



LEGAL SERVICES CORPORATION
**REPORT OF
THE PRO BONO
TASK FORCE**
OCTOBER 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 because they cannot afford to do so.¹ 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.² In these difficult times, many people are seeking legal services for the first time. Some face homelessness because of an eviction or foreclosure. Others are seeking protection from an abusive spouse, or are fighting for custody of an abused child. They may be Iraq or Afghanistan war veterans who have returned home to economic strain and unique legal issues of their own. Or they may be elderly citizens who have fallen victim to fraud and have lost their life savings.

Yet 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 non-profits, 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 from a number of sources.

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 assist 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 August 2011, LSC created 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, see page 30). 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, and sharing ideas, and ultimately, the Task Force reported its findings and recommendations to the LSC Board of Directors. This report presents those findings and recommendations and suggests steps that LSC, its grantees, and the legal profession can take to help shape pro bono programs into a reliable, organized system that will efficiently deploy additional resources to the core civil legal issues impacting low-income Americans.

Specifically, the Task Force has compiled the following recommendations to LSC and its grantees, as well as a set of requests for the legal profession as a whole. In reviewing these recommendations and requests, readers should keep in mind that pro bono programs will not be effective without significant infrastructure, guidance, and support from legal services agencies. Thus, although pro bono programs can be an effective means of narrowing 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 to Help Grantees Develop Strong Pro Bono Programs. Specifically, LSC should:

1. **Create a professional association specifically for pro bono managers at LSC grantees.** In collaboration with organizations like the National Association of Pro Bono Professionals, LSC should bring these professionals together for training, relationship-building, and support.
 2. **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.
 3. **Develop a Pro Bono Toolkit** which includes noteworthy practices in pro bono and provides high-level, web-based training to LSC grantees' pro bono managers and program directors. This toolkit should build on existing resources for pro bono programs, be focused on making pro bono a reliable and sustained resource for the community, and:
 - a. **Include a plan for evaluating pro bono 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, to secure new funding for full-time pro bono staff).
 - b. **Provide guidance on offering effective volunteer support,** such as quality screening, training, mentoring, and recognition of volunteers.
 - c. **Help grantees provide a range of pro bono opportunities to engage all segments of the bar,** 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 first on client need.
- d. **Include mechanisms for engaging non-lawyers as pro bono volunteers,** including law students, paralegals, administrative personnel, students in other professional schools, and others.
 - e. **Use pro bono lawyers to assist pro se litigants.**
 - f. **Encourage collaboration and resource sharing among pro bono programs,** including those at LSC grantees, other providers of legal aid, law firms, government lawyers, the judiciary, bar pro bono programs, and in-house legal departments.
 - g. **Use technology to support pro bono programs** by encouraging immediate, systemic adoption of up-to-date technology by all of its grantees. LSC could help in this process by encouraging:
 - i. Innovation through competition, such as through newly funded competitive challenge grants;
 - ii. The creation and sharing of collaborative environments that can serve as virtual legal networks, or “one-stop-shops,” enabling pro bono lawyers to volunteer for and coordinate work on cases, obtain training and access to case management tools, and provide services to clients online, even from a distance; and
 - iii. Efficiency and resource-sharing by developing collaborative, statewide pro bono platforms.
 - h. **Use pro bono to decrease overall demand for funded legal services.**
 - i. **Offer guidance on developing a strong pro bono culture,** including by hiring full-time pro bono managers and establishing 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.



Requests for Assistance from the Legal Profession

The Task Force recognizes that, although LSC has an important leadership role to play in encouraging pro bono, none of the recommendations in this report 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 carrying out these recommendations.

Specifically, we ask of:

1. Bar leaders and the judiciary:

- a. **To the Extent Permitted, Recruit Pro Bono Lawyers. Support and Applaud Their Pro Bono Efforts.** We ask that judges and bar leaders use their influence, consistent with applicable judicial rules of conduct, to recruit new pro bono lawyers, especially in rural areas and among solo practitioners, to draw attention to the crisis in legal services, to applaud the effort of pro bono lawyers, and to advocate for additional funding at the state and federal levels.
- b. **Use Bar Associations to Encourage, Support, and Celebrate Pro Bono.**
- c. **Amend Attorney Practice, Judicial Ethics, and CLE Rules to Support Pro Bono**, for example, by 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 admitted to practice.
- d. **Create or Strengthen State Access to Justice Commissions** (AJC's) to consolidate and support pro bono efforts.

2. **The legal profession as a whole:** Recognize the importance of providing every American with access to our justice system and the role that pro bono lawyers can play in offering that access. At the same time, recognize the cost of developing and maintaining effective pro bono programs and ensure that legal services agencies are adequately funded for that purpose.

Recommendation 2

LSC Should Revise its Private Attorney Involvement (PAI) Regulation to Encourage Pro Bono. Potential changes to the regulation, which requires LSC grantees to spend 12.5% of their funding in support of pro bono legal services, 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 when they support pro bono programs; and (c) the application of LSC case-handling requirements to PAI matters referred to pro bono attorneys.

Recommendation 3

LSC Should Launch a Public Relations Campaign on the Importance of Pro Bono. To begin, 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 Create a Fellowship Program to Foster a Lifelong Commitment to Pro Bono. Specifically, 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.



LEGAL SERVICES CORPORATION

REPORT OF THE PRO BONO TASK FORCE

I. Introduction: The Current Crisis in Legal Services

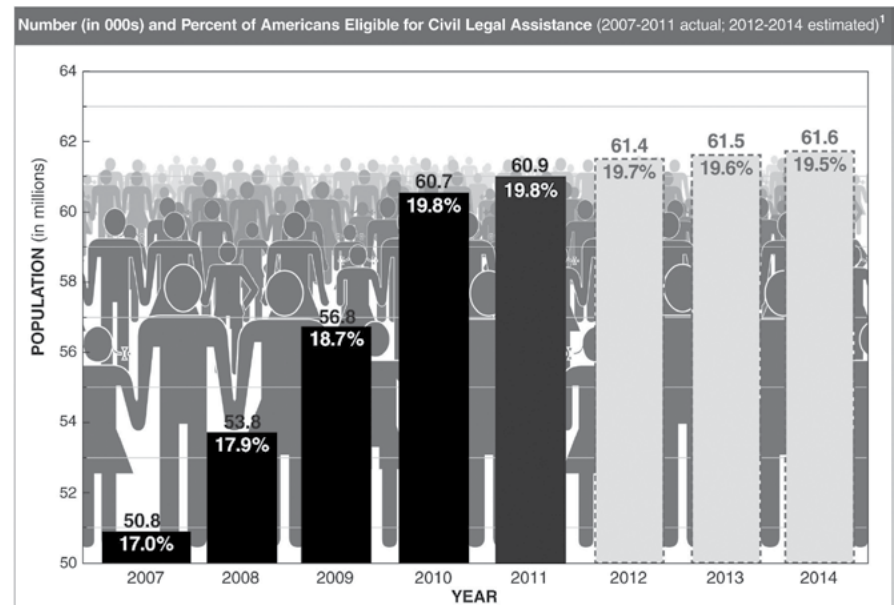


Harry Korrell of Davis Wright Tremaine LLP,
Pro Bono Task Force Co-Chair

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 61.4 million Americans – nearly one in five – will qualify for civil legal assistance funded by the Legal Services Corporation (LSC) in 2012.³ These families earn less than \$28,813 per year for a family of four.⁴ The number of people qualifying for civil legal aid has increased by over 10 million since 2007. There has been a significant increase in the demand for legal services in specific areas, such as foreclosure,⁵ and also in the number of people who are seeking free legal

services for the first time. Many Iraq and Afghanistan war veterans also are turning to legal services agencies for help as they return home to new economic and personal challenges.⁶

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.⁷ 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,⁸ at least 50% of people seeking help from LSC-funded organizations – and eligible to receive it – are turned away because



¹ Eligible persons are those with incomes at or below 125% of the Federal Poverty Guideline for each year. Census data and projections are for populations with incomes below 125% of the Federal Poverty Guidelines.

Sources: Data for 2009, 2010 and 2011: U.S. Bureau of the Census, Current Population Survey, Annual Social and Economic Supplements. Table 6. People Below 125 Percent of Poverty Level and the Near Poor: 1959 to 2010. Accessed at: <http://www.census.gov/hhes/www/poverty/data/historical/people.html>. Data for 2012, 2013 and 2014: LSC estimates based on changes in the total U.S. population and the 125% rates and population sizes during 2007-2011 period.

of insufficient resources.⁹ Other studies have found that 80% of the civil legal needs of low-income people go unmet.¹⁰

Recent revenue reductions for legal services have exacerbated these problems. In 2011, LSC-funded organizations alone reduced their headcount by 661 full-time-equivalent (FTE) positions, including 241 attorneys, and anticipate shedding an additional 724 FTE staff in 2012, including 333 attorneys.¹¹ These cuts have serious consequences for the poor, as studies consistently show that access to legal counsel makes a significant difference for litigants.¹²

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 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 the courts, bar associations, Access to Justice Commissions (AJCs), private attorneys, government attorneys, corporate counsel, law schools, legal services organizations, and, of course, LSC itself.

This report considers how LSC, its grantees, and other stakeholders can narrow the justice gap through the regular and 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. Specifically, the Task Force focused on ways in which pro bono can be used consistently 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 problems 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. But it also contains requests of others, including the judiciary, bar associations, law schools, in-house lawyers and legal departments, and firm lawyers.

One major theme of this report is collaboration. 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 on Pro Bono and its Pro Bono Summit, which took place in late 2011.¹³ There likely will be significant overlap in these efforts. Collaboration is key to addressing the legal services crisis and the Task Force welcomes the chance to work with these 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 simply: pro bono is not free. The Task Force therefore encourages funders to make infrastructure investments 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 to Help Grantees Develop Strong Pro Bono Programs.

Every LSC grantee is required to devote a portion of its resources to engaging private lawyers, but there

is great variation among grantees in terms of the size, quality, efficiency, and effectiveness of their pro bono programs. Good pro bono programs require solid infrastructure, and there is an opportunity for LSC to engage with and support its grantees by offering training, resources, and guidance on how to build that infrastructure.

Of course, there already are many great resources on pro bono,¹⁴ like those found on the ABA Center for Pro Bono's website¹⁵ and its Clearinghouse Library¹⁶ (which is in the process of an extensive update).¹⁷ The Task Force recommends that LSC work collaboratively to bring together and complement those

existing resources so that its grantees can make the most of their pro bono programs. Specifically, LSC should:

- 1. Create an Association of Pro Bono Professionals Who Work at LSC-Funded Organizations,** in partnership with existing networks, including the National Association of Pro Bono Professionals (NAPBPro), the Association of Pro Bono Counsel (APBCo), and the ABA Center for Pro Bono. We recognize that these organizations already have excellent resources available for legal services agencies; however, what we propose is partnering with them to create a sub-group specifically for pro bono professionals working at LSC grantees in support of specific LSC-oriented issues. Through this association, LSC could create the means for its professionals to develop relationships with one another – for example, by providing them with an LSC listserv, offering training via webinar on effective pro bono infrastructure, and setting up regular conference calls. Where possible, LSC also could facilitate in-person meetings, for example, at the annual ABA/NLADA Equal Justice Conference. The association would offer these pro bono managers 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.
- 2. Recommend that Congress create a Pro Bono Innovation/Incubation Fund.** LSC should recommend that Congress or LSC, through funds raised independently from the private bar or interested foundations, create a challenge grant, as has

been done through the successful Technology Initiative Grants (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 resources not be taken from critically-needed existing funds for LSC grantees.

- 3. Develop a Pro Bono Toolkit.** LSC should work with other stakeholders, such as the ABA Center for Pro Bono, 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 evaluate pro bono programs effectively, as described in more detail below, should complement rather than recreate already existing resources, and should build upon LSC's own strengths, such as in the area of technological innovations for legal services. We recognize that, to be

done right, this recommendation requires the infusion of significant resources required to support and leverage pro bono time. Congress, foundations, and other interested donors should consider funding such an effort, including by supporting a full-time staff position at LSC to oversee the project. This support should be in addition to, and not in lieu of, other critically needed funding for legal services.

This report lays out the components of such a toolkit by identifying the key elements of a successful pro bono program,¹⁸ 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;
- A range of opportunities that reflect the particular interests of and challenges faced by certain segments of the bar, including



Left to right: John G. Levi of Sidley Austin LLP, LSC Board Chairman; Martha Minow of Harvard Law School, Pro Bono Task Force Co-Chair; and Jim Sandman, LSC President

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 client needs;

- 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 – an area where LSC already has been a leader;
- 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, 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. **Evaluating Pro Bono Programs**

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 and evaluation 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. Efforts to develop more sustained and rigorous evaluation of client outcomes and program effectiveness, particularly in partnership with academic institutions, are in their early stages. LSC and its grantees should focus on this issue by developing more robust standards for evaluating pro bono programs, not only in response to funders, but to guide program development, maximize efficient use of limited resources, better understand 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, as well as grantee executive directors on how to put evaluations to use in creating stronger programs.

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 and evaluate 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.

Ms. Jones needed help. She could not find employment because of a 30-year-old misdemeanor on her record and, as a result, had no way to support her family. She wanted to clear her record, but did not know where to start. Fortunately, she learned of an expungement clinic hosted by the Legal Aid Society of Cleveland, where she met attorney Christopher Murray, one of Legal Aid's 1,600 *pro bono* volunteers. After getting guidance at the clinic, Ms. Jones filed a *pro se* expungement with Bedford Municipal court, which was granted within days. She was able to obtain employment and is now proud to be supporting her family.



The Honorable Dick Thornburgh, former U.S. Attorney General and former Governor of Pennsylvania

To improve evaluation of pro bono activities by LSC-funded organizations, the Task Force recommends 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 outcome measurement. This would include education of executive directors on strategic planning, outcome measurement, and program design and evaluation in order to create quality processes for the assessment of pro bono projects; and
- Consider enlisting business schools, public administration schools, and consulting firms to help develop effective evaluation systems for grantees.

LSC should work collaboratively with others already considering these issues, including the American Bar Association, NLADA, the Pro Bono Institute, APBCo, law schools, law

firms, Interest on Lawyers Trust Accounts (IOLTA) programs, AJCs, the judiciary, and researchers. Examples of some organizations with efforts already underway can be found [here](#).

b. **Offering Volunteer Supports**

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;¹⁹ (e) an 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. Placing pro bono matters is more competitive now that law firm pro bono management, particularly in large firms, is more prevalent. As a result, efforts to recruit private lawyers have to be well-managed and offer quality referrals and support. The kinds of matters that LSC grantee attorneys historically encounter generally do not change – they most frequently involve housing, domestic violence/family law, benefits, veterans, and consumer issues. While creating high-quality training and materials 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 training materials is an excellent way to use 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 to take 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 do so. 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. Therefore, effective pro bono programs should include creative opportunities for limited representation, projects that require only a finite time commitment, and matters that do not pose actual or positional conflicts.

Of course, in designing these programs, the first priority should be fulfilling client need. Too often, other pro bono opportunities are perceived as being more glamorous and thus garner a larger 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 brief outline of the unique challenges facing certain groups of lawyers, including: (1) small firm and solo practitioners, (2) rural lawyers, (3) emeritus/senior and inactive lawyers, (4) government lawyers, and (5) corporate counsel – as well as suggestions for better engaging each group.



Left to right: George H. Hettrick of Hunton & Williams LLP, and The Honorable Deanell Reece Tacha of Pepperdine University School of Law

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 these groups thus may consider assisting with out-of-pocket expenses, such as travel costs, legal research, deposition transcripts, and expert witness fees, and should investigate other ways to provide the same types of institutional supports available to larger firm lawyers. To see a few examples of how LSC grantees and other agencies are effectively engaging lawyers at little and medium firms, [click here](#).

2. **Rural Lawyers:** Engaging 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 issues. Where lawyers are present, they typically are solo practitioners or at very small firms with little support staff 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, several things 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

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 courthouse halls. 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.

With over twenty offices and only fifty staff lawyers, California Rural Legal Assistance (CRLA) covers thousands of miles of the agricultural and migrant areas of California. It does not cover any big cities with large law firms, but the organization has built relationships with large urban law firms to assist in rural field 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.

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 overly 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;
- Using 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 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 opportunities 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](#).



Left to right: Terry M. Hamilton of Lone Star Legal Aid, Ronald S. Flagg of Sidley Austin LLP, and Mark B. Childress, formerly of the U.S. Department of Justice Access to Justice Initiative

3. **Emeritus/Senior and Inactive**

Lawyers: By 2020, retirees will account for almost one-half of all lawyers.²⁰ Programs engaging senior and retired lawyers in pro bono work have existed for many years, but interest in mobilizing them has sharpened as a result of the enormous growth to come in this segment of the profession. Inactive lawyers also are a potentially significant resource, as they include not only senior lawyers, but also those who are not working as lawyers 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, senior lawyers also may face obstacles to doing pro bono work.²¹ 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.²² 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 in which 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 also can 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. There has been significant growth in recent years in the involvement of government lawyers in pro bono work.²³ For example, the District of Columbia has a 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.²⁴ Additionally, in several states that exempt government attorneys from bar 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.²⁵



After 45 years in private practice, Howard Goffen retired from the full-time practice of law and began volunteering for LAF (Legal Assistance Foundation) in Chicago. Since that time, he has become their most committed, talented, dedicated, and selfless pro bono volunteer, contributing over 7,000 hours of his time and representing hundreds of LAF clients. As a result of his years of experience, he also has served as a guide and mentor to many of LAF's staff. Mr. Goffen received the coveted ABA Pro Bono Publico Award for his service in August 2012.



Left to right: John E. Whitfield of Blue Ridge Legal Services, Nan Heald of Pine Tree Legal Assistance, and Diana C. White of Legal Assistance Foundation of Metropolitan Chicago

In the District of Columbia, nine federal agencies staff the D.C. Bar's monthly Saturday morning walk-in Advice & Referral Clinics and 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.

In general, the most successful pro bono programs for government lawyers: (i) do not require bar membership in the jurisdiction; (ii) involve matters that are not adverse to a government entity; and (iii) 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.²⁶ 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. Some corporate law departments even 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. 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, and therefore wish to involve staff as well as lawyers on pro bono projects.

Working with corporate counsel also 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 practice, and likely do not have malpractice insurance. In addition to amending state practice rules to address these issues (as discussed in further detail elsewhere in this report), opportunities to overcome these obstacles include:

- Making pro bono matters more manageable by partnering in-house lawyers with law firms and other outside organizations;
- Creating projects that are time-limited and predictable in nature, such as pro bono clinic opportunities or limited scope engagements;



Left to right: Lee Miller and Lisa Dewey of DLA Piper

- Encouraging in-house counsel to venture outside of their primary practice areas by providing quality training, mentoring, and support;
- 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. **Engaging Non-Lawyers as Pro Bono Volunteers**

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 examples of the engagement of non-lawyer volunteers – including law students,²⁷ paralegals, administrative staff, and others, as well as pro se litigants – and educate grantees about how to utilize them effectively, and the limitations of using non-lawyers and pro se models. The following is a brief summary of the Task Force’s findings with regard to these groups.

1. **Law Students:** The engagement of future lawyers in pro bono work can instill an early commitment to and support for pro bono. Law schools take varying approaches to pro bono. Some schools, such as Columbia, Harvard, Loyola University Los Angeles, University of Pennsylvania, and Roger Williams University make it a mandatory requirement for graduation. Others, such as NYU and Stanford, achieve high levels of participation by actively promoting pro bono.²⁸ Of course, many schools engage students through clinical education. Others are considering new ways to involve law students, such as through law school Cyber Clinics,²⁹ which offer credit to law students for developing content for statewide legal aid websites. To see other examples of how law students are being engaged, click [here](#).³⁰

Developed by representatives at Symantec, HP, and Apple in 2009, the Bay Area Corporate Pro Bono Co-operative (the Co-op) assists corporate legal departments with doing pro bono work. The Co-op helps engage employees, facilitates training, and provides a web-based attorney sign-up system. To become involved, a corporate legal department simply contacts the Co-op coordinators (two volunteer firm attorneys) to develop a pro bono program tailored to the department’s needs. The Co-op organizes training, helps with logistics, and provides continuing support to the volunteers. After attending a training session, volunteers can register for pro se advice clinics run by Bay Area legal services providers using an online reservation system. Since its establishment, the Co-op has gained additional members, including Cisco, Adobe, SAP, Google and NetApp, and has partnered with three local legal services agencies to provide staffing for clinics and later mentoring on cases.

Since 1982, the Minnesota Justice Foundation (MJF) has coordinated a 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. During the 2011-2012 school year, MJF created and filled two thousand law student volunteer placements.

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 a 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, by possibly involving business, public administration, medical, social work, or undergraduate 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 with intake at a legal clinic. 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 Personnel:* 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, an enormous amount of experience, and a desire to give back to the community. With the right training and supervision, they can be a tremendous resource.

3. *Other Non-Lawyers:* Several federal programs permit non-lawyers to serve clients, including applying for Medicaid, food stamps, housing, Social Security, immigration relief, 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 eligibility assessments and file applications for programs such as the Supplemental



Left to right: Frank B. Strickland of Strickland Brockington Lewis LLP, Sharon L. Browne, Robert J. Grey, Jr. of Hunton & Williams LLP

Nutrition Assistance Program (SNAP, otherwise known as Food Stamps), Medicaid, Medicare Part D, child care subsidies, Temporary Assistance for Needy Families (TANF), and various other federal programs. To learn more about CCDC and TBB, click [here](#).

e. Using Pro Bono Lawyers to Assist 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 have legal assistance. At the same time, 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. Finally, a number of comprehensive websites and tutorials aimed at empowering pro se litigants also exist, such as the Connecticut Network for Legal Aid.³¹ You can read more about programs working to empower pro se litigants [here](#).

f. Encouraging Collaboration and Resource Sharing Among Pro Bono Programs

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. Hence, the overall quality of legal services delivery varies greatly on a state-by-state and region-by-region basis.³² 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 members of the legal community can

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. Many local legal aid organizations use the “prescription pad” to make referrals. In 2011, the various help desks in the city collectively helped more than 65,000 people – all of whom were already in court and in desperate need of assistance.



Left to right: Teresa W. Roseborough of The Home Depot, JoAnne A. Epps of Temple University Beasley School of Law, and David A. Kutik of Jones Day

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 intake. BayLegal handles the first intake interview and enters information into a database that addresses both BayLegal's and VLSP's requirements. The information in the database then enables VLSP to run a conflict check and follow-up with a short (usually ten minute) second-level intake interview. This process allows the two entities to share information and results in better referrals to pro bono lawyers without a lengthy follow-up interview.

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. Individual lawyers and law firms can partner to tackle critical systemic issues facing LSC grantees' clients, as they have in Richmond, Virginia, where a consortium of ten law firms has developed the "Firms in Service" model to facilitate collaboration rather than competition for pro bono projects among firms. 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 to tackle tough problems in the community, 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.

The Pro Bono Collaborative in Rhode Island is one great example of how much can be accomplished through collaboration. That organization uses a staff of two part-time attorneys to act as an intermediary and form partnerships among non-profit community organizations, law firms, and law schools to work on pro bono matters together.

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 their own costs by sharing resources and empowering pro se litigants by arming them with information.

Illinois Legal Aid Online (ILAO), for example, offers a library for would-be



John G. Levi of Sidley Austin LLP, LSC Board Chairman

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 for screening and placing cases, which creates a one-stop shop of options for clients and volunteers, tracks needs and outcomes on a system-wide basis, and saves the cost of developing and maintaining duplicate platforms. 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.

Additional examples of terrific collaborative efforts around the country can be found [here](#).



Martha Minow of Harvard Law School, Pro Bono Task Force Co-Chair

g. Using Technology to Support Pro Bono Programs

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 Initiative Grants (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*³³ (commonly referred to as the “Baselines Report”), which addresses best practices in technology related to the 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.

New technologies have emerged since the Baselines Report was issued, however, with the development of tools such as cloud computing, the rise of social media and the virtual office, and new means of data storage and information sharing. LSC should update its *Baselines Report* to include those technologies and to

make recommendations on how to use technology collaboratively at the state and local levels.³⁴

LSC grantees should, to the extent possible, have in place for the management of their 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 web development. Grantees and other organizations in the vast majority of states and territories use one of these two templates, and they currently are being adapted for mobile browsing. Ideally, every website should:³⁵
 - o Allow pro bono lawyers to review available cases and 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, through which pro bono managers can

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. 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 are given real-time information on availability, priority, and eligibility for services. The technology used by 211 also permits extensive data collection to facilitate ongoing assessment of the program.

take turns being available to respond to questions that pop up on their computers while they are doing other work; and

- o Have the ability to push information out through an RSS feed.³⁶ 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 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, but they can be used to facilitate pro bono as well. 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. Other CMS features that might facilitate pro bono work include:

- o The ability to integrate, modify, and personalize form e-mails and other correspondence. 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 The ability to collect information pertinent to the client's legal problem. Volunteer lawyers can then access that information

The Legal Services National Technology Assistance Project (LSNTAP) began in 2001 with funding from LSC's 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.



Left to right: David M. Pantos of Legal Aid of Nebraska, Mary K. Ryan of Nutter McClennen & Fish LLP, and The Honorable James D. Moyer, Magistrate Judge, U.S. District Court for the Western District of Kentucky



Left to right: JoAnne A. Epps of Temple University Beasley School of Law, Teresa W. Roseborough of The Home Depot, Lisa C. Wood of Foley Hoag LLP, and Martha Minow of Harvard Law School

via a secure log-in and record case notes and time records so they are all stored in one place.

- o The ability to monitor the progress of a case, track expenditures, and record attorney time.
- o The ability to designate a given case as a pro bono matter, 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. Some CMS programs 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 require 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 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,³⁷ 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,³⁸ and these tools can help attract potential volunteer lawyers. Social media is particularly useful for generating new ideas, facilitating conversations, and collecting feedback from volunteers.³⁹ LSC itself can be found on Twitter under the handle @LSCtweets.⁴⁰ The ABA Center for Pro Bono (which itself maintains an excellent blog⁴¹ about pro bono) recently documented current and potential uses for social media

In 2011, Legal Aid of Nebraska attorney Pat Ford suffered a debilitating stroke. Pat's entire caseload involved legal services for homeless and near-homeless Nebraskans. The day after Pat's stroke, the president of the Nebraska State Bar Association sent an email to over 1,000 lawyers throughout the state requesting volunteers to help take on Pat's caseload. By the end of the week, all of Pat's remaining cases were placed with private attorneys working for free.

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.⁴²

Social media also can be used 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 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,⁴³ including those (like many emeritus lawyers) who lack office space or work from a virtual office. 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 send updates about how lawyers may assist following a disaster.
- o Provide practice support to pro bono lawyers in remote 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 Inform the public about the importance of pro bono and civil legal services.
 - o Conduct community surveys to assess client need.
 - 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%.⁴⁴ Even those who do not have smartphones often have the ability to send and receive text messages. There is great potential, therefore, for LSC grantees to use smartphone and texting technologies to reach clients and engage pro bono lawyers. Several grantees already are building apps for their volunteers, such as those 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)⁴⁵ 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



Left to right: Michael L. Monahan of the State Bar of Georgia Pro Bono Project / Georgia Legal Services Program, David M. Pantos of Legal Aid of Nebraska



William T. Robinson III, Immediate Past President of the American Bar Association

be used to remind clients of court dates. These reminders can even be integrated into a CMS and sent automatically.

- **Collaborative Pro Bono**

Platforms: Keeping up with cutting-edge technology requires time and resources, and thus presents a perfect opportunity for collaboration. Although there are some promising partnerships 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, ultimately encouraging the development of a portal to which all parties in the community could connect. For example, LSC might consider spearheading the development of a single CMS for all of its grantees, so that everyone would be under a single system.

Finally, LSC should consider either using challenge grants to spur

innovations in technology or seeking 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 challenge grants to foster innovations in science, technology, and education. 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.⁴⁶ In the first year alone, thirty-six agencies were awarded prizes of over \$38 million.⁴⁷ LSC should explore the feasibility of conducting and funding its own such challenge to build an integrated platform for its grantees. Once again, any resources for such a grant should not come at the expense of existing funding.

- h. **Using Pro Bono to Decrease Demand for Legal Services**

Pro bono lawyers are a great potential resource for reducing 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 consider 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](#).

- i. **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 the leadership of legal aid organizations must commit to pro bono in order for it permeate an organization's culture. There are several steps leaders can take to show that support.⁴⁸ First, leaders themselves 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 those lawyers' successful support of pro bono efforts. 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 to that manager. LSC can play a role in supporting these efforts by directing some of the information and resources contemplated in the toolkit recommendation above to sharing successful efforts among grantee leadership to shape and create pro bono cultures. Grantees looking to strengthen their pro bono cultures also can take advantage of the ABA Center for Pro Bono's Peer Consulting Project, which enlists volunteers to conduct a



Left to right: Diana C. White of the Legal Assistance Foundation of Metropolitan Chicago, Nan Heald of Pine Tree Legal Assistance, John E. Whitfield of Blue Ridge Legal Services, and Colleen M. Cotter of the Legal Aid Society of Cleveland

An elderly Shenandoah County, Virginia, widow needed money to repair her car. In desperation, she took out a payday loan at an interest rate of over 200%. After making monthly payments of between \$200-\$500 out of her Social Security check of \$624 for nearly three years, she still owed more than she had borrowed. Finally, she sought help from Blue Ridge Legal Services. Pro Bono attorney Grant Penrod challenged the legality of the loans under Virginia's usury laws, and ultimately won before the Virginia Supreme Court, which unanimously outlawed the payday industry practice of "flipping" loans each month to evade interest ceilings, a practice that created what the court called "a vicious cycle of debt."

two-day, onsite evaluation and then reports on potential improvements to the organization's pro bono program.

Organizations also should consider, if appropriate, establishing a special advisory committee, composed of key organization staff and private lawyers, corporate counsel, bar leaders, and law school representatives, to help manage their pro bono programs. This group could help set policy or guidelines, develop program goals and priorities, champion legal services in the community, create new connections to increase the pool of available volunteers, help fundraise for the organization's pro bono program, and ensure adequate attention to systems and issues. Finally, 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 highlight their successes.

j. **Adequately Resourcing Pro Bono Programs**

Creating a quality pro bono program requires a commitment of time and money. Many of the recommendations

in this report would be costly – much beyond the 12.5% of their grant money that LSC requires its grantees to spend on Private Attorney Involvement (PAI) – and thus especially challenging to implement in light of the current economic environment. There are several steps that LSC and its grantees can take, however, 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 AJCs, that are studying and recommending ways to create new funding sources, including new fees, such as *pro hac vice* fees, or voluntary contribution check-offs on dues forms; and
- LSC should provide guidance and training to development professionals and executive directors in fundraising. LSC also can advocate with potential funders, including foundations and the legal community, about the importance of supporting pro bono programs.⁴⁹

Recommendation 2: LSC Should Revise Its Private Attorney Involvement (PAI) Regulation to Encourage Pro Bono.

LSC's Private Attorney Involvement (PAI) regulation, promulgated in its current form in 1985, directs grantees to expend 12.5% of their basic field grants to encouraging "the involvement of private attorneys in the delivery of legal assistance to eligible clients."⁵⁰ 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."⁵¹ Decisions about how to implement the "substantial involvement" requirement rest with the local LSC grantees and their boards, but those decisions are subject to "review and evaluation" by LSC.⁵²

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 use their grants to foster pro bono participation. Section 1614.3 of the regulation describes the range of activities that may be counted toward the PAI requirement and the ways costs related to the PAI effort are identified and accounted for. In practice, the regulation poses complications in certain areas for LSC grantees. LSC therefore should reexamine the regulation in the following areas:

(a) Resources spent supervising and training law students, law graduates, deferred associates, and others should be counted toward grantees' PAI obligations, especially in "incubator" initiatives. Because they are not considered "private attorneys," contributions of law students or graduates not yet admitted to the bar do not count toward grantees' PAI requirements.⁵³ Contributions from law school clinics can be counted only if a private attorney supervises the students (including a professor because the professor is considered a "private attorney").⁵⁴ 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, and many of them have sought to gain experience while giving back to their communities through pro bono work. Although these lawyers are a great potential resource, engaging them requires time and resources on the part of LSC grantees. For example, 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, to benefit the grantee by providing trained attorneys to handle cases for a modest payment, and to benefit low-income clients by increasing the supply of available lawyers. In Advisory Opinion 2009-1007, LSC held that payments to the lawyers after they left the "incubator" could count toward the grantee's PAI obligation only if the payments were not more than 50% of the lawyers' total compensation. Whether the funds were counted therefore depended on whether the lawyer was 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.



Left to right: The Honorable James E. Doyle of Foley & Lardner LLP, and Ronald S. Flagg of Sidley Austin LLP

When Mrs. P., a Spanish-speaking, 74 year-old victim of domestic violence, sought assistance with a divorce, Bay Area Legal Services referred her to a bilingual pro bono attorney in the area. Mrs. P. had been married in 1953. Her husband had a gambling problem and, one day when Mrs. P. went to the local casino to find him, he grabbed her by her blouse, lifted her and pushed her against the wall. He was arrested after the police saw the attack on the the casino's videos. Mrs. P. later found out that her husband had been taking all of her Social Security checks. The volunteer attorney who took Mrs. P.'s case succeeded in obtaining a divorce for her and obtained a court order that she was to receive half of the monthly benefit from Mr. P.'s Florida Retirement System Pension and half of Mr. P.'s military retirement benefits via Qualified Domestic Relations Orders (QDROS). The pro bono attorney secured the services of another volunteer experienced with QDROS to help with that process. The pro bono lawyer was so inspired by her experience that she shared them with the Tampa Bay Hispanic Bar Association, and encouraged others to take on cases of their own.

(b) Grantees should be allowed to spend PAI resources to enhance their screening, advice, and referral programs that often attract pro bono volunteers while serving the needs of low-income clients.

Currently, 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 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. After being screened through the hotline, LSC-eligible clients were referred back to one of the four LSC-funded organizations in the state. LSC concluded that the organization that funded the hotline could not count the expense toward its PAI obligation because the legal aid lawyers who staffed it received more than 50% of their compensation from the LSC-funded agency that housed the hotline, and none of the organizations that accepted referrals from the hotline could count them as PAI cases either.

The same issue arose 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. This unit screened cases before referring them to a network of volunteer attorneys in the grantee's service area. The clients served met LSC's eligibility guidelines, but they were not counted as part of the grantee's caseload and the grantee did not take responsibility for determining the outcome of the referrals.

The Task Force has reported on how efficient 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.

(c) LSC should reexamine the rule that mandates adherence to LSC grantee case handling requirements, including that matters be accepted as grantee cases in order for programs to count toward PAI requirements.

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 that meet the guidelines they can take. 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, as 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 (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. 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, such collaborative efforts are only possible with the support and substantive



Left to right: Esther F. Lardent of the Pro Bono Institute, and Frank B. Strickland of Strickland Brockington Lewis LLP

expertise of legal aid lawyers. Thus, 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 regulation to ensure that it effectively encourages pro bono participation.

Recommendation 3: LSC Should Launch a Public Relations Campaign on the Importance of 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 increase public awareness of these issues.

As a starting point, LSC should convene a small group to explore launching a national public relations campaign to: (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.⁵⁵

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 AJCs – have done important work in this area. A number of states also have launched statewide campaigns aimed at increasing pro bono work among private attorneys. This includes the One Campaign,⁵⁶ a statewide campaign in Florida 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*,

Alaska's *Early Resolution Program* schedules a number of divorce cases in a single court on one afternoon and then brings in pro bono lawyers to represent both sides. In its first year, 80% of cases resulted in settlements.



Members of the Pro Bono Task Force at their inaugural meeting

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.

*My Maryland*⁶⁷; and similar programs in Arkansas, Illinois, Texas, and Washington. The ABA⁶⁸ and National Celebration of Pro Bono⁶⁹ websites both provide speeches, videos, and other resources for launching a public relations campaign. 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 by NLADA and the Center for Law and Social Policy. They conducted a series of ten focus groups and a national survey to determine what Americans knew and thought about legal aid, as well as what messages would work with the public, and then issued a toolkit 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. Although much great work was done after the toolkit was released, eventually funding for the project ended. Thus, while the materials from that campaign are still largely relevant and useful, they are not currently being used and provide an excellent starting point for further action.

Our recommendation is to build upon the excellent work already done by these organizations, starting with the report issued by NLADA and the 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 begin by addressing a number of challenges and open questions, including how to pay for the campaign, who the audience should be, and how to administer and implement the campaign.

Recommendation 4: LSC Should Create a Fellowship Program to Foster a Lifelong Commitment to Pro Bono.

One of the working groups that the Task Force convened for purposes of this report was tasked with developing "Big Ideas" for greatly 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. This fellowship proposal is unique in that its focus would be on building lifelong commitments to civil legal services and long-lasting connections between LSC grantees and law firm pro bono lawyers.

We envision that interested law students would apply and be selected for the fellowships by both the firm and the host LSC grantee shortly after their second year summer programs with participating firms. Fellows would select a legal focus area for their fellowship, such as domestic violence or housing, which would allow them to develop subject matter expertise within their firms. Incoming fellows would prepare during their final year of law school by taking part in relevant clinics, externships, or coursework so that they could begin the fellowship with some level of familiarity with their chosen subject area. We hope that law schools, in turn, would make relevant education, such as providing clinical and experiential learning 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. Rather, they would devote their first year to pro bono work under the supervision of firm lawyers and lawyers at the local LSC grantee, gaining valuable



Left to right: The Honorable John T. Broderick, Jr. of the University of New Hampshire School of Law, The Honorable Sven E. Holmes of KPMG LLP, and George H. Hettrick of Hunton & Williams LLP

practice skills and building subject matter expertise within their firms, referring cases to their colleagues, coordinating training, and offering continued support as others take on cases. 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. They would participate in regular firm training and, as firm employees, the firms could count the fellows' pro bono hours when reporting to outside sources. 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;⁶⁰ where will the fellows be housed; who will supervise the fellows' work; and how can the program be used to benefit grantees in rural areas. Other possibilities are to create similar fellowship programs to engage emeritus/senior lawyers, law student summer interns, or recent college graduates to work at LSC grantees. We recommend that LSC convene an exploratory working group to address these open questions, examine existing fellowship programs, and make these proposals a reality.

III. Requests for Assistance from the Legal Profession (Not Directed at LSC Board)

a. Requests of Bar leaders and the Judiciary:

1. To the Extent Permitted, Recruit Pro Bono Lawyers. Support and Applaud Their Pro Bono Efforts.

The judiciary, consistent with applicable judicial conduct rules, should use its 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.

Courts have a unique ability to recruit and inspire lawyers to give back through pro bono. In New York, for example, Chief Judge Jonathan Lippman's announcement about a pro bono service requirement for new lawyers illustrates the impact that creative and forward-thinking judicial leadership can make.

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 requirement will 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 on implementation of the new prerequisite, seeking input from all of the affected

constituencies in New York State, including the legal services providers that will be called upon to support these law student and new lawyer volunteers, 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.

New York's experience will provide a template for other states considering a similar requirement for bar admission, and an opportunity for legal services offices to engage students in their work. We look forward to the release of the new rules and the potential impact it will have on other states.

With assistance from the National Center for State Courts (NCSC),⁶¹ the Conference of Chief Justices (CCJ), the Conference of State Court Administrators (COSCA),⁶² State Bar leaders, the ABA Judicial Section, and other similar resources, judges can play a number of other roles in addressing this crucial issue. The judiciary can ensure adoption of rules that facilitate access to justice. They can, where appropriate, actively recruit pro bono volunteers, publicly recognize volunteer contributions,⁶³ 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 reorganize their own operations to better accommodate programs and help pro se litigants. They can emulate efforts by courts around the country to create innovative

court-based programs, like self-help desks for pro se litigants, that create limited opportunities for pro bono participation in their jurisdictions. For examples of such initiatives, click [here](#).

Even 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 rate.

The local judiciary can be particularly important in encouraging, promoting, and rewarding pro bono work in rural communities. LSC, its grantees, and others wishing to engage judges and bar leaders in rural areas and elsewhere can:

- 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 – and also ask them to enlist other judges;
- Ask judges to serve on AJCs or local pro bono committees;
- Invite judges to speak about pro bono;
- Enable judges to personally recognize those involved in pro bono. 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, given at a formal dinner every year; and
- Encourage the judiciary to adopt rules and procedures that support pro bono lawyers and help pro se litigants.

2. Use Bar Associations to Encourage, Support, and Celebrate Pro Bono.

Bar associations are a critical resource for pro bono programs, and many contribute considerable energy to support and celebrate pro bono involvement by their members. Bar associations can be important sources of training for pro bono lawyers. They can offer funding for legal services, as is done by the Chicago Bar Foundation. They can develop and maintain new pro bono programs, such as in New York City, where the City Bar Justice Center runs a dozen programs to enlist and engage pro bono lawyers. They can provide a platform to educate others about legal services and the importance of pro bono work, as is done by the ABA through its National Celebration of Pro Bono,⁶⁴ and can recognize pro bono contributions of their members through awards. And they can provide collaborative environments where their various constituents can come together in support of pro bono. We applaud these contributions, and encourage bar associations to continue their creative and energetic support for pro bono programs going forward.

3. Judges and Bar Leaders Should Amend Attorney Practice, Judicial Ethics, and CLE Rules to Support Pro Bono.

i. Provide CLE Credit for Pro Bono Work

One way of encouraging pro bono work is to provide 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.⁶⁵ Specifically, based on the state programs surveyed,

we recommend drafting a proposed model rule that would:

- Minimize the number of administrative hurdles for lawyers seeking CLE credit for pro bono;⁶⁶
- Provide a manageable ratio of pro bono hours to CLE credit awarded. Otherwise, lawyers will find it much easier to simply watch a webinar or attend a short course;
- Provide ethics or professionalism credit; and
- To address concerns that it will hurt MCLE providers financially or replace traditional CLE, limit the number of CLE credits that can be obtained by performing pro bono.

ii. Revise 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.

Rule 3.7 of the ABA's Model Code of Judicial Conduct expressly allows judges to encourage lawyers to provide pro bono legal services, and comments to that rule state that, in addition to appointing lawyers to serve as counsel, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono, 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.⁶⁷

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 admitted to practice, in limited circumstances (such as after a major disaster), could erase huge barriers to pro bono.⁶⁸ Other rule changes could permit lawyers who are retired or inactive to provide pro bono services without having to pay bar dues or fulfill CLE requirements.⁶⁹

Many states' rules allow for unbundling of legal services or limited scope representations.⁷⁰ 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. Other states relax conflicts rules for lawyers participating in legal service hotlines or other short-term representation programs.⁷¹

Finally, State Bars can play a role in promoting pro bono services by requiring or encouraging lawyers to report their pro bono hours or communicating expectations that lawyers should provide pro bono services.⁷² At the very least, these rules help to put pro bono in front of lawyers on a regular basis and, ideally, will cause some to act.

4. Create or Strengthen State Access to Justice Commissions

Many states' high courts have created AJCs or similar statewide entities to address legal services for indigent clients on a statewide level.⁷³ They usually are 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, engage local corporate law departments, create task forces, hold conferences, and provide training for legal aid staff and volunteers. Some also work to improve access to courts for pro se litigants.⁷⁴ The ABA has compiled significant resources for states seeking to create their own AJCs.⁷⁵

Successful AJCs have consistent participation from state supreme court justices, are accountable to multiple institutions, rather than just the judiciary or the bar, and have a full-time executive director or other staff. When carried out effectively, these AJCs can bring together stakeholders to coordinate and encourage innovation in legal services, including pro bono, and can create a broad-based pro bono culture within a state.

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.



Left to right: Lisa C. Wood of Foley Hoag LLP, Gloria Santona of McDonald's Corporation, E. Paige Sensenbrenner of Adams and Reese LLP

b. Requests of the Legal Profession: Recognize the Importance of Pro Bono.

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 legal services. Recent cuts in funding have cut resources – including those needed to develop an effective pro bono infrastructure – to the bone.

The legal profession as a whole should 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 the cost of developing and maintaining effective pro bono programs.

Every legal service provider has been affected 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 funding has been

drastically cut both at the federal and state levels.⁷⁶

In some states, LSC grantees and others have launched active campaigns to raise additional dollars from the private bar, including from their pro bono partners. State AJCs and other groups have successfully recommended adoption of new fees, such as *pro hac vice* fees, or voluntary contribution check-offs on bar 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 also should consider launching fundraising campaigns and exploring new sources of funding.⁷⁷ Everyone should recognize that while pro bono lawyers can help, they cannot do so without the support, expertise, and time of legal aid lawyers.

IV. Summary of Recommendations and Conclusion

The foregoing recommendations are meant to create a roadmap for LSC, its grantees, and the legal community to effectively engage the private bar to address the justice gap in the United States. LSC and its grantees will require resources to make the recommendations contained in this report a reality. The Task Force is committed to assisting in these efforts.

LSC should take the following next steps:

- Work collaboratively with national stakeholders (such as the ABA Center for Pro Bono, NAPBPro, APBCo, 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 at its grantees. LSC should start by:
 - o Bringing these national stakeholders together to assess what already exists and what needs to be done;
 - o In partnership with others, creating a comprehensive toolkit for building strong pro bono programs, including by providing guidance on how to evaluate those programs;
 - o Facilitating LSC grantee access to and use of existing technologies that enable volunteers to take on and coordinate work on cases, training, case management, and provision for services from a distance, all online;
 - o Hiring a full-time staff person at LSC responsible for helping grantees develop and strengthen their own pro bono programs.
 - o Considering ways in which LSC and its grantees might reduce demand for legal services;
 - o Working with existing groups to create a professional organization specifically for pro bono coordinators at LSC-funded organizations; and
 - o Recommending that Congress create a new Pro Bono Innovation/Incubation Fund modeled on the successful Technology Initiative Grants (TIG) program.
- Task a committee with recommending revisions to LSC's Private Attorney Involvement regulation to better encourage pro bono;
- Convene a small group of 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 launching a fellowship program for new graduates and emeritus lawyers focused on LSC matters. 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.



Left to right: JoAnne A. Epps of Temple University Beasley School of Law, David A. Kutik of Jones Day, The Honorable James E. Doyle of Foley & Lardner LLP, and Joseph Genereux of Dorsey & Whitney LLP

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

Bar leaders and the judiciary:

- Work through organizations such as the National Center for State Courts and, to the extent permitted by ethics rules, use their influence to support pro bono efforts and to recruit pro bono lawyers;
- Speak and write about the crisis in legal services and the critical need for pro bono assistance; and

- Where possible, advocate for additional funding for civil legal services at the state and federal levels.

State Bar leaders and judges 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 and recognize pro bono attorneys;
- Allowing opportunities for limited-representation and unbundling of services;
- Relaxing conflicts of interest rules for brief service models, such as hotlines and clinics;

- Allowing lawyers to take on pro bono matters in jurisdictions other than those in which they are admitted to practice; and
- Considering other creative and ambitious solutions, such as Chief Justice Lippman's recent move to require pro bono service by all new lawyers in New York.

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.

Little can 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 tireless efforts of legal aid lawyers, who are experts in what they do and who work on the front lines every day. Policymakers should fund programs to support pro bono involvement, but this should not come at the expense of adequately funding legal services.

The Task Force is committed to helping in these efforts going forward, and to doing what it can to make sure that the price of entry does not prohibit accessing the justice system in the United States.

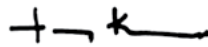
ACKNOWLEDGMENTS

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Martha Minow, Task Force Co-Chair
Harvard Law School; LSC Board of Directors



Harry J.F. Korrell III, Task Force Co-Chair
Davis Wright Tremaine LLP; LSC Board of Directors



John G. Levi
Chairman, LSC Board of Directors; Sidley Austin LLP



James J. Sandman
President, Legal Services Corporation

Best Practices Rural Working Group Members & Support

The Honorable James D. Moyer,
Co-Chair
Magistrate Judge, U.S. District Court for the Western District of Kentucky

The Honorable Deanell Reece Tacha,
Co-Chair
Pepperdine University School of Law; former Chief Judge, U.S. Court of Appeals for the Tenth Circuit

The Honorable John T. Broderick Jr.
University of New Hampshire School of Law; former Chief Justice, New Hampshire Supreme Court

Sharon L. Browne
LSC Board of Directors

Christian L. Campbell
YUM! Brands, Inc.

Renée Glover Chantler
DLA Piper

Dana J. Cornett
Blue Ridge Legal Services

Nan Heald
Pine Tree Legal Assistance

Larry S. McDevitt
Chair, American Bar Association Standing Committee on Pro Bono & Public Service

David M. Pantos
Legal Aid of Nebraska

John E. Whitfield
Blue Ridge Legal Services

Best Practices Urban Working Group Members & Support

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Lowenstein Sandler PC

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Community Legal Services of Philadelphia

Colleen M. Cotter
The Legal Aid Society of Cleveland

Charles Crompton
Latham & Watkins LLP

Ronald S. Flagg
Sidley Austin LLP

L. Joseph Genereux
Dorsey & Whitney LLP

Richard Gruenberger
DLA Piper

Natalie J. Kraner
Lowenstein Sandler PC

Maureen Thornton Syracuse
District of Columbia Bar

The Honorable David S. Tatel
Judge, U.S. Court of Appeals for the District of Columbia Circuit

* 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.

Jewel McGowan Watson
Lowenstein Sandler PC

Diana C. White
Legal Assistance Foundation
of Metropolitan Chicago

Ken Zimmerman
Lowenstein Sandler PC

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Co-Chair
KPMG LLP; former Chief District
Judge, U.S. District Court for the
Northern District of Oklahoma

Teresa W. Roseborough, Co-Chair
The Home Depot

Mark B. Childress
U.S. Department of Justice Access
to Justice Initiative

Katie Jahnke Dale
DLA Piper

Lisa R. Dewey
DLA Piper

The Honorable James E. Doyle
Foley & Lardner LLP; former Governor
of Wisconsin

Anne Geraghty Helms
DLA Piper

David A. Kutik
Jones Day

Esther F. Lardent
Pro Bono Institute

John G. Levi
Chairman, LSC Board of Directors;
Sidley Austin LLP

The Honorable Jonathan Lippman
Chief Judge, State of New York; Chief
Judge, New York Court of Appeals

Lee I. Miller
DLA Piper

Martha L. Minow
Harvard Law School

Gloria Santona
McDonald's Corporation

Cliff Sloan
Skadden, Arps, Slate, Meagher &
Flom LLP & Affiliates

The Honorable Dick Thornburgh
former U.S. Attorney General; former
Governor of Pennsylvania

The Honorable Diane P. Wood
Judge, U.S. Court of Appeals for
the Seventh Circuit

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Nutter McClennen & Fish LLP

E. Paige Sensenbrenner, Co-Chair
Adams and Reese LLP

Linda K. Rexer, Co-Chair
Michigan State Bar Foundation

JoAnne A. Epps
Temple University Beasley School
of Law

Robert J. Grey, Jr.
Hunton & Williams LLP

The Honorable Wallace B. Jefferson
Chief Justice, Supreme Court of Texas

The Honorable Patricia A. Madrid
Former New Mexico Attorney General

Ginny Martin
New Hampshire Bar Association

Lynn Overmann
U.S. Department of Justice Access
to Justice Initiative

Roberta A. Ritvo
DLA Piper

Laura Stein
The Clorox Company

Frank B. Strickland
Strickland Brockington Lewis LLP

Angela Vigil
Baker & McKenzie

Jo-Ann Wallace
National Legal Aid & Defender
Association

Technology Working Group Members & Support

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Scripps Networks Interactive

Kathryn J. Fritz, Co-Chair
Fenwick & West LLP

Renée Glover Chantler
DLA Piper

Terry M. Hamilton
Lone Star Legal Aid

Jeffrey N. Hyman
Apple Inc.

Robert Kayihura
Microsoft Corporation

Deborah Leff
U.S. Department of Justice Access
to Justice Initiative

Michael L. Monahan
State Bar of Georgia Pro Bono Project/
Georgia Legal Services Program

Glenn Rawdon
LSC Technology Initiative Grants
Program

Thomas F. Smegal Jr.
Friends of Legal Services Corporation

Lisa C. Wood
Foley Hoag LLP

¹ 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, at 23. With regard to the relative cost and availability of civil legal assistance, the United States ranked 52nd out of the 66 countries examined. *Id.*; 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).

² Associated Press, *Poverty in United States Soars to Levels Not Seen Since 1960s*, Fox News Latino, July 22, 2012, <http://latino.foxnews.com/latino/news/2012/07/22/poverty-in-united-states-soars-to-levels-not-seen-since-160s/>; Editor, *How America's Losing the War on Poverty*, Tri States Public Radio, Aug. 4, 2012, <http://www.tristatesradio.com/post/how-americas-losing-war-poverty>.

³ U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2011*, at 18 (Sept. 2012). <http://www.census.gov/prod/2012pubs/p60-243.pdf>.

⁴ Legal Services Corporation 2012 Income Guidelines, Appendix A to 45 C.F.R. Part 1611, 77 Fed. Reg. 4909 (Feb. 1, 2012). <http://www.lsc.gov/sites/default/files/LSC/pdfs/45CFRPart1611AppendixA2012Income%20Guidelines.pdf>

⁵ See, e.g., Melanca Clark & Maggie Barron, *Foreclosures: A Crisis in Legal Representation* (Brennan Ctr. For Justice, 2009); Laura Arenschield, *Funds for Free Legal Aid Sink as Need Rises*, The Columbus Dispatch, Aug. 5, 2012, <http://www.dispatch.com/content/stories/local/2012/08/05/funds-for-free-legal-aid-sink-as-need-rises.html>.

⁶ Quil Lawrence, *A New Generation of Vets Faces Challenges at Home*, NPR, Aug. 3, 2012, <http://www.npr.org/2012/08/03/157658364/a-new-generation-of-vets-faces-challenges-at-home>.

⁷ See *supra*, note 1.

⁸ See *Legal Services Corporation: America's Partner for Equal Justice*, LSC, <http://www.lsc.gov/>.

⁹ Legal Services Corp., *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low Income Americans 2-3* (Sept. 2009), http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf.

¹⁰ 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), http://www.brennancenter.org/blog/archives/reform_federal_civil_justice_policy_to_meet_the_high_stakes_legal_needs_of/.

¹¹ See *Legal Services Corp., Summary of Results of LSC Survey Grantees Re Impact of 2012 Budget Cuts on LSC Grantees' Finances and Services*, http://www.lsc.gov/sites/default/files/LSC/lscgov4/SUMMARY_OF_RESULTS_OF_LSC_SURVEY_GRANTEES_RE_IMPACT_OF_2012_BUDGET_CUTS.pdf

¹² 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. Boston Bar Assoc. Task Force on the Civil Right to Counsel, *The Importance of Representation in Eviction Cases and Homeless Prevention*, March 2012, <http://www.bostonbar.org/docs/default-document-library/bba-crtc-final-3-1-12.pdf>; see also Howard H. Dana, *Report to the*

House of Delegates: ABA Resolution on 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).

¹³ For information on the ABA's Pro Bono Summit, see *ABA President to National Pro Bono Summit: Progress is What We're Here for*, Oct. 25, 2011, available at <http://www.abanow.org/2011/10/aba-president-to-national-pro-bono-summit-progress-is-what-we%E2%80%99re-here-for/>.

¹⁴ 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," <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, <http://lsc.gov/sites/default/files/LSC/pdfs/ProgramLetter07-2.pdf>.
- The Michigan Nonprofit Association's "Basic Infrastructure Checklist," <http://mnaonline.org/CMDocs/MNA/Principles&Practices/checklist.pdf>.
- PILnet's "Pro Bono Clearinghouse Manual: Resources for Developing Pro Bono Legal Services," <http://pilnet.org/public-interest-law-resources/52-pro-bono-clearinghouse-manual-resources-for-developing-pro.html>.
- Emerging from the California Pro Bono Summit, the development of a 7 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.
- 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.

¹⁵ *Standing Committee on Pro Bono and Public Service and the Center for Pro Bono*, ABA, http://www.americanbar.org/groups/probono_public_service.html

¹⁶ ABA Standing Comm. on Pro Bono & Public Serv., *Center for Pro Bono Clearinghouse Library*, <http://67.29.152.234/dbtw-wpd/searchcpb.htm>

¹⁷ LSC's own website contains some resources, but they are limited and reportedly not well-trafficked.

¹⁸ The ABA Standards for Pro Bono Programs, which is in the process of being revised, also is a terrific resource for those working to build effective pro bono programs, see ABA Standing Comm. on Pro Bono & Public Serv., *Standards, Division for Legal Services*, https://www.americanbar.org/groups/probono_public_service/policy/standards.html

¹⁹ 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 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*, http://www.nlada.org/Insurance/Insurance_Home.

²⁰ 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).

²¹ These obstacles include limitations on the ability to practice after formal retirement, age, licensure, bar dues, CLE requirements, filing fees, and malpractice insurance requirements.

²² See Fedscope, <http://www.fedscope.opm.gov/>. “Legal positions” includes attorneys as well as administrative law judges, various administrative and managerial positions, and paralegals.

²³ 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 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.

²⁴ See Rule 49: Unauthorized Practice of Law, D.C. Courts, available at <http://www.dccourts.gov/internet/documents/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, D.C., see Government Volunteers, Probono.net/dc, <http://www.probono.net/dc/about/#Policies>.

²⁵ See, e.g., Hawaii Supreme Court Rule 17; State Bar of California Rule 2.54(b).

²⁶ See, e.g., *Best Practice Profiles*, Corp. Pro Bono, <http://www.cpbo.org/resources/best-practice-profiles/>. and David P. Hackett, Ed., *Pro Bono Service by In-House Counsel*, Practising L. Inst. (2010), for examples of robust in-house corporate pro bono programs.

²⁷ For a discussion of recommended changes to the PAI rules affecting LSC grantees’ use of law students, see Recommendation 2.

²⁸ The ABA Center on Pro Bono has a content-rich website for and about law school pro bono programs, including 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. See ABA Standing Comm. on Pro Bono & Public Serv *Law School Public Interest and Pro Bono Programs*, <http://apps.americanbar.org/legalservices/probono/lawschools/home.html>.

²⁹ *IIT Chicago-Kent to Develop eBook for National Cyber Clinic Pilot Program*, May 11, 2012, <http://www.kentlaw.iit.edu/news/iit-chicago-kent-to-develop-ebook-for-national-cyber-clinic-pilot-program>.

³⁰ 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 that this is an area that might be encouraged. 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 *Law School Public Interest and Pro Bono Programs*, *supra* note 28.

³¹ See Connecticut Network for Legal Aid, <http://ctlawhelp.org/>.

³² U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2011*, at 18 (Sept. 2012). <http://www.census.gov/prod/2012pubs/p60-243.pdf>

³³ *Technologies That Should Be in Place in a Legal Aid Office Today*, LSC, Nov. 2008, http://grants.lsc.gov/sites/default/files/Grants/Grants_Reference_Materials/technologybaselinereport.pdf

³⁴ LSC recently convened its 2012 Technology Summit on the Use of Technology to Expand Access to Justice, which looked at many ways in which new technologies can be used to promote legal services. White Papers from the Summit will be published by the *Harvard Journal of Law and Technology*.

³⁵ For examples of other pro bono websites, see the online version of this report at <http://lsc.gov>.

³⁶ 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.

³⁷ SIP phones connect to the Internet to place and receive calls. Each device has a unique IP address so calls can be routed to it.

³⁸ There has been much written about the use of social media by lawyers, including by legal aid lawyers. A 2010 report, *Using Social Media to Engage Your Supporters*, highlights the social media efforts of several legal aid and pro bono entities. Kate Bladow & Joyce Raby, available at http://lsntap.org/training_social_media_support_2010. 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. 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>.

³⁹ Lisa W. Borden, *Social Media and Pro Bono* (June 8, 2011), <http://thepebeye.probonoinst.org/2011/06/08/guest-blog-social-media-and-pro-bono>.

⁴⁰ In 2010, Technola, a technology blog for legal aid and public interest advocates, published a blogroll listing legal aid and pro bono programs and staff who maintained public interest blogs, <http://www.techno.la/promo/blogroll/>. It also published a 2009 “Twitter List of Legal Aid & Pro Bono Organizations,” <http://www.techno.la/2009/11/articles/technologies/social-networks/twitter-list-of-legal-aid-pro-bono-organizations/>.

- ⁴¹ ABA Center for Pro Bono Exchange (Blog), <http://centerforprobono.wordpress.com/>
- ⁴² Social Media and Pro Bono: An Essential for Program Success, ABA Dialogue (Fall 2011) http://www.americanbar.org/content/newsletter/publications/dialogue_home/dialogue_archive/lis_dial_fa11_probono1.html.
- ⁴³ 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>.
- ⁴⁴ 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>.
- ⁴⁵ <https://lawhelpinteractive.org/>
- ⁴⁶ 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 *Broadband USA: Connecting America’s Communities*, NTIA, <http://www2.ntia.doc.gov/about>. Some of these resources already have been spent on legal services. 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>.
- ⁴⁷ These crowd-sourcing contests are detailed more fully in www.Challenge.gov.
- ⁴⁸ One excellent resource for leaders looking to build a good pro bono culture is Betty B. Stallings, *12 Key Actions of Volunteer Program Champions: CEO’s Who Lead the Way* (2005), which identifies the importance of leadership support in creating a pro-volunteer culture in an organization, <http://www.bettystallings.com/newbook/pdf/5-219-12KeyActions.pdf>
- ⁴⁹ 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. 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.
- ⁵⁰ 45 C.F.R. § 1614.2(a).
- ⁵¹ 45 C.F.R. § 1614.2(c).
- ⁵² *Id.*
- ⁵³ External Opinion 2005-1001.
- ⁵⁴ *Id.*
- ⁵⁵ 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 far.
- ⁵⁶ <http://onepromiseflorida.org/>
- ⁵⁷ <http://mdcourts.gov/mdatjc/pdfs/mediakit.pdf>
- ⁵⁸ ABA Standing Comm. on Legal Aid to Indigent Defendants, *Resource Center for Access to Justice Initiatives*, http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/communications_resources.html
- ⁵⁹ *Resources*, Celebrate Pro Bono: Nat’l Pro Bono Celebration, http://www.probono.net/celebrateprobono/resources/folder.323461-Civic_Speeches
- ⁶⁰ 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.
- ⁶¹ NCSC is a tremendous resource for data and information on efforts by state courts to increase pro bono participation.
- ⁶² 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. The CCJ has issued resolutions highlighting the importance of pro bono representation and urging state courts to take steps to increase pro bono service by their bar members. See CCJ, *Resolution 7: Encouraging Pro Bono Service in Civil Matters*, (Feb. 1997) <http://apps.americanbar.org/legalservices/probono/doc/resolutionvii.pdf>; CCJ, *Resolution 23: Leadership to Promote Equal Justice*, (Jan. 2001) <http://ccj.ncsc.dni.us/AccessToJusticeResolutions/resol23Leadership.html>; CCJ, *The Importance of Funding for the Legal Services Corporation from the Perspective of the Conference of Chief Justices and the Conference of State Court Administrators* (February 2012), http://ccj.ncsc.dni.us/pdfs/LSC_WHTPR.pdf ; ABA Standing Comm. on Pro Bono & Public Serv., *Judicial Promotion of Pro Bono*, <http://apps.americanbar.org/legalservices/probono/judicial/resolutions.html>.
- ⁶³ For example, Colorado’s Supreme Court recognizes on its web site those law firms, solo practitioners and in-house counsel groups who make a voluntary commitment to devoting 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. Similarly, the District of Columbia courts 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>.
- ⁶⁴ *Celebrate Pro Bono: National Pro Bono Celebration Home*, <http://www.probono.net/celebrateprobono/>
- ⁶⁵ For a list of states which provide CLE credit for pro bono work, <http://apps.americanbar.org/legalservices/probono/clerules.html>.
- ⁶⁶ 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.
- ⁶⁷ ABA Standing Comm. on Pro Bono & Public Serv., *Judicial Promotion of Pro Bono*, http://apps.americanbar.org/legalservices/probono/judicial/statejudicialconduct.html#SI_KS.
- ⁶⁸ See, e.g., Rule XXII of the Rules Governing Admission to the Bar of Texas, <http://www.supreme.courts.state.tx.us/miscdoCKET/10/10917100.pdf> (allowing military lawyers allowed to represent service members and their families); D.C. App. Rule 49, <http://www.dccourts.gov/internet/documents/rule49.pdf> (dealing with 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 (allowing for 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/wp-content/uploads/2012/05/MJP-Article-May-2012.pdf> (discussing 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).

⁶⁹ ABA Commission on Law & Aging, *State Emeritus Pro Bono Practice Rules* (April 4, 2011), <http://www.americanbar.org/content/dam/aba/migrated/legalservices/probono/emeritus.authcheckdam.pdf>

⁷⁰ 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.

⁷¹ 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.

⁷² 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.

⁷³ Robert Echols, *Examples of State Access to Justice Commissions: Creation, Structure and Accomplishments*, http://www.law.stanford.edu/sites/default/files/event/266627/media/slspublic/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.

There are 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).

⁷⁴ See ABA Resource Center for Access to Justice Initiatives, http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/state_atj_commissions_resources.html.

⁷⁵ 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.

⁷⁶ Singsen, Gerry, *PAI – A Time for Reflection*, Management Information Exchange Journal, 29, 26-31 (Spring 2005).

⁷⁷ 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. ABA Standing Comm. on Legal Aid & Indigent Defendants, *Resource Center for Access to Justice Initiatives*, http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice.html.



LEGAL SERVICES CORPORATION

**REPORT OF THE
PRO BONO TASK FORCE**

OCTOBER 2012