, MA, MN, MS, NV, NH, NM, NY, NC, SC, TN, TX, VT, WA, WV, WI, WY).

litigants.<sup>60</sup> The ABA has compiled significant resources for states seeking to create their own AJCs.<sup>61</sup>

More successful AJCs have consistent participation from state supreme court justices, are accountable to multiple institutions, rather than just the judiciary or just the bar, and have a full-time executive director or other staff. When carried out effectively, these AJCs can bring together a wide range of stakeholders to work on innovations in and coordination of legal services, including pro bono,<sup>62</sup> and can create a state justice community to foster a broad-base pro bono culture.

As one of the largest funders of civil legal aid in many states, LSC and its grantees have a special obligation to participate in and support these state level approaches. Additionally, states that do not have AJCs should consider creating them, and those that do should invest resources into making them strong and innovative centers for leadership in the justice community.

- b. **Requests of Policymakers and the Legal Profession:** : The legal profession as a whole, as well as state and federal policymakers, should recognize both the importance of providing every American with access to our justice system, the role that pro bono lawyers can play in offering that access, and the cost of developing and maintaining effective pro bono programs. LSC and its grantees should receive sufficient funding to carry out this aspect of their mission.

This report would not be complete without a word about the dire need to fund legal services. A high quality pro bono system is dependent upon sufficient resources for the legal services system as a whole, and recent cuts in funding have cut resources – including those needed to develop an effective pro bono infrastructure – to the bone.

All legal services providers have been impacted by the economic downturn, as foundations have cut back their giving, IOLTA has plummeted as a result of falling interest rates (exacerbated by the dearth of real estate transactions with escrowed funds held in IOLTA accounts), and cutbacks in state and local support for legal aid, as well as (for LSC grantees) cuts in Congressional appropriations for LSC.<sup>63</sup>

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<sup>60</sup> See ABA Resource Center for Access to Justice Initiatives. Definition of Access to Justice Commission (July 2011),

[http://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/ls\\_sclaid\\_atj\\_definition\\_of\\_a\\_commission.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_atj_definition_of_a_commission.authcheckdam.pdf).

<sup>61</sup> See ABA STANDING COMM. ON LEGAL AID & INDIGENT DEFENDANTS. *State Access to Justice Commissions: Resources on Structure, Development and Leadership*,

[http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice/state\\_atj\\_commissions\\_resources.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/state_atj_commissions_resources.html).

<sup>62</sup> Resolution 121A, ABA, available at <http://apps.americanbar.org/renaissance/downloads/121A.pdf> (last visited April 5, 2012) (recommends pro bono policies for different kinds of lawyers).

<sup>63</sup> Singsen, Gerry, *PAI – A Time for Reflection*, MANAGEMENT INFORMATION EXCHANGE JOURNAL, 29, 26-31 (Spring 2005).

In some states, LSC grantees and others have launched active campaigns to raise additional dollars from the private bar, including pro bono partners. In one state campaign, the general counsels of that state's major companies wrote collectively to the governor and the legislature to say that their companies thought it is important to provide funding for legal aid organizations that help their employees and the courts in which they do business. State AJCs and other groups have successfully recommended adoption of new fees, such as *pro hac vice* fees, or voluntary contribution check-offs on dues forms, with all new revenues going to legal services organizations.

The stakeholders who participate in these efforts should be applauded. We encourage others to help to the extent they can. General counsels, firm leaders, and bar leaders should speak out about the need for funding, and contribute, where possible. LSC grantees should consider launching campaigns and exploring new sources of funding.<sup>64</sup> And, last but not least, Congress should adequately support LSC and its grantees.

#### IV. Summary of Recommendations and Conclusion

The foregoing recommendations are meant to begin a discussion about how LSC, its grantees, and the legal community can effectively engage the private bar to address the justice gap in the United States. Much work remains to be done, and LSC and its grantees will require resources to make any of the recommendations contained in this report a reality. The Task Force is committed to assisting in these efforts, and looks forward to assisting LSC as it moves forward.

With regard to next steps, LSC should:

- Work collaboratively with national stakeholders (such as the ABA Center for Pro Bono, NAPBPro, the Pro Bono Institute, and NLADA) to serve as a source of information, coordination, and technical assistance for the creation of strong pro bono programs. LSC should start by:
  - Bringing these national stakeholders together to assess what already exists and what needs to be done;
  - Creating a comprehensive toolkit for building strong pro bono programs, including by providing guidance on how to evaluate those programs;
  - Considering ways in which it might reduce demand for legal services, including by advocating for the creation of ombudsman programs to address systemic issues at the state and local levels;

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<sup>64</sup> Some training, such as the Management Information Exchange annual fundraising conference is available, but even more tools and support are needed to grow this effort. The ABA Resource Center on Access to Justice Initiatives is one valuable source of technical support in this fundraising area. [http://www.americanbar.org/groups/legal\\_aid\\_indigent\\_defendants/initiatives/resource\\_center\\_for\\_access\\_to\\_justice.html](http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice.html).

- Working with existing groups to create a professional organization specifically for pro bono coordinators at LSC-funded organizations; and
  - Recommending that Congress create a new Pro Bono Innovation/Incubation Fund modeled on the successful Technology Initiative Grant (TIG) program.
- Task a committee with recommending revisions to LSC's Private Attorney Involvement regulation to better encourage pro bono;
  - Convene a group of 3-4 knowledgeable stakeholders to investigate and develop a public relations campaign about the importance of legal services and pro bono; and
  - Convene a small group of law firm, legal services, and law school leaders to explore the feasibility of creating fellowship programs for new graduates and emeritus lawyers. These programs should be designed with the goal of strengthening overall support for civil legal services and pro bono within firms, law schools, and the profession as a whole.

Finally, the Task Force recognizes that none of the efforts above could be effective unless they work collaboratively with members of the private bar and other stakeholders. We therefore request that:

**Bar leaders and the judiciary should:**

- Work through organizations such as the National Center for State Courts and, within the confines of applicable ethics rules, use their influence to support pro bono efforts and to recruit pro bono lawyers;
- Incorporate details regarding the crisis in legal services into speeches and otherwise draw attention to the critical need for pro bono assistance; and
- Where possible, advocate for additional funding at the state and federal levels for civil legal services.

**State-level bar leaders and judges also should examine ways in which state practice and ethics rules can be revised to encourage pro bono, including by:**

- Offering CLE credit for pro bono;
- Permitting judges to ethically recruit pro bono attorneys;
- Allowing opportunities for unbundling of services and limited-representation;
- Relaxing conflicts of interest rules;

- Under limited circumstances, allowing lawyers to take on pro bono matters in jurisdictions other than those in which they are barred; and
- Considering other creative and ambitious solutions, such as Chief Justice Lippman's recent move to require new lawyers in New York to perform pro bono services.

**State and federal policymakers, funders, and the legal profession as a whole, should recognize that using pro bono lawyers to address the crisis in legal services can only be accomplished with adequate funding.**

This cannot be done without providing LSC and legal services organizations, which are tasked with running pro bono programs, with the necessary resources for doing so. And, of course, all stakeholders should recognize that pro bono lawyers cannot do it all. They will never replace the heroic efforts of legal aid lawyers who work on the front lines every day and are experts in what they do. Policymakers should fund programs to support pro bono involvement, but this should not come at the expense of adequately funding for legal services.

The Task Force is committed to helping in these efforts going forward, and doing what it can to make sure that the price of entry is never a bar for accessing the justice system in the United States.

## Acknowledgments

This report was the result of months of hard work by a committed and distinguished Task Force. Early on in their work, the Task Force split into five focus areas, including Best Practices, Rural; Best Practices, Urban; Big Ideas; Obstacles; and Technology, and the co-chairs of each of those working groups in particular put significant time into guiding and shaping the overall work product of their respective groups. These Working Groups met on a regular basis, each drafting their own in-depth analysis of their subject matter. A complete list of Task Force members, broken down into their Working Groups, can be found below.<sup>65</sup>

Special thanks to the Pro Bono team at DLA Piper, which provided staff support to the working groups and took the laboring oar in drafting the final report, as well as Lowenstein Sandler, which provided significant support to the work of the Best Practices, Urban working group.

### **Best Practices, Rural Working Group Members & Support**

James D. Moyer, Co-Chair  
The Honorable Deanell Reece Tacha, Co-Chair  
The Honorable John T. Broderick  
Sharon L. Browne  
Christian Campbell  
Renée Glover Chantler  
Dana J. Cornett  
Nan Heald  
Larry McDevitt  
David Pantos  
John E. Whitfield

### **Best Practices, Urban Working Group Members & Support**

Douglas Eakeley, Co-Chair  
George Hettrick, Co-Chair  
Catherine Carr  
Colleen Cotter  
Charles Crompton  
Ron Flagg  
Joe Genereux  
Richard Gruenberger  
Natalie Kraner

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<sup>65</sup> In light of their judicial responsibilities, Chief Justice Jefferson, Chief Judge Lippman, Judge Moyer, Judge Tatel, and Judge Wood took no part in the fact-finding, deliberations, or recommendations regarding: (1) the use of pro bono programs to decrease the demand for legal services, (2) the creation of a Pro Bono Innovation/Incubation Fund, or (3) LSC's Private Attorney Involvement regulation.

Maureen Syracuse  
The Honorable David Tatel  
Jewel McGowan Watson  
Diana White  
Ken Zimmerman

**Big Ideas Working Group Members & Support**

The Honorable Sven E. Holmes, Co-Chair  
Teresa W. Roseborough, Co-Chair  
Mark Childress  
Katie Jahnke Dale  
Elizabeth R. Dewey  
Gov. James E. Doyle  
Anne Geraghty Helms  
David A. Kutik  
Esther F. Lardent  
John G. Levi  
The Honorable Jonathan Lippman  
Lee I. Miller  
Gloria Santona  
Cliff Sloan  
The Honorable Dick Thornburgh  
The Honorable Diane P. Wood

**Obstacles Working Group Members & Support**

Mary K. Ryan, Co-Chair  
E. Paige Sensenbrenner, Co-Chair  
Linda K. Rexer, Co-Chair  
Mattie Cohan  
JoAnne A. Epps  
Robert J. Grey, Jr.  
Wallace B. Jefferson  
Patricia Madrid  
Virginia Martin  
Lynn Overmann  
Roberta A. Ritvo  
Laura Stein  
Frank B. Strickland  
Angela Vigil  
Jo-Ann Wallace

**Technology Working Group Members & Support**

David Arroyo, Co-Chair  
Kate Fritz, Co-Chair  
Renée Glover Chantler  
Terry Hamilton

Jeffrey N. Hyman  
Robert Kayihura  
Deborah Leff  
Michael L. Monahan  
Glenn Rawdon  
Thomas Smegal  
Lisa C. Wood



## Appendix

**(Final Report will be an interactive website with links to these resources, rather than a continuous document with a long appendix).<sup>i</sup>**

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### Assess Outcomes

- The Legal Aid Society of Cleveland (LASC) has added a Data and Research Analyst to its staff. The Data and Research Analyst is responsible for, in part, ensuring on-going assessment of the efficacy of the Legal Aid Society's programs, including its Volunteer Lawyers Program (VLP). This assessment includes client surveys, volunteer surveys, outcomes, and other case data, as well as data available in the community. Some examples of goals for clients include the tangible outcomes of certain cases, like saving homes from foreclosure, and increasing income. LASC is developing relationships with local universities in order to conduct even more robust assessment.
- Volunteer Lawyers Network (VLN) (Minneapolis) undertakes a range of outcome-oriented assessments and evaluations which appear not only to help document the value of pro bono services, but also to improve program operations. Among its efforts, VLN has undertaken: (a) annual evaluations of its walk-in clinics to measure client understanding and action, which have led to a number of changes including providing trained onsite clinic assistants whenever possible; (b) outcomes-based assessment of civil forms completion service, which showed that VLN attorneys who drafted answers for their clients saved ninety-seven clients more than \$500,000 in default judgments, but also necessitated stricter criteria in accepting cases given a lower success rate of motions to vacate default judgments; (c) partnership with a public affairs graduate school to develop a planning tool to evaluate outcomes of full representation services; and (d) use of VISTA volunteers to undertake comprehensive evaluation of brief services outcomes at the Legal Access Point Clinic and in a full representation bankruptcy clinic.
- In several studies using a law school legal clinic, academic researchers have begun to apply traditional social science/medical research techniques that require random designation of participants to different types of services to evaluate the effectiveness of the intervention. The results are not straightforward. One study, for example, evaluated how individuals facing eviction in Massachusetts district court fared after being provided with brief advice compared with those offered full-scale representation. This study found significant benefits. A similar study undertaken by the same researchers but in a different court found virtually no differences in

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outcomes for those offered full representation and those offered limited representation in a “lawyer-for-the-day” program.

- California’s Sargent Shriver Civil Counsel Act provides funding for seven pilot projects (from October 2011 to October 2017) that aim to address the substantial inequities in civil proceedings that often arise because of the nature and complexity of the law or because of disparities between the parties in education, sophistication, language proficiency, legal representation, and access to self-help and alternative dispute resolution services. For example, one project will provide legal representation in custody cases when a pro se party faces a represented party who is seeking sole custody of the children. The success of these projects will be measured annually by an independent third-party consultant who will evaluate these programs by considering the litigants’ expectations and comparing the outcome in cases where representation was provided to similar cases in the same geographic regions where parties proceeded pro se. Because the pilot projects only commenced in October 2011, there is no data available yet.
- PBI and Corporate Pro Bono are in the process of working with Deloitte to develop metrics and evaluation tools and looks forward to those being available for use by all of the stakeholders involved in pro bono programs.
- Some of the literature reviewed on current initiatives to establish metrics included:
  - Jessica Steinberg, *In Pursuit of Justice? Case Outcomes and the Delivery of Unbundled Legal Services*, 18 GEO. J. POVERTY LAW & POLICY at 453 (2011);
  - Rebecca L. Sandefur & Aaron Smyth, ACCESS ACROSS AMERICA: FIRST REPORT OF THE CIVIL JUSTICE INFRASTRUCTURE MAPPING PROJECT (Oct. 7, 2011), available at <http://ssrn.com/abstract=1962790> or <http://dx.doi.org/10.2139/ssrn.1962790>;
  - James Greiner, *Randomized Evaluation in Legal Assistance: What Difference Does Representation (Offer and Actual Use) Make?* 121 YALE L.J., (forthcoming 2012), earlier draft of July 2011 available at <http://ssrn.com/abstract=1708664>; see also, D. James Greiner, Cassandra Wolos Pattanayak & Jonathan Phillip Hennessey, *The Limits of Unbundled Legal Assistance: A Randomized Study in a Massachusetts District Court and Prospects for the Future* (Oct. 23, 2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1948286](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1948286); D.

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James Greiner, Cassandra Wolos Pattanayak & Jonathan Phillip Hennessey, *How Effective Are Limited Legal Assistance Programs? A Randomized Experiment in a Massachusetts Housing Court* (Oct. 23, 2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1880078](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1880078) (while Professor Greiner anticipates further revisions to the articles, the substantive findings will not change);

- Jeffrey Selbin, Josh Rosenthal & Jeanne Charn, *Access to Evidence: How an Evidence-Based Delivery System Can Improve Legal Aid for Low- and Moderate-Income Americans*. CENTER FOR AMERICAN PROGRESS, June 2011; NYLS Clinical Research Institute Paper No. 11/12 #14, available at <http://ssrn.com/abstract=1868626>;
- Laura Abel, *Evidence-Based Access to Justice*, 13 U. PA. J. OF LAW AND SOCIAL CHANGE 295 (2009-2010) electronic copy available at <http://ssrn.com/abstract+1631942>; and
- BOSTON BAR ASSOCIATION, *The Importance of Representation in Eviction Cases and Homelessness Prevention*, March 2012, <http://www.bostonbar.org/docs/default-document-library/bba-crtc-final-3-1-12.pdf>; see also articles by Professor Greiner, *et al* on the same two pilot studies, *supra*.

#### Smaller-Firm Lawyers

- The LSC-funded Legal Aid Society of Cleveland has a Volunteer Lawyers' Program, which created a project to staff foreclosure matters with small firms and solo practitioners. Recruitment for the project was led by the local Chief Justice, who sent letters to all 12,000 lawyers in the area – 300 of whom volunteered to assist.
- Legal Services of Northwest New Jersey (LSNWJ), an LSC-funded program in a suburban setting, recruits solo practitioners and lawyers from boutique firms in the halls of the courthouse. Staff from LSNWJ ask attorneys on recess in the courthouse to provide advice to clients with matters on the calendar for that day or to provide same-day representation. This informal technique reaches attorneys that formal recruitment might not.

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- Maryland's Legal Aid Bureau, an LSC grantee, works with the Homeless Persons Representation Project, which sends the majority of its veterans' benefit cases to small or solo practices that can accommodate the long periods of representation required.
  - In San Francisco, almost all family law cases of the Volunteer Legal Services Program (VLSP) are referred to solo practitioners or small firms that have an expertise in family law. VLSP's relationship with these volunteer attorneys is often formed early in their careers when they are completing mandatory CLE courses administered by VLSP.

#### Rural Community Programs

- The Mobile Self-Help Legal Access Center in Ventura County, California adapted a donated mobile home to provide traveling law library and internet services. They created self-help materials, including pro se pleadings and forms, and created a well-publicized schedule of times and locations for the clinic.
- Thanks to the efforts of a particularly engaged local bar leader, Blueridge Legal Services in Virginia launched a program through which each lawyer who joined the local bar association was assigned to a specific pro bono program team. The teams screen cases suggested by legal services and take on pro bono cases when asked. The success of the program is largely due to its establishment by well-known and well-regarded leadership in the community.
- With over twenty offices and only fifty staff lawyers, California Rural Legal Assistance (CRLA) covers thousands of miles over the entire agricultural and migrant areas of California. Although its program area includes cities such as Modesto and Fresno, it does not cover any big cities with large law firms. Additionally, some areas have a dense population but few lawyers, presenting significant conflict and resource issues. CRLA has built relationships with large urban law firms to assist in rural field offices. Through the use of videoconferencing, large firm lawyers assist remotely and participate in meetings located at rural offices. CRLA also works with local bar associations and sponsors clinics and workshops to train private attorneys in unfamiliar areas of law. In 2010, CRLA served 48,617 people, including 31% of migrant cases handled by LSC organizations nationwide.

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- Land of Lincoln Legal Assistance Foundation covers the lower sixty-five counties in Southern Illinois, some of which have only three or four lawyers. It offers CLE courses focused on subjects such as family law to lawyers in exchange for taking pro bono cases. These CLE courses are available in multiple locations and via webcast and bring in about twenty-five new volunteer attorneys each year. In contrast to other programs, Land of Lincoln has not had much success with working with bar associations or using urban lawyers to recruit rural pro bono lawyers, due to a lack of interest and a large cultural divide. It has had positive experiences, however, setting up county pro bono coordinating committees throughout the state which have responsibility for recruitment and training of lawyers in each county.
  - Legal Aid of Western Ohio (LAWO) covers two urban counties and thirty small cities and rural counties, resulting in an area that is 50% urban and 50% rural. The program has eight legal aid offices and about 2,000 private attorneys located throughout the rural counties under one full-time pro bono coordinator. LAWO actively involves local judges, finding that rural relationships can foster political growth, networking, and grants, and encourages judges and courts to enact rules and procedures that help pro se litigants and pro bono attorneys. For example, some courthouses have a designated monthly courthouse parking space for pro bono attorneys. LAWO also works with small local bar associations and offers free CLE in exchange for lawyers' committing to work on pro bono cases to increase volunteers. LAWO finds that using urban lawyers for rural areas is not as effective because urban attorneys are already focused on urban programs; however, the program is successful working with corporate law departments of large rural corporations to do monthly intake days, give legal advice, draft short pleadings/documents, and hold clinics. Finally, LAWO utilizes technology to recognize volunteers through monthly e-mails and to list non-confidential pro bono case summaries to solicit volunteer lawyers.
  - Legal Aid of West Virginia (LAWV) has twelve regional offices that each serves two to seven counties in West Virginia. Each office has one designated staff member who works with local pro bono lawyers and two staff members who work statewide on pro bono outreach efforts. Through working with local bar associations to encourage pro bono work, LAWV has made pro bono work an expectation for bar members in some areas. LAWV offers CLE courses taught by local judges and the CLE credit is free for lawyers who take one pro bono case. They find that these courses attract lawyers because they receive CLE credit, meet judges, and network with each other. Pro bono lawyers are also recognized at awards lunches and during Pro Bono Week. LAWV also runs a hotline to facilitate case

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placement and establishes clinics on those legal issues that are most dominant in rural areas.

- Montana Legal Services Association (MLSA) covers the entire state of Montana, which is the fourth largest state geographically, but has the fourth smallest population. The state has 3,500 private attorneys, but only 350 attorneys are active in pro bono programs. MLSA utilizes a combination of a recruiting coordinator, staff members, private attorneys, judges, public officials, and local bar associations to recruit volunteers. It also solicits support from judges and courts, including a pro bono program in the name of the court in Helena and essentially mandatory pro bono in Butte because court personnel assign pro bono cases to attorneys. MLSA offers specialized programs, clinics, and trainings in rural areas that require specific types of law, such as training private attorneys on drafting Indian wills or establishing family law clinics in which volunteer attorneys review pro se pleadings. Using technology, such as HotDocs, MLSA engages pro bono lawyers in assisting clients with generating pro se pleadings based on guided interviews and reviewing documents at weekly clinics. Lawyers can also review documents electronically, which can help with long distances; however, extending this practice to urban lawyers was not successful because of a lack of local connection.
- Legal Aid of Nebraska (LAN) covers all of Nebraska, where some of the counties only have a handful of lawyers. Faced with long travel distances in between the seven different field offices, LAN utilizes a central program coordinator to recruit volunteer attorneys. LAN offers training programs and access to online materials, such as sample pleadings and forms. It also furthers its recruitment efforts by stressing community responsibility to volunteers and giving awards and recognition to volunteer attorneys through newsletters and plaques.
- With thirteen offices, Northwest Justice Project (NJP) covers the entire state of Washington. Seventy percent of the area is rural and the eastern part of the state is almost entirely rural. NJP utilizes county bar associations to run volunteer lawyer programs, recruit volunteer lawyers, and provide CLE courses. Through its partnership with bar associations, NJP hosts events, targets individual lawyers, develops constituencies, and encourages judicial involvement. It also works with the state bar for technology and recruitment resources and provides a statewide hotline. Through the hotline, NJP can determine the nature of service potential clients need and share that information with attorney volunteers to make referrals.
- Pinetree Legal Assistance (PLA) provides legal services to the entire state of Maine, where most of the state is predominantly rural. The group

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formed a special pro bono project, the Volunteer Lawyers Project, when LSC mandated the use of funding for pro bono activities. PLA recruits volunteer attorneys through other private practice attorneys by simply having private rural attorneys call their rural colleagues and using social connections and relationships to encourage recruitment. Additionally, it joins with other assistance programs to provide resources and volunteer opportunities, such as courthouse assistance programs, telephone help lines, and Saturday morning clinics.

- West Tennessee Legal Services (WTLS) serves seventeen counties in Tennessee, sixteen of which are rural. To recruit volunteer attorneys, WTLS builds personal relationships with lawyers in rural areas by participating in local bar associations and meeting with lawyers to encourage pro bono work. WTLS also offers CLE, either for free or at greatly reduced rates to volunteer attorneys. In order to offer the CLE, the program partners with bar associations and other groups or urban firms to sponsor the courses and utilizes volunteer urban attorneys to teach them. WTLS recognizes pro bono lawyers by giving plaques, having the names of volunteer lawyers published in the state bar journal, and highlighting volunteer lawyers at a big Law Day celebration that the state bar association hosts. Finally, WTLS uses technology to send emails to lawyers that describe pro bono cases and maintains a website that offers client forms and legal advice from volunteer attorneys.

### Senior Lawyers

- In the District of Columbia, the Senior Attorneys Initiative for Legal Services (SAILS) Project helps law firms institutionalize a structure to encourage and support senior lawyers in undertaking more pro bono work as their careers wind down. That internal structure enables senior attorneys to remain at their firm and benefit from firm resources as they take on pro bono work. For example, one firm with a formal pre-retirement three-year phase-down program adopted a policy that SAILS pro bono work would count toward billable hour targets for attorneys in that status. Another firm with a very flexible retirement policy adopted a policy adding pro bono work as a form of contribution (equivalent to training associates and serving on firm committees) that would warrant keeping an attorney at the firm in a senior counsel status. Importantly, SAILS encourages firms to establish a structure appropriate to their specific setting and culture and works closely with the legal services community to develop pro bono projects appropriate for senior lawyers.



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- In Columbus, Ohio, the Volunteer Resource Center (VRC) was created in response to a 40% decline in available funds and a 40% loss of lawyer staff at the Legal Aid Society of Columbus (LASC). VRC is a “central operations center” staffed by twelve retired lawyers who conduct phone interviews of potential clients once they have satisfied the LASC intake requirements, for the purpose of identifying cases where lawyers’ skills and experience can be put to use effectively. Those cases are then assigned to a roster of over ninety active volunteers. The VRC program is supported by the attorneys and staff of LASC, which is an LSC-funded program. So, while the VRC project has no paid staff, it is able to build in the knowledge, skill, experience, and technical expertise of the in-house legal aid staff.
  - Texas Lawyers Care, a pro bono program, paired supervising attorneys experienced in guardianship law, elder law, estate planning and probate law with emeritus attorneys to handle indigent guardianship cases. This helps bring in emeritus lawyers who might not otherwise feel comfortable practicing outside of their comfort zone.
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  - Established in 2008, the D.C. Volunteer Lawyers Project (DCVLP) provides at-home lawyers who want to do pro bono work with malpractice insurance, administrative resources, educational resources, and professional support and mentoring. Utilizing very minimal physical space, this initiative creates an online law firm for lawyers who would otherwise face great difficulty continuing to do pro bono work. The DCVLP has been very successful since its creation, expanding to in-house and firm lawyers and engaging more than six hundred volunteer lawyers in family law representation.

#### Programs Utilizing Government Lawyers

- In the District of Columbia, nine federal agencies regularly staff the D.C. Bar’s monthly Saturday morning walk-in Advice & Referral Clinics. Federal government lawyers accept more cases for representation from the D.C. Bar’s Advocacy & Justice Clinic than any participating law firm. Over 200 federal government lawyers also have been trained to draft wills through LSC-grantee Neighborhood Legal Services Program’s Wills Clinic.

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- The Federal Interagency Pro Bono Working group has developed other pro bono programs in Chicago, New York City, and most recently San Francisco. The programs work to connect federal government lawyers with pro bono opportunities by creating relationships with legal services providers in those cities. The programs also acquaint potential referral sources with the issues that federal government lawyers must address, such as identifying statutory conflicts of interest, arranging for clerical support, and covering expenses.
  - The Miami-Dade Public Defender's Office, in collaboration with other government offices including the Miami-Dade State Attorney's Office and the Clerk's Office, launched a program in 1998 to address the challenges faced by ex-offenders in obtaining housing and employment. Government lawyers help ex-offenders with sealing and expunging their criminal records and with clemency applications. Working on weekends and in the evenings at churches and community centers, the government attorneys along with their community partners have helped more than 6,000 people.
  - An award-winning program launched by the Ohio Attorney General's Office in 2000 provides assistant attorney generals with training to assist in drafting wills, general powers of attorney, durable powers of attorney for health care, and to address other "end-of-life" legal issues for seniors and hospice residents around the state.
  - In October 2010, the Assistant Attorney General for the federal Civil Division issued a memorandum to all Division attorneys making it clear that pro bono work was strongly encouraged. He also authorized Division directors to allow up to 30 hours of administrative leave for pro bono activity that cannot be done outside of normal business hours and announced the creation of a division-wide award to recognize exceptional pro bono work by Division attorneys.

#### Corporate Counsel

- The Bay Area Corporate Pro Bono Co-Op ("the Co-op") enables Bay Area in-house legal departments to do pro bono. Developed by representatives at Symantec, HP, and Apple in 2009, the Co-op assists corporate legal departments in doing pro bono work. The Co-op helps get employees engaged, facilitates training, and provides a web-based attorney sign-up system. To get involved, a corporate legal department simply engages with the Co-op coordinators (two volunteer firm attorneys) to develop a pro

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bono program tailored to the department's needs. The Co-op then provides training and helps with other logistics. Finally, the Co-op provides continuing support to the volunteers. After attending a training session and completing a training manual, volunteers can register for clinics run by Bay Area legal services providers using an online reservation system. At the clinics, the volunteer attorneys answer questions for pro se litigants. Volunteers can also provide different levels of continuing assistance. Since its establishment, the Co-op has gained additional members, including Cisco, Adobe, SAP, Google and NetApp, and partnered with three local legal services agencies to provide staffing for clinics and later mentoring on cases.

- In Richmond, Virginia, a pro bono summit held under the auspices of Virginia's Chief Justice led to a task force involving representatives from Capitol One, the state and local bar associations, major law firms, and legal services providers. The taskforce spearheaded the development of Justice Server, an online case management system that enhances pro bono practice by expediting case processing and enabling attorneys to use their own computers to access files and information. Justice Server will allow lawyers in private practice to work with pro bono client files loaded directly to their desktops by legal aid organizations in Virginia. Lawyers will log into a web-based portal to select cases and, once they have made their selection, securely obtain the client files from the referring organization. Beta testing of the prototype is currently underway at ten private law firms in Virginia and the project has set milestones to measure its success, including a goal to make 1,500 case referrals in its first year and reduce the time it takes to place a case with pro bono attorneys by 35%. Justice Server's development and implementation costs were raised through private and public sources, making the project implementable with minimal financial impact on legal services budgets. It is anticipated that Justice Server will be rolled out throughout Virginia by 2013 and can be adopted by other states.
- In New Jersey, Merck Corporation has partnered with a major law firm to assist low-income persons filing for bankruptcy. Working with the law firm's bankruptcy department, Merck and the firm have committed to take on cases at a monthly session run by a local legal services provider which does intake and screens the cases. While both Merck and the firm take on the individual representation, Merck relies on the firm for substantive advice for more complex matters and coordinates regularly regarding training, status reports, and evaluation design. Because the quality of intake and screening by the legal services provider is such a critical component for both the firm and Merck, Merck has committed close to

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\$100,000 over two years to the provider to provide adequate staffing to maintain the program.

### Involving Law Students

- In New York City, law students who volunteer with the Unemployment Action Center receive training from more experienced students to represent individuals in hearings before the New York Department of Labor that challenge unemployment benefits determinations. The Suspension Representation Project (SRP) is an advocacy network that enlists law students to supervise other law students in representing New York City public school students in suspension hearings. The Courtroom Advocates Project relies on lawyers to train and mentor law school students, summer associates, and law firm associates not yet admitted to the bar to advocate for domestic violence victims when they first enter family court seeking orders of protection. The Civil Legal Advice and Resource Office (CLARO), which is organized through the New York State Courts' Access to Justice Program, supervises volunteer law students in providing limited legal advice to low-income New Yorkers being sued by debt collectors.
- Another model involves utilizing a third-party organization to create efficiencies of scale by handling training and administration, and/or matching law students from multiple schools with advocates from multiple providers to offer service on particular projects. California's One Justice's Law Student Pro Bono Project, subsidized in part by the area's law schools, organizes a Justice Bus that transports law students from multiple schools to help clients residing in geographically underserved areas. The Project also coordinates training and supervision by experts. Since 1982, the Minnesota Justice Foundation (MJF) has coordinated the unique collaboration of Minnesota's four law schools. As a result, more than 150 statewide legal services providers work with a single point of entry into the law student volunteer pool. Last academic year, MJF created and filled two thousand law student volunteer placements.
- Idaho Legal Aid Services, in partnership Chicago-Kent College of Law Center for Access to Justice and Technology (CAJT) and the Center for Computer-Assisted Legal Instruction (CALI), is developing law school [Cyber Clinics](#). Cyber Clinics are [law school courses](#) offering credit for law student work on developing A2J Guided Interviews, HotDocs templates, and other content for statewide legal aid websites. Students initially

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observe low-income people navigating the legal system by volunteering at a court help-desk, then take on a project requested by a legal aid organization, such as developing a guided interview and template for a pro se court filing. They research and draft a memo on the relevant statutory law, the justice problem they are trying to solve, and any relevant practical issues or hurdles they uncover. Students then develop a story board and template that they present to their professor and the client – the requesting legal aid organization – and develop the online content.

### Other Non-Lawyers

- The Colorado Cross Disability Coalition (CCDC) uses one salaried “advocacy coordinator” to recruit, train, and supervise the work of thirty non-lawyer volunteers. After nine hours of classroom instruction, new volunteers are assigned to work with a more experienced volunteer on a range of tasks. Some help with filing benefits applications. Others appear in administrative law proceedings, present evidence, cross-examine witnesses, and prepare and file briefs. Still others simply listen to clients’ full stories, a role that attorneys often do not have time for but that individuals seeking advocacy often need desperately. CCDC typically engages thirty volunteers who, on average, may handle as many as ten matters at a given time or over a year. Many volunteers are recruited from among CCDC’s former clients. CCDC has found that former clients are highly motivated to give back, have great empathy for similarly-situated individuals, and are available during traditional working hours.
- The Benefit Bank (TBB) is a proprietary web-based resource developed by Solutions for Progress (SfP). TBB provides web-based guidance to help volunteers conduct an eligibility assessment and file applications for programs such as the Supplemental Nutrition Assistance Program (SNAP, otherwise known as Food Stamps), Medicaid, SCHIP, Medicare Part D, child care subsidies, TANF, USDA Children’s Nutrition, and various federal tax relief programs. TBB is customized for a particular state, and can help the client: (1) determine which benefit programs the client is eligible for; (2) estimate the amount of potential benefits; and (3) prepare and file applications for each of the benefits. TBB is currently in use in ten states, including Arkansas, Florida, Indiana, Kansas, Mississippi, North Carolina, Ohio, Pennsylvania, South Carolina and Texas. The successful implementation of TBB programs, which can cost \$1.2 million per state to implement and \$300,000 per year to administer, usually begins with the formation of strong private-public partnerships. For example, the Ohio Benefit Bank has been able to attract funding for training and other program expenses through matching grants available through SNAP and has supplemented its corps of volunteers with individuals from the AmeriCorps VISTA program.

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### Pro Se Litigants

- In Chicago, the Coordinated Advice and Referral Program for Legal Services (CARPLS) screens, handles, or refers more than 60,000 cases a year. Each member of CARPLS' paid and volunteer staff handles only one or two areas of law, which allows people to become effective screeners quickly. CARPLS has self-help materials in many major areas, and part of its screening is designed to assess whether a caller can or cannot achieve the desired objective by using those materials. CARPLS uses student researchers to compare the names of people who have received self-help packets to electronic court dockets to see whether people have been able to file and win their own cases using CARPLS' materials. CARPLS also refers callers to various help desks for pro se litigants, located in state and federal courts, and to legal aid providers.
- Washington D.C. has established Court-Based Resource Centers located in D.C. Superior Court, which include the Consumer Law Resource Center, Landlord Tenant Resource Center, Probate Resource Center, and Tax Sale Resource Center. In FY 2010-2011, more than 7,200 people were served by these Centers.
- San Francisco has self-help centers established in its courthouses to intercept clients at their most critical points of contact with the justice system. For example, Volunteer Legal Services Program's Eviction Defense Services has engaged volunteer attorneys to provide brief advice, and in some cases full representation, in eviction matters through intake in the courthouse. Volunteer attorneys have been very responsive because the cases require a limited time commitment. The attorneys are trained and then spend a set amount of time in the courthouse providing limited representation to people who are already there for a court-ordered mediation. This project is also attractive to transactional attorneys and in-house counsel, because it generally requires negotiation skills more than litigation skills. There is always a supervising VLSP attorney on-site. VLSP also maintains the Federal Pro Bono Project, which involves placing three individuals (including a staff attorney) in the Federal Courthouse's self help center once a week to provide brief legal advice and referrals to volunteer attorneys or other organizations that may take on the case.

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- The Legal Aid Society of San Diego (LASD), an LSC-funded grantee, uses several courthouse-based self-help programs to enhance representation to people of limited means. LASD runs three separate clinics in three different courthouses including a domestic violence clinic, a guardianship clinic, and a housing (eviction prevention) clinic. These clinics, primarily staffed by LASD employees, serve several hundreds of people annually.
  - The Chicago Bar Foundation (CBF) has developed a “prescription pad,” which lists all the help desks in state and federal courts in Cook County, and describes the types of cases they handle, the degree of help they offer, and their hours of operation. CARPLS and many other legal aid organizations use the “prescription pad” to make referrals. In 2011, the various help desks (staffed by the LAF, CARPLS, the Chicago Legal Clinic, Cabrini Green Legal Aid, and others) collectively helped more than 65,000 people – all of whom were already in court and in desperate need of representation.
  - Volunteer Lawyers Network has provided a pro se clinic at the Hennepin County Government Center’s Self Help Center in Minneapolis since 1997. What started as a once-a-week service is now available five days a week for four to six hours a day. Clients are seen on a first-come, first-served basis for any issue except family and criminal law. VLN recruits and trains volunteer lawyers from a number of firms and provides onsite staff support, coordination of student volunteers, client screening, forms, and informational materials. Typically, sessions are 15-20 minutes long if other clients are waiting. Spanish and Somali interpreters are available. In some cases, the brief-advice encounter will evolve into full representation of the client, either by the volunteer lawyer or by another lawyer recruited by VLN.

### Collaborations

- In Philadelphia, VIP and the city’s two largest legal aid providers (LSC-funded Philadelphia Legal Assistance, and non LSC-funded Community Legal Services) are working together on a case management software system to facilitate referrals among them. The organizations also will look at statistics generated from their databases and trends in client needs and service patterns, and then use that information to improve client representation and advocacy.

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- In Washington State, the LSC-funded Northwest Justice Project has recently created an “online access” system, which is designed to get people to the appropriate level of service as quickly as possible, using basic screening and branching logic tools. The system diverts people with problems that the legal aid providers are not likely to address to the next-best resources as quickly as possible, freeing up telephone queue space for more in-depth interviews in the providers’ higher-priority areas. Because NJP and the legal aid programs in the state of Washington use a common case-management system, cases can be transferred quickly and without duplication of effort.
  - The three LSC-funded organizations in Illinois (LAF, Prairie State, and Land of Lincoln) are working with Illinois Legal Aid Online to develop an online access system, with the goal of extending it to half a dozen other organizations that share the same case management system. The Illinois model also will use the data gathered to determine which geographical areas in the state are underserved, and which problem areas need more or better referral resources or interactive pro se materials.
  - The Bar Association of San Francisco’s Volunteer Legal Services Program (VLSP) and LSC-grantee Bay Area Legal Aid (BayLegal) worked together to set up a toll-free number for the intake of matters. BayLegal handled the first intake interview and input information into a database that would address both BayLegal and VLSP’s requirements. The information in the database then enabled VLSP to run a conflict check and follow-up with a short (usually ten minute) second-level intake interview. This process allowed the two entities to share information and resulted in better referrals to pro bono lawyers without a lengthy follow-up interview.
  - Following a study by bar associations in the Twin Cities, the private bar and leading legal services providers in the area created Call for Justice LLC, a comprehensive telephone referral system. Opening in 2012, Call for Justice builds on existing infrastructure by using the United Way’s 211 system. The 211 information and referral specialists are trained about existing community legal resources and given real-time information on availability, priority, and eligibility for existing legal services. The technology used by 211 permits extensive data collection to facilitate ongoing assessment of the program.
  - In 2011, LLM students at Stanford Law School and fellows at Stanford’s Law, Science, and Technology Program developed LawGives, a new low-cost technology platform to serve as a resource portal and case referral and mentoring match service for law students, lawyers at smaller firms, and pro se litigants. In addition to making referrals and providing access to



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forms, LawGives seeks to connect young lawyers and law students with supervising lawyers. The platform also has a special emphasis on engaging smaller law firms and solo practitioners who need assistance to take on pro bono cases while managing their own caseloads without associates, research paralegals, or other legal staff. Once pro bono lawyers register with LawGives and enter their background information, the platform generates a list of pro bono opportunities that most closely match their interests. A lawyer may choose one or more opportunities or may make a direct referral to a colleague. The LawGives platform will simultaneously advise the pro bono lawyer if any law students have expressed interest in working on the matter under supervision, and lawyers may also seek assistance from students, even if a student has not expressed interest in a particular matter. LawGives is currently in early testing within the Stanford community, with plans to scale up.

- Pro Bono Collaborative (PBC), in Rhode Island, is a project housed at Roger Williams School of Law that forms long-term and sustainable collaborations between community organizations, law firms, and the law school. PBC partners business law firms and law students with community social service and advocacy organizations that serve low-income people. PBC is not a referral program; rather it identifies unmet legal need through community based organizations, develops pro bono projects, and then pitches project proposals to member firms and recruits law students to work with the attorneys. PBC's staff consists of two part-time attorneys operating with an annual budget of \$150,000. Through these limited resources, PBC annually identifies and partners approximately 18 projects that involve 10-13 law firms, over 20 community organizations, and 15-25 law students. Law firms often develop long-term relationships with the community organizations they have worked with, law students develop exposure to and training in pro bono work, and the needs of the community are identified and met on a project-by-project basis through the low-cost leveraging of resources that PBC provides.
- In Richmond, Virginia, a consortium of 10 law firms has developed the "Firms in Service" model to facilitate collaboration rather than competition among firms for pro bono projects. Started in 2007, it has doubled in size and now encompasses firms ranging from the city's biggest to much smaller ones. The overall collaborative now accounts for 1300-1400 attorneys overall. Entirely firm led and without a formal institutional or administrative structure, it operates by rotating meetings and agenda setting among the firms involved, and, in part because of the level of buy-in and relationships developed, has provided critical leadership in the pro bono sector.

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- The Philadelphia Bar Association's Delivery of Legal Services Committee (DLSC) has provided an innovative forum for leaders of the city's public interest legal community to work collaboratively with the private bar, judiciary, and other key community stakeholders to develop and implement pro bono initiatives. For example, DLSC members help develop and implement specialized public interest and poverty pro bono practice groups at firms. The members routinely plan and conduct joint pro bono training programs for summer law student volunteers and interns working at public interest legal organizations and private firms and joint CLE training programs for pro bono attorneys, which are usually offered free to participants in exchange for handling a pro bono case. Philadelphia VIP developed and maintains a Resource List of Pro Bono Experts and Professionals, which is available to all DLSC member organizations and includes experts, title companies, graphic designers, IT professionals, forensic accountants, translators, and court reporters.

#### Other Pro Bono Websites

- The Georgia Legal Services Program (GLSP), the LSC Inspector General, and the Fund for the City of New York launched the first online domestic violence self-help forms website in the country in 1999. The website supported private lawyers and specially-trained shelter advocates across the state of Georgia who helped survivors complete and file protective order applications under the Georgia Family Violence Act. The automated forms allowed private lawyers and pro se survivors to file well-written and legally comprehensive petitions for relief. The system also facilitated referral of cases to GLSP attorneys for representation at the adversarial hearing on the petition.
- Beginning in 1999, [Pro Bono Net](#) launched several versions of its pro bono-themed template in New York City, San Francisco, and Minnesota. The Pro Bono Net platforms offer volunteer lawyers online training, resource libraries, a calendar of public interest events, a shared membership roster, and up-to-date pro bono and public interest program news. Pro Bono Net's model has now been adopted in 30 states and regions, reaching approximately two-thirds of the poverty population and lawyers in the United States.
- In 2000, the Association of Corporate Counsel ([ACC](#)) and the Pro Bono Institute ([PBI](#)) launched [CorporateProBono.org](#) ([CPBO](#)), an online resource for legal departments and in-house attorneys interested in doing

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legal pro bono work. CPBO continues to function as a portal providing resources, pro bono opportunities, and thought leadership to in-house lawyers throughout the country.

- The Legal Services National Technology Assistance Project (**LSNTAP**) began in 2001 with funding from LSC's Technology Initiative Grants (**TIG**) program. Originally housed at the Legal Aid Society of Orange County, LSNTAP's mission was to help legal aid programs across the US improve client services through effective and innovative use of technology. Now housed at the Northwest Justice Project, LSNTAP continues to serve as a national support center and clearinghouse for technology. It provides a full online portal for attorneys seeking technology training, online technology resources, and social media networking including a listserv and blog.
- Illinois Legal Aid Online (ILAO) was launched in July 2001 following an unprecedented statewide collaboration of Illinois legal services providers, funding entities, the private bar and law schools. Collectively, ILAO's three websites reflect best practices in the use of internet-based technology to support and increase the provision of free legal services for the poor. [IllinoisLegalAid.org](http://IllinoisLegalAid.org) provides legal information for the general public, [IllinoisLegalAdvocate.org](http://IllinoisLegalAdvocate.org) provides support for legal aid advocates, and [IllinoisProBono.org](http://IllinoisProBono.org) provides resources and tools for pro bono lawyers.
- A2J Author (**A2J**) was developed in 2004 by a partnership between Chicago-Kent College of Law and the Center for Computer-Assisted Legal Instruction (CALI). A2J uses HotDocs Online software to help self-represented litigants assess their eligibility for legal services and gather the information needed to prepare simple court forms. Following a self-guided client interview process, A2J delivers completed forms to the client ready to be signed and filed with the court. A2J also includes Spanish language functionality and the ability to direct clients to other websites for explanations of technical terms. A2J has been utilized in a variety of ways since its development, including as part of the ILAO platform and by Idaho Legal Aid in partnership with the courts. LSC grantees in Iowa and Ohio also use A2J to have potential clients do self-guided eligibility screenings and, if eligible, directly place their case information into the appropriate legal aid office's case management system.

### Decrease Demand

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- The Colorado Lawyers Committee (CLC), which is affiliated with the Lawyers' Committee for Civil Rights Under Law in Washington D.C, works with Colorado Legal Services, an LSC grantee, and Colorado Center on Law and Policy, a non-LSC funded legal policy and advocacy program, to identify the kind of systemic problems that CLC's task forces then address. Often, the legal aid organizations also provide substantive expertise to the CLC task forces on the legal issues they address. The CLC does not handle individual cases for those in poverty, but it is able to marshal resources to address systemic problems that affect great numbers of the underprivileged in Colorado.
  - Puerto Rico Legal Services, an LSC-funded program, developed the Office of Community Work and Collaborative Agreements (OCWCA) to create innovative partnerships to address significant community concerns in complex and/or non-traditional areas of practice, such as major environmental and housing issues. OCWCA works closely with local non-profit organizations to identify issues, such as the consequences of a major gas pipeline running through low-income communities or major real estate developments threatening the homes of several thousand low-income families. It identifies potential legal solutions to those issues and then works with private law firms and law school clinics to coordinate a response. In doing so, this two-person office has leveraged substantial pro bono resources.

### NLADA Research Findings

The NLADA research revealed that:

- Primary messages were: 1) legal aid makes a difference in the lives of real people; 2) every person in America deserves equal access to justice; and 3) every person in America should be treated fairly, regardless of income.
- The best way to promote these messages was through specific stories about low-income individuals with no place else to turn – and with a focus on the results, rather than the process by which these results were achieved.
- Support for legal aid was highest when it described support for children, victims of domestic violence, veterans, or the elderly.

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- People were less likely to support legal aid when materials described going to court or negotiating with government agencies. Similarly, speaking about fairness and justice were more persuasive than talking about access to court or to a lawyer.
  - The term “civil legal aid” was found to be more persuasive than “legal services.”
  - Stakeholders were encouraged to talk about local programs specifically.
  - Because civil legal aid is unknown to most people, NLADA’s researchers concluded that communications should include a brief description of legal aid work, either through an individual story or a very simple statement.
  - Getting the word out:
    - The report recommended that individual locales implementing the campaign do an assessment of local media outlets and speaking venues to determine which are most useful for reaching target audiences.
    - Once they had done that assessment, the report recommended creating a range of materials (press releases, interviews, op-eds, letters to the editors, advertisements, speeches) based upon templates they created.
    - The report included a timeline for implementation of a campaign in any given jurisdiction.
    - Finally, the report included steps for measuring the success of the campaign.

Doug Gould, who worked at a PR firm hired by NLADA to create the campaign, shared the following thoughts:

- In developing the campaign, the researchers wrestled with whether to do a big, national campaign (what he deemed a “flyover” campaign) to brand legal aid from above or whether they should try to build capacity to generate PR at the state and local level. Eventually, they chose to do the latter, first creating national tools and then training local bar leaders to use those tools locally.
- The researchers also spent a lot of time struggling with the ultimate “ask” of their campaign. If the campaign were targeted only toward lawyers, it was easy to ask them to help solve the problem by taking on a pro bono

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case. The ask was much harder for the general public, as all most people can do is either call their legislator or make a financial contribution.

- Although Mr. Gould agreed that one could build upon NLADA's work, he felt that, given all that has changed in politics and the economy over the last ten years, it is worth repeating their research. This is especially true should we choose to focus the campaign only on lawyers, as NLADA's research was directed at the public at large.

### Budget for Fellowship Program

#### **Expenses:**

Fellow's Salary	\$45,000 per fellow
Fellow's Benefits	\$15,000
LSC Administration Fee	\$1,000
Overhead (Office Space, Computer, Secretarial Help)	Varies by firm
<b>Total Per Fellow</b>	<b>\$61,000</b>
Total for 10 Fellows	\$610,000
Total for 50 Fellows	\$3,050,000
Total for 100 Fellows	\$6,100,000

**Source of Funding:** Law firms would pay for the expenses. Each would pay for their fellow's salary and benefits and a fixed fee to LSC to cover expenses incurred in administering the program.

### Court-Based Programs

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- Established by New York’s Deputy Chief Administrative Judge and the Director of NYS Courts’ Access to Justice Program, New York’s Bridge-the-Gap Program exchanges CLE training for pro bono service. This program trains recent law school graduates and newly admitted attorneys to provide legal advice and limited representation to pro se litigants in New York’s civil and supreme courts. In return, the participants are required to complete a 50-hour supervised pro bono practicum assisting litigants. Over 130 recent graduates and newly admitted attorneys signed up for the pilot program in the fall of 2011.
  - Alaska’s [Early Resolution Program](#) schedules a number of divorce cases in a single court on one afternoon when pro bono legal advice is provided to both sides in an effort to achieve fair and amicable settlements more quickly. In its first year, 80% of cases resulted in settlements.
  - In 2009, the Indiana Supreme Court announced a campaign to train more than 700 Indiana judges, mediators, and lawyers on handling foreclosure cases. The Court offered scholarships to private attorneys for the training if they agreed to handle one mortgage foreclosure case on a pro bono basis.
  - The Florida Supreme Court’s Standing Committee on Pro Bono, led by Judge William Van Nortwick, launched the [One Campaign](#) with the motto, “*One Client One Lawyer One Promise.*” The campaign’s focus is to engage more attorneys in providing pro bono legal services by encouraging them to take on one case. It also encourages judges to ask lawyers about the one pro bono case they have taken when they appear before them.
  - In San Antonio, Texas, every lawyer is encouraged to “Just Take One” through the [Bexar County Community Justice Program](#). This after-hours program, which is a project of the San Antonio Bar Association and led by local judges, brings together indigent individuals in need of legal assistance, volunteer attorneys, judges, and court reporters. Several attorneys who are specialists in substantive legal areas the volunteer attorneys are likely to encounter also attend. Simple court hearings, such as for protective orders or uncontested divorces, are held during these after-hours and weekend sessions. Volunteer attorneys who participate in this program are publicly recognized in the local bar publication.

#### States Providing CLE for Pro Bono

<b>State</b>	<b>CLE Provision</b>	<b>Maximum Allowed</b>	<b>Utilization Rate</b>
Colorado	One credit for every five hours of pro bono work	Up to 9 units for every 3-year period	2.5% of lawyers reporting each year
Delaware	One credit for every six hours of pro bono work	Up to 6 credits biannually	3.5-4% of lawyers applied for credit
Minnesota	One credit for every six hours of pro bono work	Up to 6 credits for every 3-year period	In 2008, there were 6 lawyers seeking credit
New York	One credit for every six hours of pro bono work  New lawyers may fulfill 16 credits of their 32 Bridge-the-Gap CLE requirements by performing 50 hours of pro bono services	Lawyers with more than 2 years of experience can earn 10 credits every 2 years (6 credits for others)	The Bridge-the-Gap program exceeded capacity.
Tennessee	One ethics credit for every five hours of pro bono work	N/A	836 attorneys in 2004 (providing 10,358.56 hours of service)
Washington	Lawyers must receive or provide at least 2 hours of related education through an MCLE-approved program to get credit	Up to 6 credits per year	Less than 1% of active lawyers apply for credit online each year
Wyoming	One credit for every five hours of pro bono work or mentoring law students	Up to 3 credits per year	2.2%