

Pro Bono Service Gains Momentum

More lawyers are doing pro bono work, and pro bono lawyers are logging more volunteer hours. That good news comes from a survey released by the American Bar Association in February of this year. The data in *Supporting Justice II: A Report on the Pro Bono Work of American's Lawyers*,¹ resulted from phone interviews with 1100 practicing lawyers throughout the country who were asked about their volunteer legal work for the previous year—from April of 2007 to April of 2008. The focus was on Tier One pro bono work—free legal help for indigent individuals and organizations that serve them.

Close to three-quarters (73 percent) of the lawyers surveyed provided some amount of pro bono service. The respondents averaged forty-one hours of pro bono service for the previous twelve months. This is an upward trend when compared to a previous ABA study² completed in 2005. In that survey, 66 percent of lawyers reported doing pro bono work, with an average of thirty-nine annual hours.

The ABA's *Supporting Justice II* study went beyond the numbers to better understand the lawyers, their view of pro bono, what motivates them, and what barriers they face. Key facts emerged that will assist the bar and the legal community to design future pro bono programs.

What is pro bono service? Lawyers' views vary somewhat, but there is general agreement on important parameters:

- Most attorneys surveyed (64 percent) considered pro bono to mean free, rather than reduced fee, legal service. Most lawyers (70 percent) agreed that the client had to be of limited means, as determined by a referral source or their own knowledge of the client's finances, or by accepting the client's word or by requesting financial evidence of need.
- Most lawyers indicated that some, but not all, non-profit organizations should qualify for pro bono legal help. Determining factors include

the organization's purpose, the population it serves, and its budget. Only slightly more than a third of lawyers surveyed felt that a government agency should qualify for free legal help.

- Some activities other than direct legal services were perceived as being pro bono work. Over half of the lawyers surveyed agreed that serving on a board of a non-profit legal services organization, providing legal training to colleagues and citizens, and speaking on legal issues to lay audience would qualify.

There are some segments of the bar that are more active volunteers. Of the 73 percent of surveyed attorneys who did pro bono work, 81 percent were in private practice, 43 percent in the corporate setting, and 30 percent in government employment. Among the attorneys in private practice, the smaller the firm, the more pro bono service it renders to individual clients. In very large firms (101+ lawyers) pro bono work is more often given to non-profit organizations.

Interestingly, non-Caucasian attorneys in private practice (90 percent) were found more likely to do pro bono work than their Caucasian colleagues (80 percent).

Over three-quarters of the lawyers who had provided pro bono service did not go seeking pro bono work—it found them. Women attorneys tend to seek pro bono opportunities more often than do men, but that does not result in more pro bono hours. Younger attorneys were also more likely to seek out pro bono opportunities.

Legal aid and pro bono organizations were the most likely sources of referrals for pro bono cases. Solo practitioners are more likely than those in large firms to receive referrals from other attorneys, family, and friends.

What motivates attorneys to take pro bono cases? Among those doing pro bono work, the top three incentives

mentioned were free training/CLE credit for service provided, the ability to define the scope of the work, and encouragement by a judge. Employer attitudes and example had a significant impact on whether attorneys volunteer. If the firm had a clear policy on, and encouraged, pro bono service, the firm's attorneys were more likely to volunteer. Attorneys who did not do pro bono work in government and corporate settings were more likely to report that their employers discouraged pro bono work.

The ABA survey set out to identify factors that discourage pro bono service. Top dampening factors include lack of time, family commitments, competing billable hours, lack of skills, and lack of information on opportunities. Other restrictions included lack of administrative support, lack of desire, lack of malpractice insurance, and employer discouragement.

VBA Membership Survey Results Track National Numbers

The pro bono experience among Vermont attorneys is similar to that of their colleagues nationwide. In late March of 2009, the VBA began a membership survey that allowed attorneys to respond on-line to a series of questions about their profession. Included in the survey were two questions about pro bono: Do you currently provide pro bono or reduced rate legal services in your practice? If yes, how, typically, do you provide these services?

As of the end of June 2009, 220 respondents replied to these two questions. Seventy-five percent of those answering indicated that they provide pro bono or reduced fee services.

The ways in which pro bono was provided vary widely. Some attorneys volunteer with established organizations, such as Vermont Refugee Assistance, the Vermont National Guard Pro Bono Project, Legal Services Law Line, as public defenders, or working in a local legal clinic. Other Vermont attorneys give their legal services on an ad hoc basis to indigent clients of their firm, in a nursing home or with a non-profit,

visiting prisoners, or giving legal advice to pro se litigants. Some serve as acting judge, some as volunteer mediators.

The Vermont bar continues to compare favorably with national pro bono efforts. Vermont lawyers provide a unique blend of free and reduced fee legal services in a variety of formal and informal programs to serve those in need.

Mary C. Ashcroft, Esq., is the Pro Bono Coordinator at the Vermont Bar Association and maintains a private practice in Rutland, Vermont.

¹ Produced in 2009 by the American Bar Association Standing Committee on pro Bono and Public Service.

² *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, published by the ABA in 2005, is available at www.abaprobono.org/report.pdf.

