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## **THE IMPACT OF FAMILY LAW CASES ON PRO BONO PROGRAMS**

**MaryAnn Sarosi<sup>1</sup>**  
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### **Introduction and Methodology**

Many pro bono programs accept for placement a large number of family law cases relative to other types of legal needs. Programs which handle a high percentage of family law cases often experience operational tensions related to their efforts to serve clients with family law issues, including but not limited to a high incidence of volunteer burnout. Staff at pro bono programs have for years described these tensions as obstacles to serving more clients with family law matters. The ABA Center for Pro Bono decided to investigate this issue further by presenting a workshop on the topic at the 2002 Equal Justice Conference and following up with a survey designed to gather data on the issues that pro bono attorneys and programs face in serving family law clients. The workshop produced a lively discussion with over fifty attendees offering thoughtful insights into the barriers as well as possible solutions.

Thirty-eight pro bono programs around the country were then invited to participate in the survey. There were four factors used to choose the participating programs: geography, budget size, service area (rural, suburban, urban), and organizational structure (bar association-sponsored, private attorney involvement units of LSC-funded programs, independent programs) in an attempt to get as much of a range of experiences as possible.<sup>2</sup> (The survey instrument and the demographic information collected can be found in Appendix A and B, respectively). After the surveys were returned and catalogued, about half of the respondents were telephoned to flesh out their responses. Respondents were thoughtful in their comments and generous with their time.

A few disclaimers seem warranted here. Due to the sample size, this information is not statistically reliable and the information gathered is largely anecdotal. Having said that, the number of programs surveyed and the cross sampling of programs does provide enough information to identify trends, issues and successful strategies.

This report is the result of the information gathered at the workshop, the survey responses and telephone conversations with some of the survey participants. It examines

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<sup>1</sup> MaryAnn Sarosi is a consultant from Ann Arbor, Michigan. She previously served as the Director of the Access to Justice Program at the State Bar of Michigan and was founder and Executive Director of CARPLS in Chicago, Illinois.

<sup>2</sup> For the purposes of this survey, family law was defined as issues involving contested/uncontested custody, guardianship, and dissolution of marriage and domestic violence.

the tensions, catalogues the responses that programs are using to offset them and recommends next steps for addressing the challenge of family law and pro bono.

## **Issues Affecting Programs' Ability to Manage Family Law Cases**

### Who are the Family Law Volunteers?

Before delving into the issues affecting a pro bono attorney's willingness to accept family law cases, it seems important to determine who makes up the current pool of pro bono attorneys taking those cases. Some of the respondents were asked in follow up conversations about the demographics of the attorneys accepting pro bono family law cases. Specifically, they were asked whether those attorneys came from large firms, small firms and whether they were members of the family law sections of their local/state bar association. Almost all of the programs interviewed reported that the attorneys who were on their family law panels were primarily solo or small firm practitioners. (To be fair, a couple of the programs reported that there were no large firms in their service area, so naturally, small firms were the main source of pro bono attorneys.) Those interviewed reported that the large firms gave financial support, sent their family law cases to one attorney, or they didn't do family law at all. Interestingly, most programs also reported that they did not have active support from their bar associations' family law section.

### Attorneys' Willingness to Handle Pro Bono Family Law Cases

#### *The Complexity of Family Law Cases*

In the surveys and the telephone conversations that followed, almost every program stated that prospective pro bono attorneys shied away from taking pro bono family law cases because family law tended to be a complicated and constantly changing area of law. A director of a rural program reported on the difficulty faced by pro bono attorneys in trying to be proficient with a body of law that they may not be using in their daily practice and the knowledge that the stakes are high if the attorney misses an issue or a deadline. For example, one program reported that some pro bono attorneys find that the vagueness of the "best interest of the child" standard makes family law cases much more difficult to handle. Another respondent noted that the changes in her state's law regarding relocation added another layer of complexity to handling custody cases that did not exist when the relocation formula was based on a three-pronged analysis.

Some directors of pro bono programs explained that the length of the court process and the many procedural steps involved were other factors adding to the complexity of family law cases. One director described the issue using the example of a pro bono attorney handling a custody matter who can take the case so far before having to wait for the psychological evaluation to occur. Most of the time, there's a question over who will do the evaluation and who will pay for it. "The scramble involved in getting the evaluation done is a headache that many pro bono attorneys don't want to deal with."

### *The Burnout Factor*

Respondents were keenly aware that volunteer burnout was an ever present danger with family law cases. The staff at the programs attributed burnout to: 1) a volunteer being asked too many times to take a complex family law case; 2) the emotionally draining and time consuming nature of family law cases (described as “client neediness”, the “messiness factor”, and excessive client “hand-holding”); and 3) the constantly changing laws in the family law arena and the impact that has on a volunteer advising a client in an area in which the attorney may not be well versed.

One director of a large urban program noted that there is less capacity or tolerance by pro bono attorneys to handle “messy” cases than in the past. It didn’t matter whether a program was large or small, in an urban or a rural area, across the board almost all of the programs stated that attorneys believed that family law cases were more emotionally demanding and they were, therefore, more reluctant to take them as part of their pro bono work. To make matters worse, programs feel that the pool of pro bono attorneys to take family law cases has dwindled over the years while the number of family law cases has remained the same or increased, thus amplifying the danger that those that are in that limited pool will burnout.

### *Firms That Don’t Handle Family Law Cases*

Related to volunteer burnout is an issue that came up over and over in conversations with the survey respondents and the session at the Equal Justice Conference – increasing numbers of law firms demure from taking family law cases because they don’t practice in that area. Without that expertise in the firm, firms feel their attorneys are exposed to liability and are reluctant to take on family law cases. Both rural and urban programs noted that they have seen a decrease in the number of family law practitioners which, in turn, makes it harder to recruit attorneys to take family law cases pro bono.

### *The Inefficiencies of the Courts*

Not only are pro bono attorneys concerned about the emotionally demanding nature of family law cases, they are also concerned about the inefficiencies of judicial process and fear they will get mired in a morass if they take on a pro bono case in the family law area. As an example of the inefficiency, one director of an urban/suburban program described how the newest judges are assigned to family court and rotated out as soon as another judicial slot is available, resulting in a revolving door of judges. The inexperience of the judges negatively impacts the efficiency of the courts handling family law matters.

Some program staff felt the judiciary could use its discretion to make the family law process easier for attorneys to handle pro bono cases. A director of an urban, independent program explained that “It makes a big difference if the judges put the [pro bono] attorney first on their dockets or grant them other benefits that make it easier for

them to take cases pro bono.” A director from a rural/suburban program echoed the same sentiment and added, “If my pro bono attorney is driving a long way to make an appearance in court on behalf of a pro bono client, the judge could easily put that attorney first and it wouldn’t change the judge’s day at all. If judges gave those considerations to pro bono attorneys, it would not necessarily translate into a lot more attorneys taking on family law cases, but we would have an easier time keeping the attorneys we do have who take those cases.” While the issue of making the courts more efficient for pro bono attorneys applies to all pro bono cases, it presents itself most often in family law cases because they tend to center so much on court proceedings, often requiring multiple hearings.

### *Resources for Attorneys, Especially Solo Practitioners*

Some of the pro bono programs participating in the survey felt it was important that the program provide support to the pro bono attorney. The degree to which programs were able to provide support, though, varied by the size of the program. Examples of support include providing liability coverage, obtaining translators for non-English speaking clients, assisting the attorneys with pleadings and filing fee waivers and other litigation assistance. Organizing and providing these resources is time consuming and costly to programs. One manager expressed occasional frustration with the amount of staff time needed to support a pro bono attorney.

### Programs’ Internal Hurdles in Handling Pro Bono Family Law Cases

#### *Volume of Family Law Cases*

Punctuating the survey responses and the follow up conversations is the programs’ concern with the volume of family law cases. The sheer number of clients is not the only concern; a large volume of cases usually results in clients being put on a wait list and/or the program having to turn clients away. Those that are turned away often have no other choice but to represent themselves.

The vast majority of the survey respondents reported that family law cases made up the bulk of their caseload. Only nine of the twenty-five respondents stated that less than 50% of their cases are family law cases. The remaining 16 programs noted that at least 50% of their cases were family law cases. There doesn’t seem to be a pattern to which programs have 50% or more family law cases and which ones carry a family law caseload of less than 50%<sup>3</sup> other than the fact that six of the nine programs are not the largest provider in their respective service areas. This could be an indication that the other programs are carrying some of the family law caseload in those service areas.

An analysis of other demographic factors used in the survey (geographic location of program and funding source) reveals that there isn’t a pattern to which programs have

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<sup>3</sup> For example, of the 9 programs carrying a family law caseload of less than 50%, 4 classified themselves as “suburban/urban”, 1 as “rural/suburban”, 1 as “rural” and 3 as “urban”.

a heavy family law caseload and which don't. For example, of the 16 respondents reporting that 50% or more of their cases were family law cases, 8 were "independent" programs, 6 were PAI units of an LSC-funded program and 2 were bar-sponsored.

### *Staff Burnout*

Not surprisingly, programs expressed concern about staff burnout. Some of the causes of the burnout are not exclusive to family law cases, e.g. low wages, inconsistent funding, and the continuous effort required to recruit pro bono attorneys. Other reasons cited by survey respondents are more related to family law cases, e.g. burnout from so many clients needing assistance and not being able to always help and the emotional energy needed to convince pro bono attorneys to take family law cases. One director of an urban program wrote that she witnessed "staff burnout due to constant difficulty encountered placing cases with volunteer attorneys when the cases involve unmarried parties at issue over their children, or third-party paternity, or missing parties, or domestic violence issues."

### *Tensions Between Staffed Legal Services Units and Pro Bono Staff*

A handful of pro bono programs that responded to the survey noted tensions that could (and do) arise if the pro bono programs feel that the staffed units or staff-based programs take the interesting family law cases and pass on the "messy" cases or cases with difficult clients to the PAI unit or pro bono program. Some attendees at the workshop described situations where the staffed programs did not handle any family law cases at all or only those that could be handled under their VAWA grants. There seemed to be a recognition by the audience that this was an issue in the legal services/pro bono community. A director of an independent urban program noted that the large, staffed program in her area technically accepts complex family law cases but in practice, it limits the number of those cases that it actually handles. The end result is that those complex cases that are rejected by the large staffed program don't go away; they end up at the pro bono program's doorstep.

### *The Effects of Domestic Violence Funding on Priorities*

Some programs noted that the surge in domestic violence funding over the past decade has altered case acceptance priorities, resulting in an imbalance between domestic violence and other family law matters. An experienced director described the scenario as being one where a large program (often but not always the LSC-funded program) is awarded VAWA or VOCA funding and tailors its priorities to that funding. Other family law issues are either left to other programs in the area to handle (if there are other programs) or are minimally addressed. The issues that aren't served are areas such as custody and support where the income that results from the representation of a client often makes a difference to that client.

### *Limited Attorney Pool in Rural Areas*

The rural programs cited the limited roster of practitioners as a major constraint on their ability to provide pro bono family law services. An experienced director of a rural program put it this way, “The fundamental challenge is that we have a high demand for services and, in rural areas, few practicing lawyers.” An equally significant factor is that the limited pool increases the chance that an attorney who is willing to take a pro bono family law case will be conflicted out.

### *A Disorganized Approach to Dealing with Pro Se Litigants*

Almost every respondent recognized that the volume of family law cases ensures that all clients will not receive full representation or will be turned away. Those clients, in turn, have to go into court unrepresented. When that happens, programs often try to provide as much assistance to the clients as they can. The approach of one program director sums up the feeling of the respondents when she said, “We have no choice but to turn people away, but we try to provide them with some advice and forms so they aren’t totally unprepared when they walk into court.”

Some of the programs voiced frustration with the inconsistent way that courts handle pro se litigants. Since so many pro bono programs offer limited assistance to pro se litigants, either through telephone advice, courthouse assistance centers or self-help clinics, the programs often view pro se litigants as part of their client base. In fact, the pro se litigant is many times sent back to a pro bono program and told to “go get a pro bono attorney” by a judge who is frustrated because the client doesn’t have an attorney. A director of an urban program put it this way, “There is no organized system, either locally or on a statewide basis, for addressing the issues concerning pro se litigants.” That lack of a system affects not only the litigants but the pro bono programs as well.

### *Client Circumstances*

A few of the programs highlighted client access to transportation as an issue that often has to be addressed in order to provide effective pro bono services. Additionally, some programs reported that they had difficulty finding pro bono attorneys who could speak the same language as some of their clients. Harder still was finding a pro bono attorney with a similar cultural background. Although these obstacles are not only limited to family law cases, it bears mentioning that programs view these issues as barriers to service.

### **Recommendations**

The recommendations described below are a compilation of strategies that pro bono programs use to overcome the barriers to family law services outlined in Section II. These recommendations have been compiled from the workshop, the survey and information that the Center for Pro Bono has accumulated in its role as a provider of technical assistance to pro bono programs.

## Changing Priorities

About half of the survey respondents reported that they fine-tuned their priorities to handle the volume of family law cases. The commentary to Standard 2.2 of the *ABA Standards for Programs Providing Civil Pro Bono Legal Services to the Persons of Limited Means* (“Standards”)<sup>4</sup> encourages programs to work cooperatively with other local providers in setting priorities because “those providers have valuable insights into clients' legal problems and can provide a wealth of information that can be useful to the program in determining how to allocate its resources. As a starting point, the program should review the other providers' priorities to determine the types of legal problems that are being addressed currently in the service area.”

Experienced pro bono staff noted that when revising priorities, it is important to preserve a range of types of cases within the family law context, for example, uncontested/contested divorce with children, uncontested/contested divorce without children. Preserving a range of case types makes it easier for a pro bono attorney to take a case because there is a choice of what level of complexity the attorney wants to take on. One director noted that there will be times when a prospective volunteer will want to take it easy and accept a divorce without children and other times when that attorney is willing take on something more complex.

## Planning with Other Providers

Four of the respondents stated that one strategy that they use to manage the family law caseload is to engage in planning (either formally or informally) with other legal assistance providers in their service area. Three of the four that use this strategy are urban programs. The other is a rural/suburban program that works with the statewide LSC-funded program. Planning is done largely to revise priorities but it is also done to share staff, coordinate outreach efforts, etc. At least one program noted that the programs in its' service area worked formally together to advocate for filing fee funds and informally to discuss the types of cases that each was handling.

## Educating the Public

Three programs participating in the survey have implemented strategies for educating the public and lay advocates on family law issues through workshops at social services and community organizations. This is different than the self-help clinics described below. A director of a large suburban/urban program wrote that they “established a series of clinics at community-based organizations to educate parents about their rights and the pro bono program’s services” and that they were in the process of developing a birthparent orientation video. Public education can be helpful in

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<sup>4</sup> On a more general level, the *Pro Bono Standards* are a helpful guide to assessing whether a pro bono program has the building blocks to effectively provide services. You can find the *Standards*, information about the ABA Center for Pro Bono and additional resources on most of the topics discussed in this section at the ABA Pro Bono Committee’s web site at [www.abaprobono.org](http://www.abaprobono.org).

managing the volume of family law cases and to offset some of the “client neediness” that can result in volunteer burnout.

### Educating Attorneys

Most of the survey participants reported that they offer family law training for their pro bono attorneys. Programs offer the trainings themselves; they do it through the CLE program or through bar-sponsored trainings. Often times, the trainings are offered for free or at a low cost in exchange for an attorney’s willingness to accept a pro bono family law case. While these trainings are used as a tool to recruit attorneys, they are also used to make pro bono attorneys more comfortable with the complex area of family law and, hopefully, to reduce volunteer burnout.

One large program had a series of trainings aimed at the experience levels of their pro bono attorneys. The program held a monthly “Intro to Family Law” seminar, a seminar entitled, “Family Law 102” (aimed at attorneys who had attended the intro program and had handled one or two simpler matters) and an annual, more sophisticated training for their experienced panel members.

### Support for the Pro Bono Attorney

About a third of survey respondents stated that providing their pro bono attorneys with office support, forms, the use of computers, liability coverage, assistance in preparing pleadings and obtaining translation services are effective ways to offer assistance. One urban program stated that it often sends a family law staff attorney into court with a first-time family law pro bono attorney in order to ease some of the anxiety over the process. The program’s director observed that, “The thinking is that if that first experience goes well, the pro bono attorney may come back to take a more complicated case next time.” Another successful way to ease a pro bono attorney’s anxiety is to offer to review documents before they are filed.

### Mentoring

Most of the programs have used or are using mentors to assist inexperienced pro bono family law attorneys. Mentoring seems to be most effective for very new attorneys, especially if the mentor is proactive in contacting the attorney s/he is mentoring and if the new attorney is linked with a mentor after the new attorney has attended a program-sponsored training.

### Senior Attorneys

A handful of programs recruit from the pool of retired attorneys to handle family law cases. This seems to be most effective in areas where there are a lot of retirees or a when a bar association has active senior members. One staff person cautions that there are considerations involved in tapping senior attorneys. For example, the program may have to provide liability coverage, it may have to take extra steps to keep the retired

attorney aware of recent changes in the law, and the program may have to deal with office space/support needs that it may not have to address with an actively practicing attorney. As the baby boom generation closes in on retirement, the percentage of senior attorneys will increase. Since so many that retire are active and still want to contribute, senior attorneys are a prime source from which to recruit new pro bono attorneys.<sup>5</sup>

### Involvement of the Courts/Judiciary

It is clear from the survey results that the involvement of the courts is an area that is rich with possibility for improvement. The programs that have an involved judiciary are very positive about the impact that the latter has on their ability to recruit pro bono attorneys and, in turn, serve clients in need. There is a range of strategies being used for involving the judiciary.

Two programs stated that court rules granting pro bono attorneys automatic waivers of the filing fees made it easier for attorneys to handle those cases. Another reported that they found it successful to send recruitment letters signed by the chief judge. Others ask judges to host receptions asking for volunteers and to host training seminars. One director noted that, “Putting the weight of the judges behind pro bono is important because some attorneys will read judges’ support as a message that pro bono is part of the culture of practicing law. Other attorneys will come to a training hosted by a judge only because they have to appear before that judge. Either way, judges can have a positive influence on the attorneys practicing in their area.”

Programs also report that it is very helpful when courts/judges accommodate pro bono attorneys by placing them first on the docket, granting reserved parking spots for pro bono attorneys and other gestures designed to make it easier for the attorney to take a pro bono case. The discussion at the workshop suggested that implementing any of these strategies usually involves developing personal relationships with key judges or connecting with judges’ associations. The staff and the board should cultivate these relationships and build upon the successes over time.

Many of the programs participating in the survey and the workshop find it difficult to get a handle on how the courts in their states are addressing the increasing numbers of pro se litigants.<sup>6</sup> Some programs have found that working closely with the

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<sup>5</sup> For further reading about the aging of the legal profession, see Marc Galanter’s article, “Old and in the Way”: The Coming Demographic Transformation of the Legal Profession and its Implications for the Provision of Legal Services, 1999 Wis. L. Rev. 1081.

<sup>6</sup> The American Judicature Society hosted a conference on pro se litigation in the fall of 2000. Their web address, <http://www.ajs.org/prose/home.asp> has information on pro se that may be helpful to pro bono programs interested in the link between pro se and pro bono. The website includes reports and manuals such as “A National Conference on Pro Se Litigation: Report and Update, April 2001”, “Lessons From the Country: Serving Self-Represented Litigants in Rural Jurisdiction” and “Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers.”

courts to assess how pro se intersects with pro bono services can be effective in serving low income clients. There are questions that programs should consider to ensure that the pro se and pro bono processes work together in a systematic fashion. How can pro bono programs play a role in courthouse assistance centers? Is there a role for the telephone advice/counsel services in assisting clients who don't get full representation from the pro bono program?

### Courthouse Assistance Centers/Support for Pro Se Litigants

More than half of the survey respondents said that they provide support to pro se litigants rather than turning them away without anything. The support ranges from providing legal information to assistance with completion of forms to legal advice. Some programs place an attorney in the courthouse as the "attorney of the day" where the attorney on duty assists pro se litigants with forms or advice on how to proceed in court. Almost all respondents have available printed materials for pro se litigants. The most successful of these models are where an attorney or an experienced advocate is available to provide ongoing assistance to a pro se litigant.

The surveys and the follow up calls indicate that many of the programs provide assistance to pro se litigants not because it is the best way to serve clients but because the program does not have the capacity to provide full representation in every meritorious case. One manager put it this way, "We have to do something to help those that we can't provide full service to, so we help them out by providing them advice as they go through the [judicial] process."

### Telephone Advice/Counsel Services

About 1/3 of the respondents use telephone advice/counsel services, either within their program or in conjunction with other providers. Survey respondents in both rural and urban service areas reported that they established the telephone advice service to provide ongoing advice to those people to whom the programs couldn't provide full representation and to provide assistance to those clients with transportation issues. One director reported that 70% of family law cases in her state involved pro se litigants and that many of those litigants used the statewide telephone advice service for ongoing assistance.<sup>7</sup>

### Kiosks in Libraries and Courthouses

Two programs (one rural, statewide and the other a rural/suburban program) are using or planning to use terminals placed in community organizations, libraries and/or courthouses to process legal documents such as petitions to establish paternity, personal protection orders and pleadings. The terminal used to develop petitions to establish

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<sup>7</sup> The ABA has developed standards for telephone advice/counsel services (hotlines). The Standards for the Operation of a Telephone Hotline Providing Legal Advice and Information can be found at the ABA Standing Committee on Delivery of Legal Services' link [www.abalegalservices.org/delivery](http://www.abalegalservices.org/delivery).

paternity can be accessed by anyone and the personal protection order and pleadings modules are designed for trained lay advocates and volunteer attorneys. Like the courthouse assistance centers, kiosks seem to work best when there is a trained intermediary available to assist the user. Any program considering a kiosk should take into account the cost of developing and maintaining the hardware and software, the intended audience, and whether there will be an intermediary available to assist the end user, among other considerations.

### Unbundling

A handful of respondents to the survey expressed an interest in exploring whether unbundling was a viable method of providing more services to low income clients. One director of a rural/suburban, bar-sponsored program stated that unbundling should be brought out in the open because “attorneys are already doing this in the form of coaching a client or reviewing their documents. Why doesn’t the bar sanction it so attorneys will feel comfortable admitting that they do it? Maybe then we can get more attorneys to do pro bono.” Unbundling can be a tool to help pro bono programs recruit attorneys to handle discreet aspects of family law matters. The issue for most programs, though, is that their state doesn’t formally recognize unbundling.<sup>8</sup> To overcome that hurdle, programs could work with their family law sections or other appropriate entities within the state bar to educate the bar about unbundling.

### Mandatory Pro Bono

One local urban bar association supports its local programs by requiring its members to take two family law pro bono cases each year. The program in that area reports in the survey that the mandatory pro bono rule is very effective in supplying the program with pro bono attorneys. Other programs benefit from local family court rules which state that attorneys wishing to practice in family court must take a certain number of pro bono family law cases each year.

### Reduced Fee Program

One survey respondent uses a reduced fee program in its more rural areas to assist those clients that may be over the poverty level but still not able to pay for the full price of an attorney. Another program expressed a need for such a program in her service area. She states, “We need a moderate income attorney panel in this community. Retainers are

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<sup>8</sup> States such as Maine allow unbundling and states such as Florida are evaluating whether to allow attorneys to provide unbundled family law services to clients. The ABA Standing Committee on Delivery of Legal Services has a web site devoted to unbundling at [www.abanet.org/legalservices/delivery/delunbund.html](http://www.abanet.org/legalservices/delivery/delunbund.html). The site contains articles on the subject and a link to the materials gathered at the Maryland Legal Assistance Network’s 2000 Unbundled Legal Services Conference. Additionally, some lawyer referral and information services such as the New Hampshire Bar LRIS and the King County (Seattle) Bar LRIS have unbundled panels designed to help low-income and/or pro se litigants.

prohibitive for a large segment of the population – a population who could otherwise afford a divorce cannot pay a lot of money up front.”

### Conflict Waivers

In rural areas where there are few legal services/pro bono providers and the potential for conflict of interest is high, at least one survey respondent asks clients to sign a waiver that allows the program to find assistance for the opposing party in a family law matter. The director reports, “I have the clients sign a statement ...stating that they are aware that I may also try to find assistance for the opposing party but that any and all information provided by either side is kept in the strictest confidence...”

### Tapping the Skills of Pro Bono Paralegals

Can pro bono paralegals be used effectively to assist with family law cases? Judging from the workshop at the Equal Justice Conference, paralegals are a willing and knowledgeable group of advocates whose skills can be tapped. If used effectively, pro bono paralegals could play a role in providing support to the pro bono attorney and in addressing the volume of family law cases.

In the follow up to the survey, most of the programs responded that they did not use paralegals, although one director said that she believes that half of a pro bono attorney’s time was probably actually spent by her/his paralegal. Some of the considerations involved in using pro bono paralegals include whether or not the pro bono attorneys want to supervise a pro bono paralegal, whether the pro bono program has the capacity to supervise the paralegal and whether the paralegal can donate time during work hours. A backdrop to the issue of using pro bono paralegals is that, as one survey respondent noted, the pro bono community needs to “change the firm culture to allow paralegals to provide pro bono services.”<sup>9</sup>

### Tapping the Family Law Section

The family law sections of many state and local bar associations are strong organizations with involved members. The sections usually have projects in which their members participate, but the projects are sometimes more “public service” oriented than pro bono (e.g. designating one Saturday to work on a Habitat for Humanity house). How can the pro bono community translate the family law sections’ energy into pro bono services for low-income clients? Since many state bar associations have staff dedicated to working on pro bono/legal services issues and/or pro bono committees, the pro bono programs can work with the staff person and/or the bar’s pro bono committee to develop and implement a plan to recruit family law section members.

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<sup>9</sup> The National Federation of Paralegal Associations ([www.paralegals.org](http://www.paralegals.org)) have a number of local chapters that have pro bono committees whose aim is to provide pro bono paralegal services to local pro bono programs.

If there is a state-level pro bono managers' association, the association should develop for the family law section a menu of family law pro bono opportunities such as updating manuals for pro bono programs, advocating before the legislature on family law issues identified by pro bono and legal services programs and sponsoring a CLE program with the family law section. The pro bono programs can then be assured that any project that the family law section adopts will be filling a true need of the low-income community.

## **Conclusion**

For years, pro bono programs have employed creative strategies to serve as many clients with family law issues as possible. They have stretched their scarce resources, found ways to increase the pool of family law pro bono attorneys and developed support tools for their existing pro bono attorneys. Most of these efforts have been limited in scope and confined to the program's own resources.

Realizing the need to do even more, directors of pro bono programs are developing a new wave of strategies involving external entities to address the volume of family law cases. The majority of the recommendations outlined above, for example, require meaningful collaboration with the family law section, the state or local bar association, the courts, the judiciary or human services organizations. While collaboration is not new to the pro bono community, it has not previously been central to achieving the goal of serving family law clients.

This subtle shift in focus from the use of internal to external strategies has the potential for significant benefits for program staff, volunteer attorneys and clients. The pro bono community and its' supporters should keep their collective eyes open to the opportunities and the challenges as programs collaborate with others to improve pro bono family law services. It is critical that pro bono programs be provided with the staff and financial resources that they need in order to achieve these goals.

Many thanks to the programs that responded to the survey and participated in follow up calls. There would be no report to present without their willingness to share their experiences and insight.

Allegheny County Bar Foundation  
Atlanta Volunteer Lawyers Foundation  
Bay Area Volunteer Lawyers Program  
Brooklyn Bar Association Volunteer Lawyers Project  
Broward Lawyers Care [Legal Aid Services of Broward County]  
Capital District Women's Bar Association Legal Project, Inc.  
El Paso Bar Association Pro Bono Project  
Georgia Legal Services Program  
Houston Volunteer Lawyers Program  
Idaho Volunteer Lawyers Program  
Indiana Legal Services, Inc.  
Inland County Legal Services  
Jefferson County Bar Association  
Kansas Legal Services  
Legal Aid of North Carolina, Inc. – Wilmington office  
Maine Volunteer Lawyers Project  
Maryland Volunteer Lawyers Service  
NE Washington Legal Aid Program  
Onondaga County Bar Association Volunteer Lawyers Project  
Philadelphia Volunteer for the Indigent Program  
Put Something Back (a joint project of the Eleventh Judicial Circuit  
and the Dade County Bar Association)  
The Pro Bono Project  
Vermont Volunteer Lawyers Project  
Volunteer Attorney Program  
Volunteer Lawyers Project of the Boston Bar Association

## APPENDIX A

### **Family Law Survey ABA Center for Pro Bono**

Many pro bono programs accept for placement a large number of family law cases relative to other types of legal needs. In and of itself, a large percentage of family matters is not a problem. However, programs that handle a high percentage of family law cases often experience operational tensions related to their efforts to serve these cases, including but not limited to a high incidence of volunteer burnout, bar disinterest. The Center for Pro Bono has hired me to examine the causes of these tensions and recommend possible methods for resolving them. As part of the examination of the issue, I am asking you and about 40 other programs around the country to participate in this project by answering this survey as well as follow up contacts. *I know that you are very busy, but I anticipate that the survey will take you only approximately 10-15 minutes to complete. Your cooperation is critical to the success of this effort and greatly appreciated.*

#### **Instructions for completing survey:**

- For the purposes of this survey, we define family law as issues involving contested/uncontested custody, guardianship, dissolution of marriage and domestic violence.
- Please answer these questions as thoroughly as you can and return it to William Jones at the ABA, 541 N. Fairbanks Court, 15<sup>th</sup> floor, Chicago, IL 60611 by **June 17th**.
- Your program information will not be individually identified.

#### **A. Background**

1. Please provide your contact information so that we may follow up, if necessary.

Name \_\_\_\_\_  
Program name \_\_\_\_\_  
Phone number \_\_\_\_\_  
Email address \_\_\_\_\_

2. Describe your service area  
(rural, rural/suburban, suburban, suburban/urban, urban)

\_\_\_\_\_

3. Please check the budget size of your pro bono/PAI program. If your pro bono program is housed within a larger entity, please give the budget for the pro bono program only.

\$0 – 100,000 \_\_\_\_\_  
\$100K – 250,000 \_\_\_\_\_  
\$250K – 499,000 \_\_\_\_\_  
Above \$500,000 \_\_\_\_\_

4. Check the box that best describes your program's operational structure:

Independent pro bono program (separately structured 501c3 organization) \_  
Bar association sponsored volunteer lawyers program \_\_\_\_  
Private attorney involvement unit of LSC-funded program \_\_\_\_

5. During the last fiscal year, what percentage of your pro bono program's cases were family law cases?

0 – 10% \_\_\_\_\_  
11 – 20% \_\_\_\_\_  
21 – 35% \_\_\_\_\_  
36 – 50% \_\_\_\_\_  
over 50% \_\_\_\_\_

6. What program in your area is the largest provider of family law services?

\_\_\_\_\_

### ***B. Handling Family Law Cases***

1. What types of family law cases does your program handle?

\_\_\_\_\_  
\_\_\_\_\_

2. How do family law cases come to your program? (Referral only from another local provider? Intake? If referrals come from another local provider, are there protocol agreements between the programs?)

\_\_\_\_\_

3. Do you see the potential in your program for volunteer and/or staff issues that result from family law cases? If so, please describe those issues.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. If you answered “yes” to question 3, please describe how your program has addressed the volunteer and/or staff issues.

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5. Describe what steps your program has taken to manage the volume of family law cases (e.g. changed the priorities; established mentoring services, court-based clinics, and self-help programs; started planning with other providers).

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Please offer any other comments that relate to the delivery of family law services in your area:

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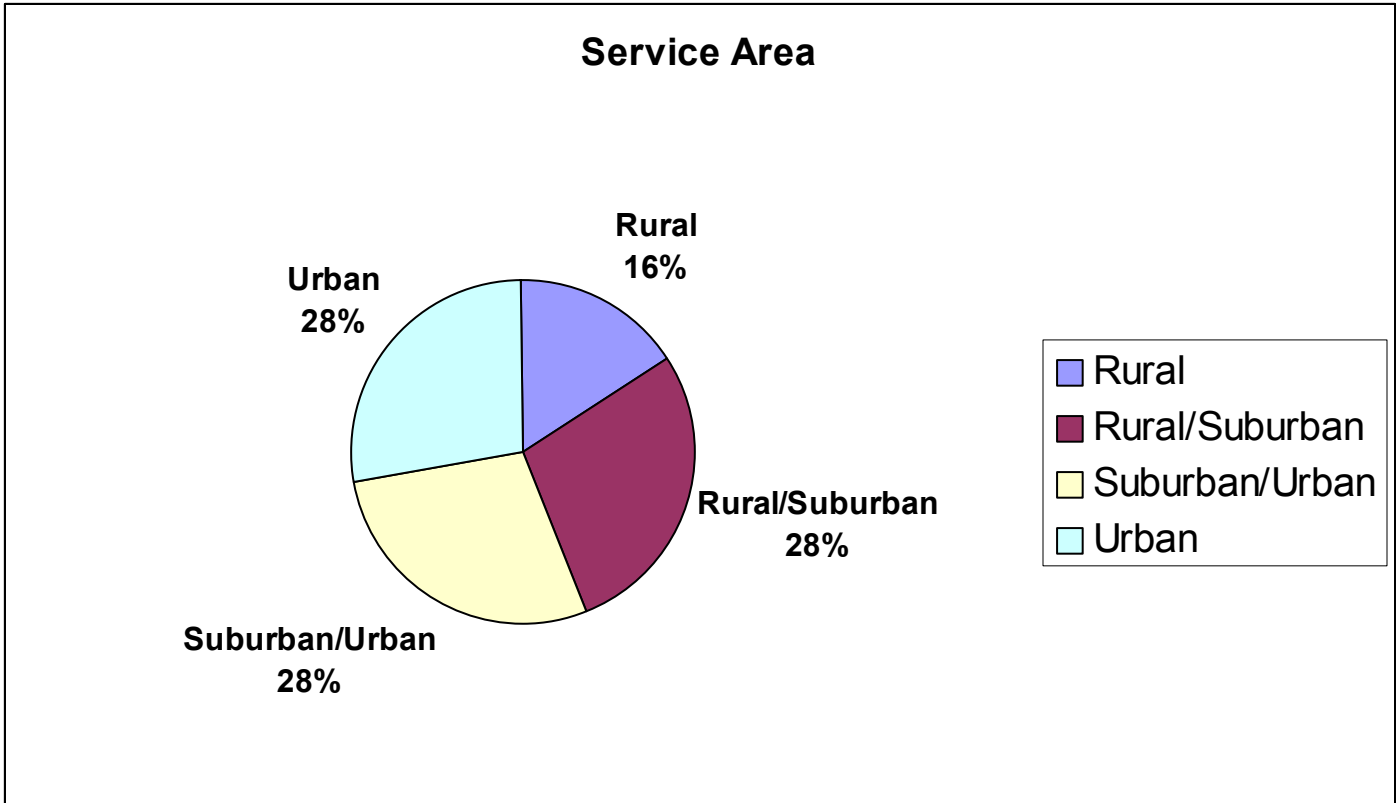
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Thank you for your willingness to share your experiences. If you have any questions, feel free to contact me at [msarosi@mlan.net](mailto:msarosi@mlan.net) or (734) 662-3665.

MaryAnn Sarosi

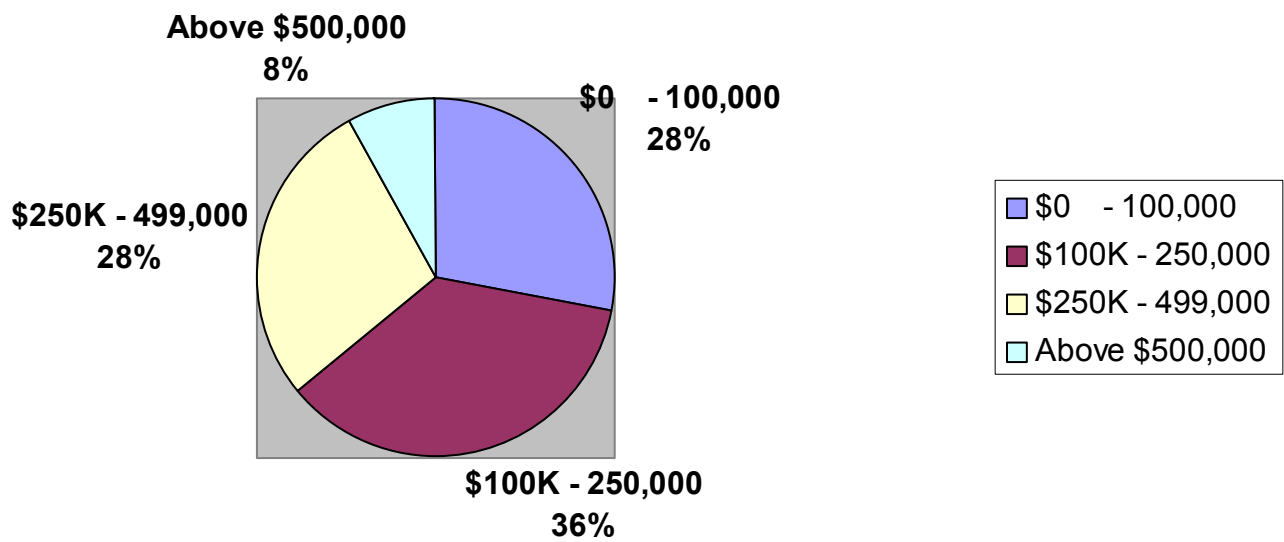
Appendix B

2. Describe your service area:



3. Please check the budget size of your pro bono/PAI program. If your pro bono program is housed within a larger entity, please give the budget for the pro bono program only.

### Budget Size

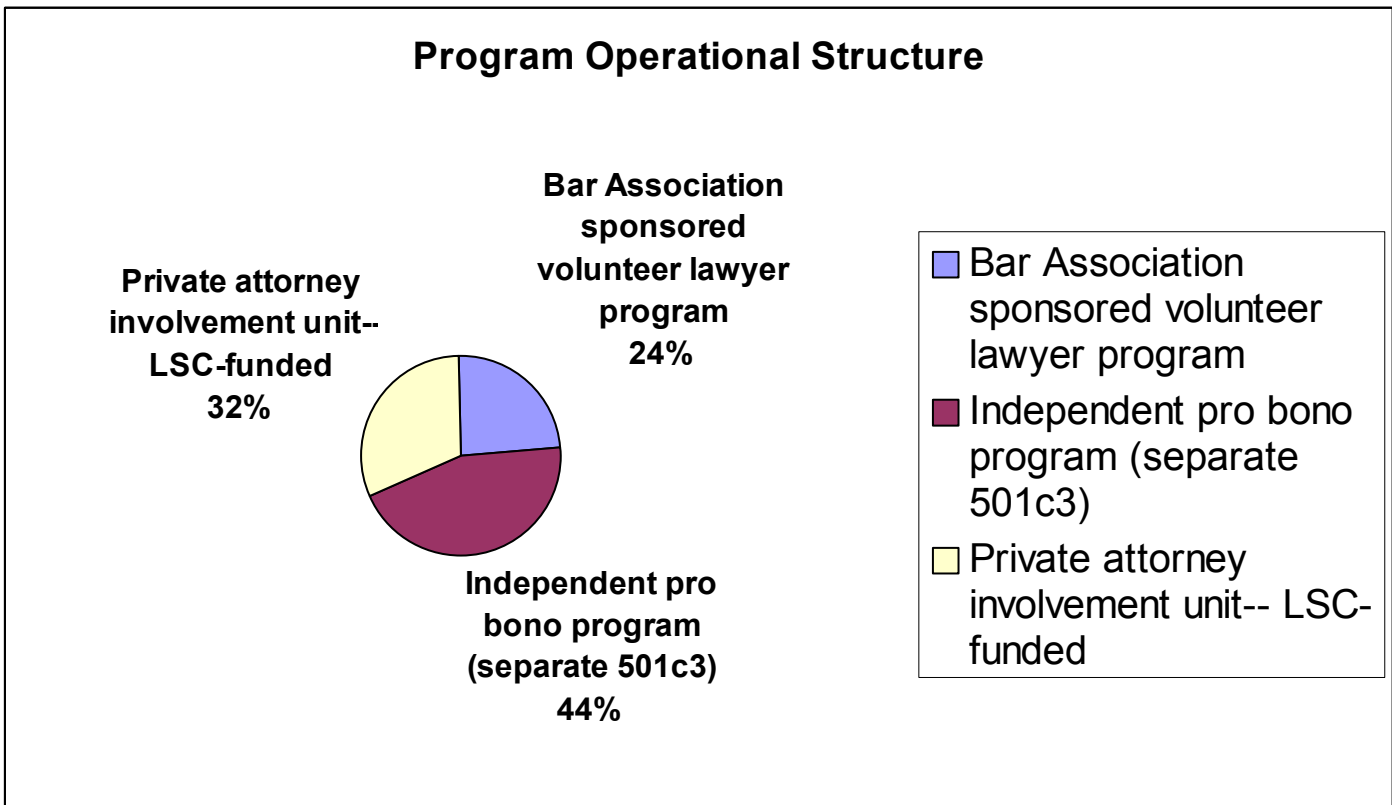


4. Select from the drop-list the best description of your program's operational structure from the following:

Independent pro bono program (separately structured 501c3 organization)

Bar association sponsored volunteer lawyers program

Private attorney involvement unit of LSC-funded program



5. During the last fiscal year, what percentage of your pro bono program's cases were family law cases?

