

FOREWORD

In 1993 the American Bar Association adopted Model Rule of Professional Responsibility 6.1, which establishes for each attorney an aspirational goal of 50 hours of pro bono service per year. The ABA's Standing Committee on Pro Bono and Public Service and its project, the Center for Pro Bono, recognize the longstanding efforts on the part of attorneys who work in mid-size law firms (those employing 50 or less attorneys) to provide free legal services to the needy in their community and to meet the commitment of Model Rule 6.1.

To assist mid-size firms and the pro bono organizations that work with these firms in developing successful and efficient pro bono policies and projects, the Center for Pro Bono has developed this **BLUEPRINT**. The **BLUEPRINT** guides pro bono practitioners and coordinators through the issues concerning the development of a mid-size firm pro bono project. The **BLUEPRINT** also highlights new and familiar models which will provide the bases for creating a successful project.

Principal credit for the drafting of this **BLUEPRINT** goes to Greg McConnell, Assistant Staff Counsel for the Center for Pro Bono. Editorial assistance was provided by B. Riney Green, a Member of the Standing Committee on Pro Bono and Public Service, Steven Scudder, Committee Counsel to the Standing Committee on Pro Bono and Public Service, and Bonnie Allen, Staff Counsel to the Center for Pro Bono.

Pro bono work requires sacrifice and dedication, both of time and money. However, in an era of decreased funding for legal services organizations and public support initiatives, the need has never been greater. This **BLUEPRINT** is an aid to helping those who are dependent on your assistance. Thank you for your commitment to pro bono work.

Honorable Judith M. Billings
Chair, ABA Standing Committee on Pro Bono and Public Service

INTRODUCTION

The American Bar Association Center for Pro Bono is pleased to present this packet of materials to provide guidance for developing a pro bono project for mid-size law firms (firms comprised of approximately 10-50 lawyers).¹ The Center realizes that the term "mid-size" may not accurately reflect a firm's size or stature relative to its market. For example a 45-attorney firm located in Los Angeles, California may be a "small" firm in that market, while a firm of the same size located in Nashville, Tennessee may be a "large" firm. Additionally, the Center also recognizes that firms of this size may vary substantially with respect to matters that may impact a firm's methods and means of providing pro bono work, including firm culture, management structure, areas of practice, practice group division, compensation policies, and partner-to-associate ratio. Because of the many variances among mid-size firms, this publication presents a wide variety of illustrative examples of policies and projects. Each illustration has been selected in an effort to present a textually and geographically diverse representation of approaches. Since many of the pro bono policies and project descriptions presented are not dated, the Center recommends contacting each law firm or pro bono organization before relying on its policy or project description in developing a pro bono project.

TABLE OF CONTENTS

INTRODUCTION	Page iii
TABLE OF CONTENTS	Page iv
I. CONTEMPLATE THE CONCEPT OF PRO BONO	Page 2
II. CONSTRUCTING A PRO BONO PROJECT	Page 4
A. Lay the Foundation: Establish a Commitment to Pro Bono Work	Page 4
1. Clarify the Reasons for Providing Pro Bono Work	Page 4
a. The Lawyer's Responsibility	Page 4
b. Pro Bono Provides a Firm with Substantial Economic Benefits	Page 4
i. Community Relations/ Client Building	Page 4
ii. Client Relations	Page 5
iii. Enhance the Image of the Legal Profession	Page 5
iv. Recruiting	Page 5
2. Develop a Pro Bono Policy Statement	Page 5
3. Establish a Pro Bono Committee	Page 6
4. Cultivate a Top-to-Bottom Commitment to Pro Bono	Page 6
B. Build a Framework	Page 6
1. Determine the Firm's Time Capacity and Flexibility	Page 6
a. Project Administration	Page 7
b. Supervisory Time	Page 7
c. Training Time	Page 7
d. Screening Time	Page 7
2. Determine the Community's Legal Needs	Page 7
C. Create a Structure: Establish a Pro Bono Project	Page 8

1.	Commit to Participate with an Independent Pro Bono Organization	Page 8
a.	Commitment Projects	Page 8
b.	Clinics	Page 9
c.	Hotlines	Page 9
i.	Standard Models	Page 9
ii.	CARPLS - a New Breed of Hotline	Page 9
2.	Develop a Signature Project	Page 10
a.	Firm-Sponsored Clinics	Page 10
b.	Represent Community Economic Development Organizations	Page 11
c.	Adopt a Nonprofit Organization	Page 11
d.	Special Projects	Page 11
i.	Conflict Clinics	Page 11
ii.	Time-Dollars Projects	Page 12
III.	IF YOU BUILD IT, WILL THEY COME?	Page 12
	- RECRUITING ATTORNEYS	
A.	Personal Satisfaction	Page 12
B.	Professional Growth for Young Lawyers	Page 13
C.	Billable Hours Credit	Page 13
D.	CLE Opportunities	Page 13
E.	Involve Summer Associates and Interns	Page 13
F.	Working with Attorneys in Different Practice Groups	Page 13
	FOR MORE INFORMATION AND RESOURCES	Page 13
	Endnotes	Page 15
	Attachments	
A-1	Supreme Court of Florida	Page 17
A-2	Marion Cowell: Putting His Term Into Perspective	Page 24
A-3	Reply to Charlotte Office March 14, 1997 "Corporations"	Page 27
A-4	Corporate Counsel Partners in Pro Bono	Page 30

A-5	Reply to Charlotte Office March 14, 1997 "Law Firms"	Page 32
A-6/Tab a	January 1993 The Atlanta Bar Association..	Page 35
A-6/Tab b	Model Law Firm and Corporate Legal <i>Pro Bono</i> Policies	Page 38
A-6/Tab C	Board adopts Model Pro Bono Policy	Page 40
A-6/Tab d	Los Angeles County Bar Association Pro Bono Policy	Page 44
A-7/Tab a	Munger, Tolles & Olson LLP Pro Bono Policy	Page 55
A-7/Tab b	The Missouri Bar Volunteer Lawyer Registration	Page 56
A-7/Tab c	PRO BONO POLICY Weiss, Berzowski, Brady & Donahue	Page 58
A-7/Tab d	PRO BONO POLICY Ross & Stevens	Page 59
A-8	D.C. Bar Psac Law Firm Pro Bono Clinic A Law Firm Rotation Model	Page 61
A-9	Legal Services For Cape Cod And Islands, Inc. Law Firm Counseling Project	Page 66
A-10	Coordinated Advice and Referral Program for Legal Services CARPLS	Page 71
A-11	Whitman-Walker Clinic, Inc. Legal Services Department	Page 76
A-12	Community Economic Development: A Role for the Private Bar	Page 78
A-13	Pro Bono Report: Community Counsel Matches Hillsborough Real Estate Lawyers with Non-Profit Corporations	Page 84
A-14	Pro Bono Opportunities in Community Development Law	Page 89
A-15	Equal Access on Harbour Island	Page 96
A-16	Community Law Group	Page 102
A-17	Final Report Of The Pro Bono Review Committee	Page 104

I. CONTEMPLATE THE CONCEPT OF PRO BONO

When considering the construction of a pro bono project, a firm should first consider its responsibilities for engaging in pro bono work. The term "pro bono" is short for the Latin phrase "pro bono publico" meaning "for the public good." Generally, pro bono is understood to mean legal work undertaken with the intent to provide legal services at no cost, or at a substantially reduced rate, to persons of limited means. The lawyer's responsibility (some may call it a duty) to provide services to the poor long has been recognized. In ancient Rome, the impoverished were linked to upper-class patronus who assisted the poor and weak in all matters, including litigation. As governments and society evolved and reflected greater concern for the poor, statutes were passed into law which required lawyers to provide free assistance to the poor, or allowed courts to appoint counsel.

In American jurisprudence, the recognition of an ethical duty to affirmatively provide legal assistance to the poor was articulated as early as the 1850's when noted jurist and professor George Sharwood wrote in his "A Compendium of Lectures on the Aims and Duties of the Law" that a lawyer:

"certainly owes it to his profession, as well as himself, that when the client has the ability, his services should be recompensed; and that according to a liberal standard. There are many cases, in which it should be his duty, perhaps more properly his privilege, to work for nothing. It is to be hoped that the time will never come, at this or any other Bar in the country, when a poor man with an honest cause, though without a fee, cannot obtain the services of honorable counsel, in the prosecution or deference of his rights."

The Florida Supreme Court gave a more modern twist on Prof. Sharwood's words in a recent opinion upholding that court's mandatory requirement that members of the Florida bar annually report their pro bono efforts: "Lawyers have been granted a special boon by the State of Florida--they in effect have a monopoly on the public justice system. In return, lawyers are ethically bound to help the state's poor gain access to that system."²

The American Bar Association has taken steps to clarify and quantify the lawyer's obligations with respect to providing legal services to the poor. In 1975, the ABA House of Delegates passed a resolution that provided "it is the basic professional responsibility of each lawyer engaged in the practice of law to provide public interest legal services." In 1993, the ABA adopted Model Rule of Professional Conduct Rule 6.1, which states that a lawyer should provide at least 50 hours of pro bono service to persons of limited means or charitable, religious, civic, community, governmental and educational organizations. MR 6.1 provides as follows:

RULE 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE

A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should:

(a) provide a substantial majority of the (50) hours of legal services without fee or expectation of fee to:

(1) persons of limited means

(2) charitable, religious, civic, community, governmental and educational organizations in matters which are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession.³

In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

There are a number of different activities to choose from which satisfy the definition of pro bono publico as set forth in Model Rule 6.1:

1. Rendering of free or reduced fee legal services

- individual, organizational and class representation
- legal advice
- training or mentoring those who represent persons of limited means

2. Participating in legal services contract or judicare projects

3. Accepting court appointments

4. Engaging in activities that improve the law, the legal system or the legal profession

- serving on bar association committees
- serving on boards of pro bono or legal services projects
- taking part in Law Day activities
- acting as a continuing legal education instructor
- serving as a mediator or an arbitrator
- legislative lobbying
- administrative rule making

5. Providing financial support to organizations providing free legal services to persons of limited means.

The ABA's call has not gone unheeded. The bar associations of Hawaii, Montana, Minnesota and Mississippi have adopted MR 6.1. In addition, the supreme courts in six other states (Arizona, Florida, Georgia, Kentucky, Nevada and Virginia) have incorporated aspirational service goals similar to MR 6.1 into their ethical rules.

II. CONSTRUCTING A PRO BONO PROJECT

The development of a pro bono project can be looked at as if it were the construction of any other well-built structure: a combination of a strong foundation and a properly suited edifice.

A. Lay the Foundation: Establish a Commitment to Pro Bono Work

The foundation of a successful pro bono project is a firm's desire to undertake pro bono work and a bonafide commitment to make that desire a part of the firm's culture. The reality of pro bono work is that it creates a dilemma both for the individual lawyer and also for the firm. In an increasingly competitive legal market, lawyers and law firms are under great time demands to provide their paying clients with the best, fastest and most reliable legal services possible. At the same time, the need for legal assistance by persons who cannot afford to pay is greatly increasing. As a result, to help meet the needs of the poor, lawyers and law firms likely must sacrifice a portion of time that they otherwise may have spent on billable matters or to attend to the normal demands of life such as family, religion, friends and self. Thus, before beginning a pro bono project, a firm should reconcile the competing time demands of running a law practice and building a successful pro bono project. By doing this, a firm will cement its commitment to pro bono work.

1. Clarify the Reasons for Providing Pro Bono Work

There are many reasons why a law firm accepts pro bono work. A firm will develop a project best suited to its goals and abilities by understanding what reasons motivates its decision to undertake pro bono work. The following is a discussion of reasons why a firm would initiate a pro bono project.

a. The Lawyer's Responsibility

A pro bono project helps the firm enable the individual lawyers in the firm to fulfill their professional responsibility, as described above, to render services to those who are in need of legal services but unable to pay.

b. Pro Bono Provides a Firm with Substantial Economic Benefits

Beyond the duty to assist the poor and needy, pro bono work provides law firms with many tangible benefits that can improve its business standing.

i. Community Relations/Client Building

It is well recognized that clients prefer attorneys who have gained the confidence of others and who have built relationships with individuals and businesses within the community. Word-of-mouth referrals are among the most common means of client development. Pro bono work may lead to referrals from pro bono clients, opposing counsel, program administrators, judges and other persons committed to providing services to the poor who come in contact with pro bono attorneys.

Additionally, assisting the poor and underprivileged is another means for a law firm to demonstrate that it is a good corporate citizen to other persons and businesses in the community. Businesses may look to hire outside counsel who also have demonstrated a commitment to community improvement. As an example, First Union Corporation, a large banking corporation that owns and operates

branch offices across the east coast, has informed all potential outside legal providers that it considers pro bono an important consideration in its hiring decision, and requests that potential outside counsel provide information concerning, among other matters, the firm's pro bono policy and activities. (Attachment 2) First Union, through its General Counsel Marion Cowell, sent letters to other business leaders encouraging them to adopt similar policies. (Attachment 3) Thus, pro bono work may provide a firm with the opportunity to separate itself from its competitors.

ii. Client Relations

In addition to assisting firms acquire new clients, pro bono work may provide a law firm an opportunity to nurture and build relationships with the clients it already serves. DFS Corporation, a San Francisco-based corporation with a three person legal counsel staff, recently joined with its principal outside counsel at Heller, Ehrman, White & McAuliffe, to form a pro bono partnership and jointly participate in a homeless advocacy program sponsored by the Bar Association of San Francisco Volunteer Legal Services Program. (Attachment 4) Through this opportunity, Heller, Ehrman attorneys regularly work alongside the attorneys and other employees of DFS and interact with those persons in a social environment. Similarly, First Union Corporation recently invited all of its outside legal providers to participate as partners in its pro bono efforts. (Attachment 5)

iii. Enhance the Image of the Legal Profession

"The first thing we do, let's kill all the lawyers." Shakespeare's oft-quoted passage seems to typify the negative public view of attorneys in the 1990's. Providing service to the public and demonstrating lawyers' concern for the public welfare and willingness to take action on behalf of others will go a long way to reversing the trend toward negativism regularly associated with the profession.

iv. Recruiting

The ABA's law school accreditation standards provide that a law school "should encourage its students to participate in pro bono activities and provide opportunities for them to do so."⁴ In recent years, many law schools either have expanded or initiated new clinics and other projects designed to introduce law school students to pro bono and educate them about the needs of the underprivileged for legal services. Inspired by these law school experiences, many potential new associates look to continue serving the community as part of their professional lives. According to Judy Bernstein-Baker, the Director of the Public Service Program at the University of Pennsylvania Law School, a potential employer's pro bono commitment and opportunities are a strong consideration of many students graduating from that university, and is frequently the tiebreaker for students choosing between firms offering comparable opportunities.

2. Develop a Pro Bono Policy Statement

To become assimilated into the firm's culture, a pro bono project should be communicated effectively to the attorneys and employees of the firm. Thus, a critical first step is the development of a pro bono statement or policy. Several bar associations have recognized the importance of these policies and urged their members to adopt such written statements. (Attachment 6)

Generally, the policy should state clearly that the firm supports the pro bono efforts of its attorneys and define the type of activities that constitute pro bono. Additionally, to encourage attorney participation, the policy should credit an attorney's pro bono work as billable time toward meeting any recommended amount of work hours established by the firm. At a minimum, the statement should assure all attorneys that they will not be penalized (either officially or unofficially) for participating in a pro bono project. Attached are several sample policies used by law firms. (Attachment 7)

3. Establish a Pro Bono Committee

A firm should form a pro bono committee to effectively implement its commitment to pro bono. In the initial stages, the committee will be charged with organizing the project and generating firm-wide support. In later stages, the committee will act as the development arm to ensure a varied and rich project, and also as a buffer for associates who may work for less supportive partners. Additionally, the committee will ensure that one person's absence or departure will not mean the delay or demise of the project. The committee will act as a symbol of the firm's lasting commitment to pro bono work.

The size of the committee is not of great importance. It may be that only one person, or more than one person acts as the pro bono committee. No matter the size of the committee, it is a good idea to select as participants influential partners who can persuade others of the importance of pro bono work. In addition, the committee might include representatives from different practice groups, both to provide balance and to act as a volunteer draw from all areas of the firm's practice groups. Some firms also include secretarial and paralegal representatives to ensure the full participation of all the firm's resources.

4. Cultivate a Top-to-Bottom Commitment to Pro Bono

For most firms, the largest resource for pro bono work is its associates and young partners. However, younger attorneys may be reluctant to participate because they are insecure about their future status and are unwilling to undertake activities which may diminish their career aspirations or opportunity for promotion. The support, enthusiasm and participation of one or more senior attorneys will signal to younger attorneys that the firm looks at pro bono in a favorable light and will ease the fears of younger attorneys. The support of key senior attorneys also is necessary to run interference for associates who work for less committed attorneys. An often times unspoken, but important facet of senior attorney participation is that a commitment to spread pro bono work broadly among all attorneys assures the firm's lawyers that the economic risk for uncompensated hours is fairly allocated.

B. Build a Framework

After constructing a solid pro bono foundation the next step is to outline the parameters of the pro bono commitment to ensure that the project will be supported by the foundation, fit the designs of the firm, and meet the needs of the community.

1. Determine the Firm's Time Capacity and Flexibility

As discussed above, the reality of pro bono work is that it takes attorney time which may otherwise be spent on billable work projects for the firm, or as attorney free time, both of which are valuable commodities. Thus, before undertaking a pro bono commitment, a firm should examine how much time the firm

