

**PHILADELPHIA BAR ASSOCIATION
CHANCELLOR'S PRO BONO TASK FORCE REPORT
FINDINGS AND RECOMMENDATIONS**

EXECUTIVE SUMMARY

In December 2001, Philadelphia Bar Association Chancellor Allan Gordon empanelled a Pro Bono Task Force to rigorously and comprehensively evaluate the need for, and the delivery of, pro bono legal services to the needy, disadvantaged and disenfranchised in Philadelphia. Composed of 21 individuals intended to reflect the diversity of Philadelphia's legal community, the Task Force was broadly constituted with representatives from law firms, corporate law departments, solo practice, law schools and the legal services provider community. The Task Force was co-chaired by Seymour Kurland, a former chancellor of the Association, and Aretha Delight Davis, an associate at a large firm who is actively engaged in pro bono work. The Task Force met as a whole to identify key issues and develop the information-gathering process. The Task Force divided into eight subcommittees, then surveyed members of each component of the legal community to assess pro bono activity and to identify barriers and challenges to pro bono service. Task Force members also attended meetings of sections and committees of the Association, consulted members of the federal and state judiciary, and held a public hearing to receive broader input. The Task Force then met as a whole to make its findings and develop its recommendations.

The Task Force found a proud and longstanding commitment in the Philadelphia legal community for service to the poor. More than 30 legal aid, public interest and pro bono referral organizations comprise a vibrant legal services network. Law firms, corporations, the judiciary, charitable foundations, each of the area law schools and the Philadelphia Bar Association have created scores of successful service models over more than three decades of service.

Unfortunately, the Task Force also found a tremendous unmet need for legal service and representation, with frontline intake programs closing or limiting intake and increasingly unable to place cases with either staff or pro bono attorneys. The financial pressure on legal services organizations has been exacerbated by rising costs, and their staffs are burdened by student loan debt, low salaries and a constant sense of crisis. As well, the Task Force identified a decline in pro bono service in all sectors of the bar, locally and nationally, despite unprecedented economic growth. Countless thousands of prospective clients in need of a lawyer cannot obtain one.

The Task Force issues this Report to present its compelling findings and to recommend creative new solutions. The Report and its Recommendations should be viewed in the light of three themes. First, we must ***Grow The Number*** of lawyers, para-professionals, law students and others performing voluntary legal service for the poor and disadvantaged. Recruitment, training and support for volunteers must be increased, and new areas of law must be entered by volunteers and the referral agencies. With room to increase its service and with so much unmet need, the Philadelphia legal community must commit itself to dramatically increasing its participation in the direct representation of the poor and disadvantaged. Pro bono service must become a part of the culture and fabric of what it means to be a Philadelphia lawyer.

Second, ***Honor Accountability and Professionalism*** as the foundations of our profession and essential to making justice available to all. Lawyers should strive to give at least 50 hours of pro bono service each year, and to submit confidential reports of their satisfaction of Rule 6.1 of the Pennsylvania Rules of Professional Conduct to the Pennsylvania Supreme Court. Every law firm and corporate legal department should have a published pro bono policy and give meaningful credit for pro bono service. The Philadelphia Bar Association should lead by example. The Association must embrace and support Philadelphia VIP as its primary pro bono referral agency, and should annually review the State of Pro Bono. Its leaders should each handle at least one pro bono case each year.

Finally, we must ***Engage The Future*** with creativity, courage and zeal. Law firms are invited to create practice groups and new incentives to serve. The pro bono referral organizations should conduct more specialized training programs and use technology to improve case intake and referral and to assist both volunteers and clients. The entire Bar must work to increase funding for and participation in the staff-based and pro bono programs through improved marketing, fundraising and leadership.

The following Recommendations are based on the information obtained and the collective insights, experiences and wisdom of the Task Force members. Our Recommendations can be viewed in the light of three themes: ***Grow The Number, Honor Accountability and Professionalism***, and ***Engage The Future***. The Task Force submits these Recommendations to encourage the legal community to renew and expand its commitment to the delivery of pro bono legal services. As well, the Task Force commends the reader to Section VI of the Report which sets forth the following Recommendations with explanatory text.

TASK FORCE RECOMMENDATIONS

A. Institutionalize Pro Bono Support in the Profession

1. Make Pro Bono Service Part of the Culture of the Legal Community

The entire legal community must commit itself to dramatically increasing its participation in the direct representation of the poor and disadvantaged. Pro bono service must become a part of the culture and fabric of what it means to be a Philadelphia lawyer.

2. Adopt 50 Hour Aspirational Standard

The Pennsylvania Supreme Court should adopt the measurable standard of 50 hours of annual pro bono participation as a standard to which all lawyers should aspire, as set forth in Model Rule 6.1 of the American Bar Association.

3. Adopt Mandatory Reporting

All licensed attorneys should annually report to the Pennsylvania Supreme Court on what they did in the preceding year to satisfy their obligation to render legal services to the disadvantaged and indigent under Rule 6.1 of the Pennsylvania Rules of Professional Conduct. The Court should maintain the confidentiality of these reports and use the information to assess the need for increased service and improvements in access to the justice system.

4. Award CLE Credit for Pro Bono Representation in New Areas

Lawyers who accept a pro bono case in a new area of practice should be eligible for a one-time award of two additional CLE credits in recognition of their need to devote themselves to considerable preparation and experiential learning in order to provide high-quality representation to indigent clients.

B. Leadership by the Philadelphia Bar Association

1. Philadelphia Bar Association Leaders Should Be Visible Supporters of Pro Bono and Lead by Example

The leadership of the Philadelphia Bar Association should demonstrate its commitment to the pro bono ethic through the active handling of at least one pro bono matter annually and by providing leadership for private bar participation in pro bono activities.

2. Support Philadelphia VIP

The Philadelphia Bar Association should fully embrace Philadelphia VIP by honoring its historical financial commitment and recognizing its central role in the delivery of pro bono legal services.

3. Encourage Large and Mid-Sized Firms to Fully Support Pro Bono

The Philadelphia Bar Association should encourage law firms to fully support pro bono.

4. Coordinate the Development of a Mechanism for the Annual Reporting of Pro Bono Participation by Law Firms

The Philadelphia Bar Association should coordinate the development of a mechanism for the annual reporting of law firms' pro bono participation.

5. Devote an Annual Meeting of the Board of Governors to the "State of Pro Bono"

An annual meeting of the Board of Governors should be dedicated to the state of pro bono delivery of legal services in Philadelphia.

6. Gather Better Pro Bono Data in Association Surveys

The Philadelphia Bar Association should improve its collection of data on the response of the Philadelphia legal community to the unmet needs of the poor and disadvantaged.

7. Expand Pro Bono Opportunities for Para-Professionals

The Philadelphia Bar Association should welcome para-professional involvement in pro bono work.

8. Recognize Outstanding Pro Bono Service by Law Students

The Philadelphia Bar Association should formally recognize area law students who have provided more than 100 hours of uncompensated and non-academic credited legal services to the poor, disadvantaged and underserved.

C. Leadership by the Philadelphia Bar Foundation

1. Raise More Money to Increase Its Critical Financial Support for Legal Services

The Philadelphia Bar Foundation should expand its role in providing financial resources for legal services providers.

2. Initiate Other Efforts on Behalf of Legal Services

The Philadelphia Bar Foundation should expand its role in coordinating other resources to support legal services.

3. Improve the Bar Foundation Fellowship Program

The Philadelphia Bar Foundation should explore ways to improve the management and operation of the Bar Foundation Fellowship Program.

D. Joint Initiatives by the Philadelphia Bar Association and the Philadelphia Bar Foundation

1. Maximize Technology to Enhance the Delivery of Legal Services

The Philadelphia Bar Association and Philadelphia Bar Foundation should facilitate pro bono participation by supporting the development of technology-based initiatives.

2. Market Pro Bono Needs and Opportunities to Serve

The Philadelphia Bar Association and Philadelphia Bar Foundation should foster pro bono participation with new marketing approaches to highlight the area's unmet legal needs, volunteer opportunities and stories of exemplary pro bono service.

3. Educate the Public at Large

The Philadelphia Bar Association and Philadelphia Bar Foundation should inform the public about the ways in which attorneys are addressing the unmet legal needs of our community.

4. Develop Revolving Fund for Litigation Costs

The Philadelphia Bar Association, Philadelphia Bar Foundation and legal services organizations should work together to design and develop a revolving fund to support out of pocket expenses incurred in pro bono service.

5. Investigate the Feasibility of a Central Home for Legal Services to the Poor

The Philadelphia Bar Association, Philadelphia Bar Foundation and the legal services community should engage in a long-term process to assess the feasibility and efficacy of a shared facility.

E. Initiatives By Philadelphia Volunteers for the Indigent Program

1. Build Resource Teams For Pro Bono

Philadelphia VIP, in conjunction with other legal services organizations, should build resource teams in subject areas most relevant to pro bono need.

2. Revive Traditional Pro Bono Mentoring Programs

Philadelphia VIP should renew and expand mentoring programs, particularly in light of the broad base of subject areas and issues within the purview of VIP's referral program, and in light of the need for supervision for lawyers taking on new kinds of pro bono work.

3. Create Collaborative Networks In New and Intractable Areas

Philadelphia VIP should take the lead in creating collaborative networks to meet the demand in emerging areas of legal need and for complex legal matters.

4. Support Pro Bono Efforts By Small Firm and Solo Practitioners

Philadelphia VIP should particularly focus on supporting small firm and solo practitioners who take on pro bono projects.

5. Work With the Philadelphia Bar Association to Encourage Full Participation by the Bar in Pro Bono Activities

Philadelphia VIP should take a leading role in seeking full participation in pro bono by all sectors of the legal community.

F. Leadership by Large and Mid-Sized Law Firms

Large and mid-sized law firms are well-positioned to create pro bono programs that help to meet the vast unmet need for legal services, while at the same time providing personal and professional benefits for attorneys and firms. Successful programs need to be organized; firms need to provide meaningful credit equivalent to billable hour credit for pro bono; and firm leaders must explicitly support the pro bono effort.

1. Create a Pro Bono Committee

2. Appoint a Pro Bono Director or Coordinator

3. Lead by Example

4. Develop Pro Bono Policies

5. Adopt Procedures to Support Pro Bono Work

- i. Billable Hour Credit
- ii. Pro Bono Service In Evaluations
- iii. Publicity
- iv. Awards

6. Identify and Promote Useful Projects

7. Survey Lawyer Interests and Match With Pro Bono Work

8. Provide Supervision and Mentoring

9. Keep an Open Mind as to New Opportunities

10. Partner with Public Interest Law Centers and Clients

11. Provide a Choice of Pro Bono Projects for All Summer Associates

12. Support the Philadelphia Bar Foundation Fellowship

G. Greater Participation by Small Firm and Solo Practitioners

While the Task Force recognizes the unique burdens placed on small firm and solo practitioners, they are well positioned to contribute to addressing the unmet legal need in their respective areas of expertise.

H. Leadership by Corporate Law Departments

Corporate law departments should create formalized pro bono programs that help to meet the vast unmet need for legal services. General counsel must explicitly support the pro bono effort by leading by example, partnering with outside counsel on pro bono initiatives, and by taking into consideration a private law firms' pro bono participation when making outside counsel performance and retention determinations.

- 1. Sign the CPBO Corporate Legal Pro Bono Pledge**
- 2. Lead by Example**
- 3. Appoint a Pro Bono Coordinator**
- 4. Credit Pro Bono Participation**
- 5. Provide a Pro Bono Infrastructure**
- 6. Recognition**
- 7. Make Pro Bono Service an Important Factor in Selecting and Retaining Outside Counsel**
- 8. Partner with Outside Counsel or Public Interest Law Centers**

I. Leadership by the Judiciary

- 1. Promote the Recruitment and Retention of Pro Bono Volunteers**

Judges should, in the finest traditions of the profession, play a leading role in ensuring access to justice by encouraging expanded pro bono participation.

- 2. Adopt Incentives to Encourage Pro Bono Service**

Judges should institute procedures in their respective courtrooms to facilitate pro bono representation.

- 3. Liberalize Withdrawal of Appearance Requirements for Certain Pro Bono Matters**

Local and state rulemaking bodies should create rules to allow withdrawals of appearance after a significant event of pro bono service.

J. Leadership by the Legal Services Community

- 1. Cast a Broad Net for Volunteers**

The legal services community should expand and diversify the pool of firms and individuals contacted to take pro bono cases.

2. Improve Training for Pro Bono Attorneys

Pro bono referral agencies should team up with accredited CLE Providers to provide free CLE classes for their pro bono attorneys. Trainings should be tailored to the specific needs and interests of the particular firms and to individual areas.

3. Develop Mentoring & Co-Counseling Relationships

The legal services community should help develop informal mentoring relationships (both within and between firms) among more experienced attorneys and new volunteers.

4. Improve Case File Screening & Work-Up

Initial referrals should provide detailed statement of the facts and legal issues to be addressed.

5. Improve Case Tracking

The referring agencies should track all cases that are referred to pro bono attorneys to their conclusion.

6. Recognize Pro Bono Service Publicly

Referring agencies should publicly recognize pro bono service.

7. Include Pro Bono Attorneys Within Malpractice Coverage

Malpractice coverage should be provided to volunteers.

8. Recruit Volunteers from Other Professions

The legal services community should develop a panel of pro bono experts and other professionals to support pro bono service.

9. Develop Service Opportunities for Volunteers

Referring agencies should create opportunities for attorneys and other members of the legal community to participate in the activities of the agency.

10. Expand and Professionalize Fundraising

The pro bono referral agencies must work to improve their capacity to raise funds from charitable and governmental sources and seek assistance as needed from development professionals.

K. Leadership by Law Schools

Law schools should provide increased opportunities for students to engage in legal representation of the poor and to participate in live client clinical programs in order to expand the delivery of legal services and to inculcate a pro bono ethic in all future lawyers, regardless of career path.

L. Streamlining the Public's Access to Pro Bono Legal Services

Philadelphia needs a more streamlined, consumer-friendly and efficient means of accessing pro bono legal services. The Philadelphia Bar Association and Philadelphia Bar Foundation should work closely with Philadelphia's legal services community to develop entry points of public access that are readily visible and easy to use so that indigent and disadvantaged clients are able to access legal help in times of need. At the same time, greater public access will result in increased demand upon already overburdened resources and therefore expanded access must be coupled with recruiting additional pro bono volunteers and obtaining increased financial support for Philadelphia's legal services providers.

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Lawyers are professionals who occupy a privileged position in our society. With this privilege comes an abiding responsibility to ensure that access to our justice system is available to all. Pro bono service responds to this need and brings honor to the profession and to ourselves. The Task Force proudly submits this Report with the fervent hope that it will be carefully studied and enthusiastically embraced as an urgent call to action. Working together, with the generosity of spirit and professional zeal, we can make an enormous difference in the lives of those who need our help. Let us begin.

I. OVERVIEW

A. The Creation of the Task Force

In December 2001, Chancellor Allan Gordon empanelled this Pro Bono Task Force and charged it to rigorously and comprehensively evaluate the need for, and the delivery of, pro bono legal services to the needy, disadvantaged and disenfranchised in Philadelphia.

The circumstances that led to the Chancellor's decision to create the Task Force include: 1) the ongoing demand by Philadelphia's needy, disadvantaged and disenfranchised for legal services, including the emergence of new areas of urgent need; 2) a gradual, but significant, erosion in governmental and private funding for the delivery of legal services; 3) the increased pressure felt by private attorneys to focus their time and efforts on paying clients; and 4) the Philadelphia Bar Association's ("Association") October 2001 25% decrease in funding to the Philadelphia Volunteers for the Indigent Program, the foremost pro bono referral agency of the Association.

The Chancellor determined that the confluence of these events mandated a thorough evaluation of Philadelphia's delivery of pro bono legal services system to identify its strengths and weaknesses, and to determine what concrete changes need to be made to the methods traditionally employed to deliver pro bono legal services. It is hoped that the Association and the entire Philadelphia legal community will seriously study the Task Force's Findings and Recommendations and renew and expand their commitment to do everything they can to ensure access to justice for all Philadelphians.

B. The Task Force's Composition, Mission and Method

1. Task Force Membership

The Task Force was composed of 21 individuals intended to reflect the diversity of Philadelphia's legal community.¹ The Task Force was chaired by Seymour Kurland, a former chancellor of the Association, and Aretha Delight Davis, an associate at a large firm who is actively engaged in pro bono work. The Task Force was broadly constituted, with representatives from large, mid-sized and small law firms, corporate law departments, the solo practitioners community, law schools and the legal services provider community. The Task Force also included the Chair of the Association's Board of Governors and representatives from the Philadelphia Bar Foundation ("Foundation") and worked closely with the Chairman of the Pro Bono Committee of the Delaware Valley Chapter of the American Corporate Counsel Association ("DELVACCA").

2. Pro Bono Service to the Poor

The term *pro bono publico* literally means "for the good of the public." The preamble to the Pennsylvania Rules of Professional Conduct states that a lawyer is a "public citizen having special responsibility for the quality of justice." At the onset, the Task Force discussed this special responsibility and grappled with how it would define pro bono legal service.

The need to do so was immediately apparent, as the term pro bono is diversely defined among various segments of the Association. Doing pro bono work means different things to different lawyers. Some lawyers consider any kind of uncompensated or undercompensated legal work to be pro bono. Others define pro bono work strictly as legal service to the poor that is undertaken without an expectation of a fee and not in the course of ordinary commercial practice. Still others view diverse types of community

¹ See Task Force Membership List, attached hereto as Appendix A.

or civic service, from board membership to participation in mentoring programs or nonprofit fundraising, as necessary components of a lawyer's contribution to the public good.²

While the Task Force recognizes the value of civic and charitable acts and was mindful of the pro bono definition set forth in the American Bar Association's Model Rule 6.1,³ it chose to be guided by Rule 6.1 of the Pennsylvania Rules of Professional Conduct⁴ which reads:

² In 1990, 1995 and 2000, the Association surveyed its membership regarding its pro bono commitment. In 1990, 47.6% of surveyed lawyers said that they were doing pro bono work and the median number of pro bono hours per year was 42.3. By 1995, the percentage of surveyed attorneys doing pro bono had increased to 62% and the hours had increased to 53 hours per year. In 2000, 64.2% of surveyed lawyers reported that they were doing some sort of pro bono work but the median number of hours contributed *decreased* by one quarter to 40 hours. It is worth noting, however, that none of the surveys defined pro bono. Consequently, no distinction was made between *legal representation* and *civil/charitable participation*.

³ The American Bar Association's Model Rule 6.1 reads:

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 or
- (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 a 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.

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

⁴ The full text of Rule 6.1 of the Pennsylvania Rules of Professional Conduct is attached hereto to Appendix B.

Pro Bono Publico Service

A lawyer should render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups improving the law, the legal system or the legal profession, and by financial support for organizations that provide legal services to persons of limited means.

The Task Force concluded that the legal profession's singular privilege of practicing law gives attorneys a unique responsibility to assist those in need in accessing justice. It decided to evaluate pro bono work only in terms of professional services that draw upon legal analytical and decision-making skills, as opposed to the broader category of civic and charitable acts (board memberships, for example) that do not necessarily draw upon these legal skills. In addition, the Task Force evaluated pro bono legal services as services that are provided without fee or expectation of fee and not in the course of ordinary commercial practice.⁵

After adopting Rule 6.1's definition of pro bono, the Task Force proceeded to define its mission. The following mission statement emerged after lengthy discussion and was formally adopted by the Task Force on December 6, 2001:

As we enter the third century of the Philadelphia Bar Association, the mission of the Task Force will be to examine how the Philadelphia legal community can improve the pro bono delivery of legal services to the needy, disadvantaged and disenfranchised.

3. Task Force Information-Gathering Methods

Both the Philadelphia experience and the national experience demonstrate that several components of the legal community must work together to provide effective pro bono services. Therefore, the Task Force decided to survey members of each component of the legal community to determine their involvement and interest in pro bono service as well as any barriers, challenges or impediments to pro bono service. In addition, one subcommittee researched successful pro bono programs in other areas of the country.

To facilitate information gathering, the Task Force was organized into subcommittees designed to target the specific components of Philadelphia's legal community: Large Law Firm Subcommittee; Corporate Counsel Subcommittee; Mid-Sized Law Firm Subcommittee; Small Law Firm & Solo Practitioners Subcommittee; Corporate Counsel Subcommittee; Legal Services, Public Interest & Pro Bono Referral Agencies Subcommittee; Individual Volunteers Subcommittee and; and Law Schools Pro Bono Subcommittee.

The subcommittees utilized a variety of methods to gather information, including written questionnaires, personal interviews, and telephone interviews. For well-defined constituencies, such as the large law firms, efforts were made to obtain information from the entire group. Other subcommittees surveyed selected members among their constituencies in an effort to obtain information from a cross section of each constituency.

Task Force members attended meetings of the sections and committees of the Association, and met with members of both the federal and state judiciary. The Task Force held a public hearing in February 2002 to

⁵ There are some circumstances (e.g. an award of statutory attorneys' fees in an employment discrimination case) in which the acceptance of a fee award would not disqualify such services from inclusion under the Task Force's evaluation of *pro bono publico*.

provide an open opportunity for members of the legal community and the general public to present comments, questions and/or suggestions regarding the delivery of pro bono legal services. The recommendations made at the public hearing⁶ proved to be invaluable and helped inform the Task Force's deliberations and Recommendations.

The Task Force met as a whole to identify key issues, develop the information-gathering process, review subcommittee reports and develop its Recommendations.

II. PHILADELPHIA LAWYERS: A COMMUNITY THAT SERVES

A. The Philadelphia Bar Association

1. A Historical Perspective

The Association should be proud of its longstanding commitment to the ongoing battle to make legal services available to the poor and needy in the greater Philadelphia community. The Association is widely recognized as a national leader in championing the provision of pro bono legal services -- both in word and in deed. The Association and its members were among the first in the nation to recognize the complexity of the task of providing legal services to those who cannot afford to pay, and to conclude that success in this area absolutely requires a public-private partnership embracing the entire legal community. The Association also has been a leading innovator of legal services models and agencies that have been imitated or replicated in cities across the country. The Association has fought on many fronts over many years to obtain and to preserve funding for legal services to the poor.

The Task Force determined that a brief overview of the Association's efforts, particularly over the last 20 years, would set the stage for the evaluation of the current state of affairs, and serve as a backdrop for the conclusions and Recommendations set forth in this Report. The following, then, is a selective summary of actions taken by the Association over the past 20 years to advance the provision of pro bono legal services by creating pro bono referral agencies, addressing funding, lobbying for increased services, and giving voice to the great need in the community.

a. Responding to Legal Services Funding Cuts

The Association has repeatedly used its collective energies to speak out against funding cuts to the legal services community. In 1981, the Association responded with vigor to the Reagan administration's proposed elimination of federal funding for Community Legal Services ("CLS") by mobilizing Philadelphia lawyers to testify and demonstrate in Washington to restore funding. In 1987, the Association created Philadelphia VIP, the first pro bono referral agency of its type in the nation. In 1994 and 1995, the Association again joined with local county bar associations and rallied against the Pennsylvania General Assembly's decision to eliminate \$2.5 million in state funding for Pennsylvania Legal Services.⁷ It also called for the restoration of funding for the Legal Services Corporation.⁸

In 1996, the Association was a founding partner of Philadelphia Legal Assistance ("PLA") which was created after it became apparent that new congressional restrictions would be imposed on recipients of

⁶ A list of the recommendations that the Task Force received from the public hearing is attached hereto as Appendix C.

⁷ See Philadelphia Bar Association Board of Governors February 23, 1995 Resolution, attached hereto as part of Appendix D.

⁸ See *id.*

federal legal services funding. The creation of PLA, staffed by former CLS employees who were released along with the federal funds, enabled legal services attorneys to continue providing services still authorized by Congress under the PLA mantle and with federal funding. CLS then provided legal services to the poor with a combination of public and privately raised funding and without being subject to federal restrictions.

The Association continues to recognize the importance of diversifying the types and numbers of revenue sources for legal services providers. Earlier this year, the Association unanimously adopted a resolution supporting legislation that called for the creation of a modest civil filing-fee surcharge to establish an “access to justice” fund for Pennsylvania’s poorest citizens.⁹

b. Collaborative Efforts

The Association has recognized the need for collaboration and cooperation in its work on behalf of the public welfare and has partnered with other organizations to this end. For example, in March 1996, the Association joined with the Philadelphia Bar Education Center (“PBEC”) and the Foundation in calling on the Pennsylvania Supreme Court and the Pennsylvania Continuing Legal Education Board to waive the per course hour fee for legal services attorneys and require all Pennsylvania MCLE providers to provide up to 12 MCLE credit hours without charge to legal services attorneys.¹⁰

Only four months later, the Association teamed up with the American Bar Association Section of Litigation’s Task Force on Children and the Delaware Valley Chapter of the American Corporate Counsel Association to create the Corporate Counsel Pro Bono Program. The program’s goal is to increase the number and variety of pro bono opportunities for corporate legal departments and lawyers. The Association has also collaborated on pro bono projects with the Philadelphia Association of Paralegals whose members have a longstanding tradition of being active providers of pro bono legal services to Philadelphia’s poor.

c. Advocacy for the Delivery of Legal Services to the Poor

The Association’s leadership has kept the need for access to legal services at the forefront of its policy deliberations over the years. The Board of Governors has adopted many resolutions that reflect its pro bono tradition and its support of the legal services community. For example, in April 1989, the Board of Governors passed a resolution that read, in pertinent part:¹¹

The Board of Governors of the Philadelphia Bar Association strongly urges all Philadelphia attorneys to rededicate themselves to the pro bono ethic and to participate in a pro bono program designed to increase, (through pro bono representation), representation of low-income clients, and

BE IT FURTHER RESOLVED THAT each member of the Board of Governors render public interest legal service through active support of

⁹ See Philadelphia Bar Association Board of Governors February 28, 2002 Resolution, attached hereto as part of Appendix D.

¹⁰ See Philadelphia Bar Association Board of Governors March 28, 1996 Resolution, attached hereto as part of Appendix D.

¹¹ See Philadelphia Bar Association Board of Governors April 27, 1989 Resolution, attached hereto as part of Appendix D.

at least one pro bono program and demonstrate thereby his or her firm support of this Resolution and the ethic of this profession.

In July 1991, the Association urged each Philadelphia law firm and corporate legal department to develop and adopt a written pro bono policy so that their respective attorneys could contribute 50 hours of pro bono legal services annually to the needy, or to organizations having as their primary purpose service or assistance to the poor and disadvantaged, whether through direct service, cash or in-kind donations, or by a combination thereof.¹²

In 1996, in the wake of the passage of both state and federal legal services funding cuts and restrictions, the Association passed a resolution urging the Pennsylvania Supreme Court to create a mandatory IOLTA program exclusively to benefit legal aid programs across Pennsylvania, organizations providing free legal services to the poor, disadvantaged and disenfranchised, and bar foundations supporting these programs.¹³

Again in 1996, the Association, in a resolution entitled “Urging that Continuing Legal Education Credit be Given for Pro Bono Service,” called upon the Pennsylvania Supreme Court and the Continuing Legal Education Board to amend its regulations and include a new proposed subsection which read:

One (1) hour of credit will be awarded for pro bono legal service of at least twenty (20) hours rendered through, and certified by, a pro bono program, up to a maximum of three (3) credit hours (for a minimum of sixty (60) hours of pro bono service) per attorney per year.¹⁴

While these and other resolutions have had a salutary effect, and pro bono efforts increased over the course of the 1990s, the Task Force investigation has revealed that new pressures to reduce the number of pro bono hours provided, the continued lack of any pro bono policy at a number of large and mid-sized law firms, and other economic and political pressures have led recently to a decline in the amount of pro bono service rendered at the very time when the need is growing.

d. The Creation of the Public Interest Section

In 1991, the Association became the first major bar association to create a Public Interest Section. The Section’s focus is to provide a “forum for the Bar to work together on issues of mutual concern that affect the public interest . . . and to educate and involve the entire Bar in issues affecting the public interest.” The new Section was also charged with “promot[ing] the interests of the members [of the Association] who address the legal needs and rights of the poor, minorities, victims of abuse, persons with disabilities, the homeless and other disadvantaged populations.”

The Section, working with the legal services community, other Association groups such as the Large Firm Management Committee, the Law Firm Pro Bono Committee and the Delivery of Legal Services

¹² See Philadelphia Bar Association Board of Governors July 25, 1991 Resolution, attached hereto as part of Appendix D.

¹³ See Philadelphia Bar Association Board of Governor’s February 29, 1996 Resolution, attached hereto as part of Appendix D.

¹⁴ See Philadelphia Bar Association Board of Governor’s April 25, 1996 Resolution, attached as part of Appendix D. The Association also urged the Pennsylvania Supreme Court to employ the definitions of pro bono legal service and pro bono program crafted by the Pennsylvania Bar Association’s special statewide Task Force on Legal Services to the Needy in 1990.

Committee, and the private bar has worked to expand the scope and the depth of pro bono legal services. For example, Section leadership resulted in the development of the Foundation Fellowship Program which allows graduating law school students and legal clerks to defer their employment in private law firms and legal departments for one year as they work in public interest placements, with their respective law firms advancing to them half of their first year salaries to permit that service.

Today, the Public Interest Section's membership reflects a cross section of leaders from all sectors of the legal community who come together regularly in an effort to identify and provide for the legal needs of the poor and disadvantaged. Its goals, among others, remain creating and expanding legal services for the poor and disadvantaged, improving the quality of those services, raising public awareness of the legal and social issues affecting the poor and disadvantaged, and forging partnerships with the private bar.

e. Young Lawyers' Division

The Young Lawyers' Division ("YLD") has long been active in both the Philadelphia legal community and the greater Philadelphia community. The YLD annually awards the Craig M. Perry Community Service Award to recognize young attorneys who are actively engaged in pro bono and charity work. Throughout the year, members of the YLD are also involved in numerous committees to develop programs that help the needy, disadvantaged and disenfranchised.

One of these programs is LegalLine P.M. in which members of the YLD provide free call-in legal advice and make referrals to attorneys who participate in the Association's Lawyer Referral and Information Service on the third Wednesday of each month. YLD also annually hosts a Law Fair during Law Week in which its members provide free legal advice to the community at a public forum.

2. The Development of Pro Bono Legal Services Organizations

In addition to Philadelphia VIP, the Association has helped to develop a number of specialized pro bono intake and referral centers. Each of these organizations has a distinguished history of aggressive and effective advocacy on behalf of the poor, disadvantaged and disenfranchised, although the need for such services, and the emergence of new areas of need is such that much more remains to be done.

a. Support Center for Child Advocates

The Support Center for Child Advocates ("Child Advocates"), which was founded in 1977, is Philadelphia's lawyer volunteer program for abused and neglected children. Child Advocates provides legal assistance and social service advocacy to more than 700 children each year and is one of the most successful volunteer models serving children in the country, with 200 active volunteers.

Child Advocates' clients are referred from the Juvenile Court, the District Attorney, social service agencies, schools, health care professionals and the community at large. Each Child Advocates child receives the service of one of nine staff social workers, who are teamed with volunteer attorneys throughout the term of representation; the agency is also staffed by five attorneys who provide technical assistance and service on special projects. Child Advocates legal and social services are offered to child victims in four Core Programs: a) child protection; b) medically needy children; c) kinship care; and d) adoption. The agency represents child victims in criminal prosecutions for child abuse, and children who are parties to civil dependency proceedings. It also offers a full day of CLE training and a half day of courtroom observation training semi annually.

b. Philadelphia Volunteer Attorneys for the Arts

Founded in 1978, Philadelphia Volunteer Lawyers for the Arts (“PVLA”) is a nonprofit, volunteer-based organization dedicated to providing pro bono legal services and basic business counseling to low-income artists deemed unable to pay and whose problems are arts-related, as well as to emerging and established nonprofit cultural organizations with budgets up to \$1,000,000. PVLA's programs and publications include leadership/board training, nonprofit CLE programs, and a wide variety of conferences and workshops for the legal community, artists, small arts businesses and nonprofits. Publications range from self-help brochures to high-profile publications including *Nonprofit Leadership and the Law*, which was developed by PVLA in collaboration with the Wharton School of the University of Pennsylvania.

In 2001, with over 950 attorneys donating their time and financial resources, PVLA provided 2,822 points of service to 72 individual artists and 118 nonprofit cultural organizations.

c. Senior Citizen Judicare Project

Philadelphia has the largest concentration of senior citizens among this country's 20 largest cities -- and one of the poorest. Senior Citizen Judicare Project ("Judicare") was founded in 1978 by members of the Association to protect the legal rights and interests of Philadelphia's needy elderly residents who experience a higher poverty rate than their peers in other parts of Pennsylvania and the nation. As an independent legal services organization, Judicare provides a multitude of services to over 9,000 elders each year through the efforts of its legal staff and a panel of volunteer pro bono attorneys.

Since its founding in 1978, Judicare has provided free legal representation for over 32,000 seniors, focusing on housing, elder abuse, financial exploitation, consumer problems, grandparent custody, and personal and end-of-life planning needs. It has educated more than 65,000 elders through community education workshops and assisted over 100,000 seniors through advice, information, and referral services to other agencies. Judicare also has conducted professional training for thousands of professionals who work with the elderly in other fields, to sensitize them to the legal problems facing elders. Judicare has telephone and walk-in intake in Center City and six community-based legal clinics in neighborhoods throughout Philadelphia, including bilingual/bicultural clinics focusing on Hispanic and Asian elders. Judicare has also launched numerous special programs focusing on the needs of homebound and disabled elders, immigrant and refugee elders, kinship caregivers, elderly homeowners, and victims of elder abuse and exploitation.

d. Legal Clinic for the Disabled

In 1987, the Pennsylvania Bar Association Young Lawyers' Division, the Association's Young Lawyers' Division, and Magee Rehabilitation Hospital founded the Legal Clinic for the Disabled (“Legal Clinic”) to respond to the unmet legal needs of low-income persons with physical disabilities.

The Legal Clinic, the second of its kind in the country, makes legal services available to low-income persons with physical disabilities who are without access to such services. With a staff of one full-time and two part-time employees, the Legal Clinic advises as many as 1,000 people per year and has represented as many as 150 persons per year or more. As the Legal Clinic is based in part on the community based legal aid organizational model, it does not predefine particular legal issues that it believes are important to the community; instead, it represents clients on whatever legal issues are important to them. Thus, the Legal Clinic's volunteers and staff handle a wide variety of cases. The Legal Clinic also recently commenced, in partnership with Magee Rehabilitation and Women Against Abuse, its Anti-Violence Initiative designed to improve awareness of domestic violence and caregiver violence in the disabled community.

e. Homeless Advocacy Project

In the fall of 1990, advocates, activists and members of the Association's Committee of the Problems of the Homeless created the Homeless Advocacy Project (“HAP”) in response to the concern that the legal needs of Philadelphia’s burgeoning homeless population were not being adequately met. In creating HAP, these advocates recognized the complexity of the problems facing the homeless, and the persistence of homelessness in major urban centers. HAP volunteers provide pro bono services across a broad spectrum of legal and other problems that stand in the way of enabling the homeless to find more permanent housing and rejoin the mainstream of society.

HAP holds monthly legal clinics at 16 Philadelphia shelters and soup kitchens. It has an educational outreach program to address the health and educational needs of homeless children. It also provides free legal services to nonprofit community groups in Philadelphia that promote and develop low income housing options and services for the city’s indigent population. Since its inception, pro bono attorneys, paralegals and law students have donated over \$8 million in legal services through their advice, representation and advocacy on behalf of nearly 6,000 homeless adults and children.

f. Consumer Bankruptcy Assistance Project

The Consumer Bankruptcy Assistance Project (“CBAP”) was established in 1992 with support from the Eastern District of Pennsylvania Bankruptcy Conference, the Business Law Section of the Association and Community Legal Services. The creation of CBAP was a direct response to further funding cuts that drastically limited Community Legal Services’ ability to provide bankruptcy assistance. Currently, CBAP serves approximately 1,200 people annually. Half of these clients receive phone information, which includes non-bankruptcy alternatives, and half result in actual client intake. CBAP through its professional staff, volunteer attorneys, and other volunteer professionals, file approximately 400 Chapter 7 petitions per year.

3. Recent Pro Bono Initiatives of the Philadelphia Bar Association

Pro bono services in Philadelphia and elsewhere have focused principally on litigation-oriented matters. While non-litigators have provided some important pro bono services in such areas as nonprofit incorporations and applications for tax exemptions, the need for “transactional” pro bono services is great, and yet publicizing the need and providing training have been less than successful. The correlative effects, broadly, have been to underserve those who need non-litigation legal assistance, and to lose the volunteer energy of lawyers who are not litigators and who comprise a significant portion of the bar.

Recently, the Probate & Trust Law Section, Business Law Section, and Real Property Section have developed new pro bono projects that aspire to help fill these voids both by delivering needed services and by providing pro bono opportunities for transactional lawyers.

a. Probate & Trust Law Section

The Public Service Committee of the Probate & Trust Law Section recently proposed the creation of a program for matching volunteer lawyers with low-income persons and at-risk populations with estate planning or probate needs. The section’s initiative will assist certain legal services providers in matching their clients with Probate & Trust Law Section lawyers. At the onset, the Section will be working in coordination with Philadelphia VIP, Senior Citizen Judicare, the Legal Clinic for the Disabled, and certain other legal services providers.

Under the new program, the Committee will send monthly emails listing estate planning, estate administration and guardianship pro bono opportunities, along with a brief description of the facts of each case so that a volunteer attorney has sufficient detail to make an informed decision about what the matter

involves. Interested attorneys may then contact the legal services provider to volunteer to handle a listed matter.

b. Business Law Section

The Business Law Section, which was largely responsible for the creation of the Consumer Bankruptcy Assistance Project, recently developed another pro bono project, tentatively named “Philadelphia LawWorks,” which aims to give free legal services to qualified business clients. Great community benefits flow from strengthening not-for-profit community development corporations, and pro bono business law services can contribute, in a very tangible way, to this economic development.

Philadelphia LawWorks will deliver legal services needed by prospective clients to run and develop businesses. Philadelphia VIP will manage the project, and its efforts will be augmented by a panel of lawyers from the Business Law Section which will place cases for worthy entities that do not meet Philadelphia VIP’s or CLS’ eligibility criteria.

Philadelphia LawWorks will also have a significant community education component designed to sensitize prospective clients to potential business law problems and inform them that pro bono assistance may be available. The Section will develop training programs for volunteers, plan and develop community education efforts and generally work to improve and expand the program. It hopes that Philadelphia LawWorks will be operational by late 2002 or early 2003.

c. Real Property Section

The Real Property Section is working on a Translation Project which involves the translation of literature related to residential landlord and tenant matters. This literature provides information about the landlord/tenant relationship and gives readers suggestions about what they should consider when entering into a landlord/tenant relationship, including the importance of the written lease. The literature will be translated into Spanish, Chinese and a Cyrillic language. It will then be distributed free of charge in several of Philadelphia’s ethnic communities.

B. Philadelphia Bar Foundation

The Foundation was established in 1964 as the charitable arm of the Association. The mission of the Foundation is to promote access to justice by providing financial and other resources in support of quality legal services.

1. Grants

The Foundation prides itself on being one of the few sources of unrestricted support for free legal services for the poor and disadvantaged. In 2001, the Foundation awarded a total of \$353,000, 95% of which was allocated to organizations providing access to justice for members of the community struggling with poverty, abuse and discrimination. This money was leveraged by these organizations to raise more than \$20 million in public support, employ 325 attorneys and support staff, recruit and train thousands of volunteers, and provide free, quality legal assistance to tens of thousands of clients struggling with an array of poverty and civil rights-related issues, including public benefits, housing, discrimination, domestic violence and dependency.

2. Staff Support

The Foundation partners with the Association and the agencies comprising the Delivery of Legal Services Committee (“DLSC”) to fund the DLSC Coordinator. The DLSC Coordinator facilitates inter-agency collaborations, coordinates DLSC initiatives and is crucial to advancing a public interest agenda of enormous impact, both locally and nationally.

3. Bar Foundation Fellowship

The Foundation also coordinates the Public Interest Fellowship Program. Bar Foundation Public Interest Fellows are first-year associates at participating law firms who spend their first year in practice working with a legal services agency. The Public Interest Fellowship offers a tremendous training opportunity, and also increases the host agency's capacity to provide legal services to the community, while strengthening its relationship with the private bar.

4. Sources of Revenue

The Foundation's ability to make grants depends primarily on the amount of support it receives from law firms and individual attorneys. In 2001, the Foundation raised a little more than \$1 million, approximately \$210,000 of which is permanently restricted to the endowment.¹⁵ In addition, the Foundation secured program grants totaling \$95,000 from other local foundations wishing to support access to justice. The balance of funds are raised through the Andrew Hamilton Ball and the annual golf tournament, and by miscellaneous contributions from individual members of the Association.¹⁶

In 2002, the Foundation undertook significant restructuring, internalizing its leadership development, reducing the size of the board and creating a two-year presidency, in order to enhance its ability to attract money and other resources in support of legal services.

C. Legal Services Delivery Models in Philadelphia – A Public/Private Partnership

In order to develop an understanding of effective models for delivery of pro bono legal services, it is necessary to examine the wide variety of legal services organizations in the greater Philadelphia area dedicated to serving the poor.

Philadelphia's legal services organizations can be clustered into three broad categories:

1. Legal Services Staff Agencies

The two principal legal services organizations in Philadelphia are CLS and PLA. These two agencies are traditionally known as community based legal aid organizations. They maintain a substantial staff of lawyers employed on a full-time basis to provide direct legal services to needy Philadelphians. In 2001, CLS served over 18,000 clients and PLA served over 7,500 clients. Services are provided in a wide range of civil law areas to persons meeting strict income eligibility requirements based on federal poverty guidelines. Both organizations handle individual cases, provide community education and, through litigation and systems advocacy, work address systemic legal issues that arise for poor persons in Philadelphia. PLA must operate within federal Legal Services Corporation restrictions which bar class actions and most legislative advocacy and representation of certain groups. CLS is able to pursue class action lawsuits and perform legislative and administrative advocacy on behalf of its clients.

CLS and PLA typically refer excess cases or those that present a conflict of interest, involve a subject matter not within their stated priorities, or demand resources that are not available, to

¹⁵ The Foundation's \$2.8 million endowment is funded by the nearly 300 members of the Andrew Hamilton Circle, each of whom has pledged to contribute a total of \$10,000 in annual installments.

¹⁶ In 2001, the Foundation received gifts from approximately 550 individual attorneys -- less than five percent of the Philadelphia Bar Association's 12,000 members.

Philadelphia VIP and other organizations. Occasionally, CLS and PLA seek out private law firm help on a special project, or legal challenge, where their lawyers can take advantage of private firm expertise and resources. CLS and PLA work collaboratively with a large number of public interest law centers and pro bono intake and referral centers, and provide legal and technical assistance to a wide range of service providers, grassroots organizations, and governmental agencies.

2. Public Interest Law Centers

There are a number of legal services agencies that specialize in certain substantive legal issues that tend to have a substantial impact on the poor and disadvantaged.¹⁷ The organizations vary in whether they serve only poor clients or will assist any client with a problem in their legal area irrespective of financial need. Many of them do not limit their services to Philadelphia, but serve clients statewide or even nationwide. The names of many of these centers speak directly about the breadth of the need for adequate legal services: the AIDS Law Project, the Center for Gay and Lesbian Civil Rights, the Disabilities Law Project, the Education Law Center, the Juvenile Law Center, the Public Interest Law Center of Philadelphia (“PILCOP”), the Pennsylvania Health Law Project, Regional Housing Legal Services, and the Women’s Law Project are just some of these organizations.

Most of these public interest law centers attempt to focus on selected individual cases and the larger law and policy issues in their subject area, seeking to ensure that the legal rights of the disadvantaged are protected. Their tools include individual, group and class representation, policy and legislative work, consumer education and individual representations, and diverse collaborative efforts. Public interest law centers often partner in major matters with private firm lawyers and sometimes refer individual cases directly to private firm lawyers or to Philadelphia VIP.

3. Pro Bono Intake and Referral Centers

The third broad category of providers are pro bono referral centers, many of which conduct their own intake. Philadelphia VIP is perhaps the best known of these referral agencies and is staffed by a small number of lawyers and legal assistants. It accepts "overflow" cases that have been processed by the CLS and PLA intake systems, but cannot be handled by CLS and PLA due to conflicts or the lack of resources, and that are appropriate for placement with private attorneys. It does not do its own intake, but takes cases only from other public interest organizations. It develops relationships with private attorneys to whom it refers cases and provides training, mentoring and assistance to those who take pro bono cases.

Over three decades, several other distinguished agencies have emerged to address specific unmet legal needs. The Philadelphia Volunteer Lawyers for the Arts (“PVLA”), Child Advocates, Judicare, the Legal Clinic, HAP, and CBAP, have emerged to address some of the specific needs. These organizations work with varying models, ranging from clinics at homeless shelters run by pro bono volunteers and staff attorneys (HAP), to cases referred from CLS and PLA and handled by law students supervised by pro bono private attorneys and staff attorneys (CBAP), to direct intake and referral of clients needing assistance to private firm attorneys (PVLA). In addition to these centers, many of the area law schools have developed specialty law clinics to address the unmet legal needs of the community and a number of these agencies handle their own intake.

While the pro bono intake and referral centers have developed various techniques for successfully placing cases with private sector lawyering, universal truths have emerged about pro bono referral service -- pro bono volunteer legal assistance will never obviate the need for highly competent, experienced and expert staff. In addition, the demand for additional pro bono legal aid far outstrips the current ability of these centers to identify and place cases with lawyers in private practice. Less sympathetic cases and clients may receive no assistance at all. Even for the clients who ultimately receive assistance from a pro bono

¹⁷ See List of Philadelphia’s Legal Services Providers, attached hereto as Appendix E.

attorney, much staff time is required to recruit, train and support the pro bono attorney, and even then, some of the most difficult cases revert back to the staff for resolution.

D. Pro Bono Initiatives by the Judiciary and Other Professional Groups

1. Initiatives by the Judiciary

Unquestionably, any discussion of how to improve the delivery of pro bono legal services and promote greater pro bono involvement must include an analysis of the role of the judiciary. The judiciary can play a unique and critical role in the administration of justice by facilitating pro bono legal services, namely by promoting participation in pro bono work by lawyers in every sector of the legal community, by reminding lawyers of their ethical and professional obligations to provide pro bono service as a means of ensuring equal access to justice, and by developing procedural incentives to encourage pro bono service.

At present, the federal and state judiciary in Philadelphia are promoting the delivery of pro bono legal services in specific ways.

a. The United States Court of Appeals for the Third Circuit

The United States Court of Appeals for the Third Circuit has been a leading voice in encouraging and recognizing the critical role of pro bono service, both generally and at the trial and appellate level in federal court. Notably, in February 1998, Chief Judge Edward R. Becker appointed a Task Force, co-chaired by District Judge Edmund V. Ludwig (E.D.Pa.) and Magistrate Judge Ila Jeanne Sensenich (W.D.Pa.), to review the need for counsel in indigent litigation in the Circuit. The Task Force issued a report addressing ways to recruit an adequate number of attorneys to handle such cases, and suggested that providing various incentives was important to increasing participation by private lawyers. The incentives identified included greater involvement by judges, expressions of appreciation, free or low-cost CLE programming, mentors, providing malpractice insurance and reimbursement of out-of-pocket expenses, among others.

Chief Judge Becker also attended an informal pro bono summit of managing partners and other law firm pro bono leaders in July of 2001 specifically to thank lawyers who handle pro bono cases for their diligence and sacrifice, and to remind law firm managing partners and chairpersons that the most senior lawyers in the firms must lead by example and expressly encourage and recognize pro bono work by firm lawyers. Chief Judge Becker noted that such leadership at the top is essential if we are to expect younger lawyers at firms to take on pro bono matters with the necessary commitment and devotion of time, in light of the many demands of law firm practice. Chief Judge James Giles of the United States District Court for the Eastern District of Pennsylvania, Justice Russell Nigro of the Pennsylvania Supreme Court and other judges who attended also expressed their views that recognition of, and support for, pro bono service by law firm leaders is essential.

The Court of Appeals periodically appoints private firm lawyers to represent indigent appellants in matters in which the Court believes appointed counsel is needed for a full and fair consideration of the issues at stake. In so doing, the Court repeatedly has recognized the importance of properly and fully litigating key issues involving constitutional and civil rights and other substantive legal matters both for the benefit of the litigants before the Court and because of the precedential impact of appellate court rulings.

In addition, Chief Judge Becker, his immediate predecessor as chief judge, Judge Delores Sloviter, and many other Third Circuit judges have taken the time at oral argument to expressly thank pro bono counsel appearing before the Court, and their law firms, for their dedication and service to their pro bono clients and to the system of justice.

b. The Eastern District of Pennsylvania Public Interest Committee

The United States District Court for the Eastern District of Pennsylvania has been a national leader in promoting pro bono service on behalf of indigent and disadvantaged parties before the Court. About 30 years ago, the Eastern District, through its Public Interest Committee, created two special panels -- the Prisoner Civil Rights Panel and the Employment Discrimination Attorney Panel -- to address the need for appointed counsel in those cases in which, in the Court's view, such appointment served the interests of justice. In creating these panels, the Court was mindful of the difficulties indigent and disadvantaged litigants in the civil rights and employment discrimination areas historically have had in obtaining private counsel.

In a meeting with Association leaders on February 13, 2002, the Public Interest Committee of the Court reported that during the five-and-a-half year period preceding the meeting (i.e., from July 1, 1996 through January 31, 2002), a total of 193 orders for appointment of pro bono counsel were entered through the Prisoner Civil Rights Panel process, 130 of which resulted in actual appointments of counsel. In the same time period, 159 orders of appointment of pro bono counsel were entered through the Employment Discrimination Attorney Panel, 63 of which resulted in actual appointments. The Public Interest Committee of the Court includes, among others, private firm attorneys who serve as co-coordinators of the two referral panels. The Public Interest Committee of the Court indicated that the need for lawyers in prisoners' civil rights cases is ongoing and that there is a special need for lawyers to serve on the Employment Discrimination Attorney Panel where complicated cases remain difficult to assign.

The Public Interest Committee of the Court also conducts an annual CLE program. Roughly two years ago, the Committee created the Public Interest Civil Litigation Fund, a private Section 501(c)(3) organization that makes grants, upon application, to lawyers appointed to represent indigents in cases filed in the Eastern District. The fund is intended to defray the burden on volunteer attorneys of paying the unavoidable out-of-pocket costs in such litigation, and awards of up to \$1,500 per case are available.

c. The Pennsylvania Supreme Court and the First Judicial District of Pennsylvania

The Supreme Court of Pennsylvania has frequently voiced its concern that indigent and disadvantaged litigants have difficulty in obtaining counsel, and has expressed its recognition of the importance of pro bono service. About two years ago, then-Chief Justice John P. Flaherty, Jr., sent a letter to every lawyer in Pennsylvania with a reminder about his or her ethical duty to provide pro bono service, and urging every lawyer to engage in pro bono work. The justices of the Supreme Court also have been supportive of various initiatives to increase funding for the delivery of legal services to the poor. For example, the Association and others have asked the Supreme Court to support the Access to Justice Act legislation introduced by a bi-partisan group of legislators; the bill, now pending before the state legislature, would institute a modest filing-fee surcharge to support the provision of legal services to the needy throughout the state.¹⁸

Chief Justice Stephen A. Zappala is the chair of the Pennsylvania Futures Commission on Justice in the 21st Century. The mission statement of the Commission sets forth clear goals for the justice system of the future:

¹⁸ See Philadelphia Bar Association Board of Governors February 28, 2002 Resolution, attached hereto as part of Appendix D.

That justice system will be effective and accepted only if it enjoys the trust, confidence and respect of the public. It must offer fair, swift and affordable resolution of disputes; equal access to justice for all citizens; and provide an informed citizenry full access to the system and participation in the preferred outcome.

President Judge Frederica A. Massiah-Jackson of the First Judicial District submitted a detailed letter memorandum to this Task Force on pro bono issues. In addition to citing the Commission's mission statement, Judge Massiah-Jackson's letter memorandum notes that the number of individuals representing themselves in court appears to be growing throughout the United States, and that Rule 240 of the Pennsylvania Rules of Civil Procedure removes another barrier to public access by expressly enabling litigants to file civil and some domestic relations matters *pro se* or by availing themselves of *pro bono* representation.

The First Judicial District has recognized the need for facilitated self-help for lay persons and is planning to open a judicial service center, to be known as the FJD Information Center, which will provide increased access to the justice system for the general public. The new office will provide solutions for walk in inquiries about court forms, judgments, small claims, criminal and civil docket information, trial locations and a host of other court services.

The Task Force concludes that the FJD Information Center is an innovative, and important, step forward. The Task Force is hopeful that the Center will form a solid basis for additional cooperative efforts between the First Judicial District and the Association on a range of issues relating to the delivery of legal services to the poor and disadvantaged, and appreciates the attention Judge Massiah-Jackson has given to this issue. The Association must maintain and expand its dialogue with the First Judicial District on these issues, because the judiciary is in a position to play a critical role in making quality pro bono representation more available to those in need.

2. Initiatives by Other Professional Organizations

a. Pennsylvania Bar Association

The Pennsylvania Bar Association ("PBA") renewed its commitment to civil legal aid this past fall with the hiring of a full-time Pro Bono Coordinator for Legal Services and a half-time administrative assistant for the PBA's Pro Bono office.

Guided by the PBA's Delivery of Legal Services to the Needy II Task Force, PBA's Pro Bono Coordinator has worked closely with Pennsylvania Legal Services, and IOLTA to promote the Access to Justice Act.

The PBA conducted significant outreach to local bar associations and legal services programs, culminating in a Pro Bono Conference as part of its annual meeting. CLE workshops on pro bono ethics, post 9/11 immigration issues and legal updates plus a statewide networking session were featured at the Conference. At the annual meeting, a pro bono Scroll of Honor was unveiled and a number of advocates from across the Commonwealth were honored.

The PBA's standing committee on civil legal aid, known as the Equal Justice for the Poor Committee, will take over the unfinished and ongoing work of the PBA's Task Force II. Top among the unfinished tasks is the effort to increase pro bono activity in those counties across the Commonwealth that have no formalized pro bono programs. Pro Bono Support Teams, comprised of volunteer lawyers with significant civil legal aid experience and with hands-on practice at establishing programs plan to help local programs grow. The PBA worked closely with IOLTA in its initial Pro Bono grant program and is pledged to help the grant winners develop their initiatives.

b. Litigation Assistance Partnership Project

The Litigation Assistance Project (“LAPP”) is a venture of the American Bar Association Section of Litigation. Founded in 1989, LAPP is a national case referral program that matches complex litigation cases with interested law firms around the country. A multi-year public-private collaboration, which led to an important victory in the Chester Housing Authority case in the United States District Court in Philadelphia.

c. American College of Trial Lawyers

The local chapter of the American College of Trial Lawyers (“ACTL”) has adopted the Access to Justice Program which assists pro bono organizations in lawsuits pending or under consideration which “present important legal issues and which could have a significant societal impact or have the prospect of making access to the justice system and legal services available to parties who are asserting worthy claims or defenses for whom retaining counsel represents a significant impediment.” The goal of the program is to have ACTL Fellows contribute their services and skills for at least some significant portion of these litigation efforts. The local chapter, which counts among its members a number of Philadelphia’s most experienced trial lawyers, will implement this program in the Philadelphia area. In addition, the local chapter advised this Task Force that it looks forward to working with the Association to establish a viable mentoring program for pro bono lawyers involving trial advocacy issues.

d. Death Penalty Representations

The Pennsylvania Capital Representation Project (“PCRP”) is a privately funded project of the Capital Habeas Corpus Unit of the Defender Association of Philadelphia, Federal Court Division. It was created in 1999 to fill a critical gap in legal representation when lack of funding forced Pennsylvania’s former death penalty resource center, the Center for Legal Education, Advocacy & Defense Assistance, to close. The PCRP has assisted approximately 100 clients on Pennsylvania’s death row through the cases it handles directly and the training and assistance it provides to pro bono attorneys and appointed post-conviction counsel.

As of June 2002, there were 244 persons on Pennsylvania's death row, giving Pennsylvania the fourth largest death row population in the United States, with the vast majority (70%) of inmates being people of color. Between 1978 and 1994, capital defendants had won only one post-conviction reversal of a death sentence in Pennsylvania’s state courts. Since PCRP’s involvement, there have been 20 state post-conviction death penalty reversals. PCRP’s lawyers provided direct representation and/or training and assistance in 17 of the 18 post-conviction cases in which the state’s Courts of Common Pleas have reversed death sentences, and the two cases since 1995 in which the Pennsylvania Supreme Court has granted post-conviction relief. PCRP lawyers have also assisted in obtaining more than 220 stays of execution across Pennsylvania, including stays for every person who has wanted to pursue his or her post-conviction appeals.

In addition, a fair number of large Philadelphia law firms have handled death penalty cases through the ABA Death Penalty Representation Project.

III. THE UNMET NEED FOR LEGAL SERVICES & THE DECLINE IN PRO BONO SERVICE

A. The Unmet Legal Need

The Task Force surveyed and met with a wide range of members of the legal services community to gather their ideas and concerns about the delivery of pro bono legal services. The Task Force particularly asked for identification of and information on unmet legal needs of poor persons that might be addressed

through the pro bono system. The following is based on the information obtained in that process, as well as from the Task Force's public hearing and the experience of legal services practitioners.

The legal needs of poor persons in Philadelphia, as across the country, are tremendous. Studies have shown that only about 20% of the legal needs of the poverty population are being met.¹⁹ In Philadelphia there are many types of cases that are not handled at all by the legal services or pro bono communities, and other areas of law where only a small portion of the cases are served. For many areas of the law, proactive and prophylactic legal advice would be helpful for poor Philadelphians but is not provided. Many people do not know where to get legal assistance, and many others do not identify their problems as ones requiring legal assistance, and, therefore, do not think of seeking a lawyer for help.

While pro bono attorneys in Philadelphia have done outstanding work, it is clear that they do not come close to meeting the immense demand. Legal services agencies have devised ways to cope with this dilemma. Many of the specialized public interest law centers carefully define what they will and will not do in order to control their work. Legal services staff organizations are always overwhelmed and some operate with a sense of constant crisis. They develop ways to limit the number of cases they handle, particularly by limiting the types of cases they will accept, their hours of service, and their visibility to clientele, in order to avoid too many client requests for assistance. CLS and PLA frequently "close" intake of certain types of cases, simply telling people they cannot be helped. Cases are screened using a variety of criteria ranging from "first-come first-served," to weighing which clients have the most to lose, to which cases can be done most efficiently, to which cases are most likely to succeed, to which ones will have the largest impact for all poor persons, to which areas of law are ones in which attorneys have expertise. Priority setting and case triage are daily events.

The financial pressure on legal services organizations has been exacerbated in the last few years with the astounding rise in the cost of health care for employees and the oppressive student loan debt that young attorneys carry when they embark upon a new career in the law. Legal services organizations cannot dramatically increase salaries for legal services attorneys without also dramatically reducing both the number of jobs and the provision of client services.

This economic reality has, however, created numerous opportunities for the involvement of more pro bono attorneys to meet the ever increasing unmet legal needs of the poor. The following list identifies and describes several areas of substantive law and/or types of cases which have been identified by Philadelphia legal services organizations as presenting some of the greatest unmet legal needs in the area.

- **Family law** -- There is a tremendous need for representation of poor families in domestic relations matters, particularly in custody and support cases. More than two-thirds of custody litigants proceed pro se, which can be problematic in many ways. Virtually no children are represented in domestic relations cases. While PLA, Women Against Abuse Legal Center, and CASAC (a law student clinic) all handle custody and support cases, they are forced to turn away victims of domestic violence, mothers whose children have been abused by their fathers, teenage mothers and poor older women who need divorce representation to ensure that they get an economic settlement that will prevent them from becoming destitute. With many Protection from Abuse cases also presenting issues of mental illness, addictions and the need for treatment, there are virtually no services available to clients or the judges who might refer to them, nor mechanisms to access the services that exist. No agencies are currently providing representation in divorces, and relatively few child support cases are taken.

¹⁹ See Legal Services Corporation, Serving the Civil Legal Needs of Low-Income Americans: A Special Report to Congress 12-13 (April 30, 2000) (citing legal studies by a dozen states and concluding that approximately 80% of the legal needs of people eligible for legal assistance go unmet).

In response, Family Court Administrative Judge Myrna Field would like to introduce volunteer guardians *ad litem* in custody and support cases, and also utilize volunteer custody masters to reduce case delays. The successful Child Custody Assistance Project (KidsCAP), a model of pro bono advice rather than representation serving pro se litigants, ceased operation in 2000, leaving no help or guide available for most of the thousands of parents involved in custody proceedings.

- **Bankruptcy** -- CLS, PLA and CBAP all handle numerous bankruptcies but also turn many away. As a referral agency, CBAP faces a major limitation, because many pro bono attorneys at large firms are frequently conflicted out of simple bankruptcy cases. The proposed bankruptcy law amendments are anticipated to make the need for pro bono assistance even greater. Law firms can sometimes obtain blanket waivers to enable them to handle such matters, but many firms seem reluctant to explore this possibility.

- **Housing** – Philadelphia’s poor regularly face legal issues related to housing. Every day unrepresented tenants go to eviction hearings in Municipal Court and are ordered out of their homes because they lack a basic understanding of their legal rights or due process procedures and consequently, cannot invoke the protections of the law. Similarly, poor homeowners whose homes have suffered damage caused by a neighbor, a business or the city have few sources of legal assistance.

- **Consumer** -- Fraud and other consumer injuries are prevalent, particularly among the elderly. Predatory lending cases are flooding legal services offices and CLS has established a special referral network to help meet the demand. There are, however, insufficient resources to handle many meritorious consumer law cases involving widespread fraud, such as scams involving automobiles and home improvements.

- **Probate/real estate matters** -- Many poor persons have "tangled title" issues and cannot use their homes as collateral or sell their homes because title needs to be cleared.

- **Special education and expulsion hearings** -- Many poor families are not aware of their rights to special education for their children. The Education Law Center trains pro bono lawyers and, with Philadelphia VIP, refers these cases to lawyers in private firms, but many more volunteers are needed. Expulsion cases are becoming more common as the School District has adopted additional zero tolerance policies.

- **Juvenile and Dependency** -- There is little representation for or advocacy of juvenile offenders in delinquent proceedings, apart from the Defenders Association and conflicts counsel who are paid by the court. Issues ranging from appeals and conditions of confinement to collateral needs of the youths such as education or counseling, are often not addressed and would be suitable for pro bono service. In dependency cases of abuse and neglect, the Support Center for Child Advocates needs dozens more volunteers to handle existing caseloads and could expand service with an increased volunteer pool.

- **HIV confidentiality issues** -- The AIDS Law Project needs assistance in responding to violations of Pennsylvania's Confidentiality of HIV-Related Information Act, known as Act 148. Health care provider disclosure of patients HIV status not only result in a loss of privacy, but also has become a disincentive for people to obtain necessary HIV testing and treatment. Last year, one of the AIDS Law Project’s clients chose to die at home from a treatable opportunistic infection rather than go to the hospital that had previously impermissibly disclosed her HIV status. Pro bono attorneys are needed to aggressively pursue these violations.

- **Nursing home and other institutional representation** – Many people who live in nursing homes and similar settings cannot consult with an attorney unless someone comes to the institution. Some have been able to have their legal issues presented by family members but this raises some questions about the clients' own interests and desires. CLS' Elderly Law Project, the Senior Citizen Judicare Project and the Disability Law Project represent persons in nursing homes and/or in mental institutions, but there is a tremendous unmet need to reach out and provide on-site services for this vulnerable population.

- **Immigration** -- The recent influx of immigrants into suburban and rural counties, combined with existing urban needs, the small number of full-time public interest immigration attorneys, and a small pro bono effort to handle their needs, has resulted in a major unmet legal need. The Nationalities Services Center, Hebrew Immigration and Asylum Services and Pennsylvania Immigration Resource Center ("HIAS") and Council Migration Service of Philadelphia each handle immigration legal work as part of their more general immigrant services, but many recently arrived immigrants go without adequate representation when faced with daunting legal issues.

- **Non-English speakers** -- Non-English speakers have many special legal needs and it is more complicated to represent them as interpretation, translation and cultural sensitivity are all required. Their numbers have grown in Philadelphia which has only just begun to develop a more sophisticated system to provide them with legal services.

- **Transactional work** -- Although some lawyers in private practice assist nonprofit agencies in incorporation, tax, zoning and other transactional matters, there remains a great unmet need. A new effort of the Association's Business Law Section is attempting to address the great need for legal expertise relating to the organizational, business and "deal-making" needs of nonprofits with indigent members and of small for-profit corporations run by low income persons that seek to create jobs and neighborhood stability in impoverished communities.

- **Capital defense representation** – Pennsylvania has the fourth largest death row population in the United States with the vast majority (70%) of inmates being people of color. There is a critical gap in the provision of legal representation to capital prisoners in the Commonwealth.

- **Traffic court** – Many poor Philadelphians have multiple traffic tickets and need legal assistance to keep their drivers' licenses to avoid going to jail, or to maintain access to essential social services for them and their families.

- **Tax assistance** -- As low income persons move from welfare to low paying jobs there is a great need for tax assistance with the new Earned Income Tax Credit program and other programs designed to protect workers from unfair tax burdens.

- **Legal Education and Outreach** -- There remains a tremendous need to educate the disadvantaged on how to avoid legal problems, engage in legal planning, and learn when and where to turn for legal help. This outreach must be coupled with prophylactic legal assistance, such as will writing, contract and lease reviews, and advice on the rights of special needs children.

- **Public benefits** -- Many overpayment and other non-eligibility cases for Social Security, SSI, Veterans' Administration and welfare benefits are not handled by legal services organizations because their resources are too limited.

- **Long term disability cases** – Long term disability cases involve a complicated area of law with little availability of attorneys' fees. Consequently, many people with meritorious claims cannot pursue them against an insurer, particularly if they are poor.

- **Criminal record expungement** -- Many poor people have problems securing employment because of old records of arrests, unfounded child abuse allegations or inaccurate charges based on mistaken identity. Legal assistance in expunging these records is needed.

B. Despite Unprecedented Economic Growth Over the Past Decade, Pro Bono has Declined

The legal profession is the nation's second highest-paying occupation. Over the decade of the 1990's, in which the nation experienced its largest-ever peacetime economic expansion, the average revenues of the most successful law firms increased by more than 50 percent and average annual profits per partner rose by 34 percent.²⁰ In the year 2000 alone, gross revenue among firms comprising The Am Law 100 survey rose an average of 19.5 percent, and profits per partner grew an average of 10.2 percent.²¹

Despite such prosperity, support for pro bono legal assistance to the poor has declined. The average number of pro bono hours worked annually by lawyers in the Am Law 100 firms decreased by 35 percent to 36 hours and 18 minutes a year, or just eight minutes a day.²² The average for the profession as a whole is less than half an hour a week and half a dollar a day.²³ Increases in salaries have forced corresponding increases in required billable hours, creating an adverse impact upon the availability of pro bono assistance for low-income communities. Pressed with more business than they can handle, law firms have pushed lawyers to raise their billable hours to pay escalating salaries, resulting in sharp cut backs in pro bono work.²⁴ This phenomenon was aptly summarized by a partner at Wilmer, Cutler & Pickering: We're under pressure to work hard to pay for these rising salaries. I don't think it's going to wipe out the tradition of pro bono, but it's clearly going to have some impact.²⁵ One partner in charge of pro bono assignments at Crowell and Moring reported that her e-mails go unanswered, memos no longer work and phone calls leave her colleagues unmoved.²⁶

The decline in pro bono work comes at a time in which federal funding for the Legal Services Corporation has been cut by 25 percent and Congress has imposed harsh restrictions on lawyers receiving federal funds, thereby only creating greater need for legal assistance for the poor. In short, pro bono assistance from private lawyers has never been more important.

IV. PHILADELPHIA VOLUNTEERS FOR THE INDIGENT PROGRAM

Philadelphia VIP is the foremost pro bono referral agency of the Association. As with many other components of the system for addressing the legal needs of the underserved, Philadelphia VIP was created

²⁰ See Deborah I. Rhode, Squeezing the Public Good, ABA Journal, November 2000, at 120, citing American Lawyer magazine studies; see, also, Aric Press, Eight Minutes, American Lawyer magazine, July 2000 at 13.

²¹ See Douglas McCollam, Life on the Bubble, The American Lawyer, July 3, 2001.

²² See Aric Press, Eight Minutes, American Lawyer magazine, July 2000 at 13.

²³ See Rhode, supra note 1 at 13.

²⁴ See Greg Winter, Legal Firms Cutting Back on Free Services for Poor, New York Times, August 17, 2000.

²⁵ Id., quoting John Payton, Wilmer, Cutler & Pickering.

²⁶ Id., citing remarks of Susan Hoffman, Crowell & Moring.

by the Association in recognition of the fundamental necessity of a public-private collaboration in striving to better address these critical needs. As noted in the Overview section, the October 2001 decision of the Association to decrease its funding support for Philadelphia VIP by 25% was one of the key events triggering the investigation and evaluation of pro bono services, and corresponding Recommendations, set forth in this Report.

A. Brief History of Philadelphia VIP

A brief look into Philadelphia VIP's history reveals that the current funding crisis and other distress signals for the effort to deliver legal services to those in need are not unprecedented. Philadelphia VIP was founded just twenty years ago, in 1982, after the federal government reduced funding for legal services organizations by 25%. In response, the Association, working with CLS and others, established, and largely funded, Philadelphia VIP, under its original name of Philadelphia Lawyers' Volunteer Action Program ("PLVAP").

Funding for PLVAP was provided through the Foundation. After initial success in its first few years in referring cases that CLS and others could not handle to private firm lawyers doing pro bono work, the number of such volunteers began to decline and intake was closed in certain key areas, including family law and personal bankruptcy.

In 1986, the Foundation initially declined to renew PLVAP's grant, and the viability of the program was threatened. CLS, recognizing the fundamental need for private bar involvement, particularly when government funding was both declining and becoming more restrictive, stepped up to the plate and made a substantial contribution to PLVAP. This show of support galvanized both the Association's Board of Governors, which authorized a grant from the Association's funds, as well as the Foundation, which revisited its initial decision and awarded a grant.

In 1987, PLVAP was renamed Philadelphia VIP, and a number of steps were taken to strengthen and reinforce Philadelphia VIP's role as the foremost agency for referring cases in a wide spectrum of subject areas where services were desperately needed to private firm lawyers. These steps included relocating Philadelphia VIP to offices adjacent to CLS, expanding and broadening Philadelphia VIP's board of directors and improving coordination in various ways.

B. Recent History of Philadelphia VIP

Since 1987, Philadelphia VIP has played a key role as a lynchpin in the Association's system for delivery of pro bono legal services. In a collaborative effort that includes CLS, PLA and Philadelphia VIP's own small of staff attorneys and legal assistants, along with private firm lawyers and paralegals, Philadelphia VIP has been the instrument through which critically needed legal pro bono services have been delivered to literally hundreds of low-income clients with nowhere else to turn.

In the past two years, however, a number of the mid-1980s "distress signals" for Philadelphia VIP began to resurface. These included greater difficulty in placing cases, particularly in areas such as child custody and support, divorce, housing and consumer-related claims; declining numbers of volunteers in the Philadelphia VIP "registry;" and the impact of growing financial pressures at private law firms large and small, based on rising starting salaries in the private bar and other economic factors, that have caused private firm lawyers to put greater emphasis on handling fee work, as opposed to pro bono work, to enhance firm revenue.

At the same time, *perceptions* about Philadelphia VIP's role and its effectiveness became widely conflicting and varied. Some quarters of the legal community extolled the hard work and commitment of Philadelphia VIP. Other quarters and individuals in the legal community came to believe that Philadelphia VIP was failing in its commitment to reach out to the private bar, to undertake innovative methods to entice private firm lawyers to take cases, and to assist those lawyers with essential support services, such as advice from mentors and training materials.

It is not the charge, or the role, of the Task Force to offer any opinions about these varied perceptions, except to note that they clearly contributed to the decision of the Association in October of last year to reduce Association funding, which accounts for approximately one-third of Philadelphia VIP's overall budget, by 25% for 2002.

Ironically, the Task Force believes that Philadelphia VIP may have been a victim of its own success in earlier years, and that of the Association, CLS and other groups seeking to advance the cause of pro bono legal services. In the years since 1987, the Association and these agencies have helped to develop a number of new, more highly articulated pro bono referral agencies that focus on one or more specific subject areas of legal need. In many instances, Philadelphia VIP's success in focusing on the great need in these areas was an impetus to the creation of these specialty legal services organizations. These specialty organizations have developed a wide variety of models to identify and refer certain specific legal matters commonly found in the needy and disadvantaged population to private firm lawyers. One result is that less "glamorous and more problematic cases" have been left to Philadelphia VIP to try to place with volunteers.

As the generic referral agency of the Association, Philadelphia VIP has had to deal not only with the "siphoning off" effect of this process, but also the fact that many of the cases Philadelphia VIP currently is handling are by definition complex, and often require response in a very short time period. Philadelphia VIP is also the first line of referral efforts in many of the newer subject areas with which pro bono lawyers are less familiar and which, as a consequence, require greater resources to place with private lawyers.

Equally important, many of the specialty agencies spawned in the last 20 years have been able to use public recognition of the importance of their work to attract financial support from foundations, corporations and law firms. Necessarily, that has increased the difficulty of the fundraising efforts Philadelphia VIP has been making in recent years. Put simply, Philadelphia VIP handles a broad, complex, and sometimes less glamorous portfolio of legal cases, all of which desperately require attention. While these cases involve fundamental legal rights and implicate the issue of equal access to justice to the same degree as those handled by the "specialty agencies," Philadelphia VIP's caseload can be harder to define and to "package" when making appeals for financial support.

C. Philadelphia VIP and the Future of Pro Bono Legal Services

Notwithstanding the success of the specialty legal services organizations, the numerous other agencies and efforts by various segments of the legal community, the Task Force's investigation leads it to conclude that there *remains a vast unmet need* for pro bono legal services both in traditional legal areas and in a number of new substantive areas of law that have emerged but are not specifically or sufficiently addressed by the legal services community.

It is equally clear that Philadelphia VIP, as the foremost pro bono referral agency of the Association, must continue to play a central role in responding to that need. The sheer scope of the need, a new set of economic forces at work in private law firms, ongoing threats to government funding streams and other pressures make clear that there is an urgent and compelling need both to revitalize, and reinvigorate,

Philadelphia VIP as well as broaden efforts in the legal community to expand the delivery of pro bono legal services.

1. Internal Steps Underway at Philadelphia VIP

Since October 2001, Philadelphia VIP's board president and members, executive director and staff members have engaged in an investigative process, reaching out to all constituencies in the legal community in order to better identify ongoing and new legal needs and to develop improved methods for collaborating in serving those needs.

The following are highlights of steps taken in the last eight months:

- Philadelphia VIP has expanded communications with CLS, PLA and other legal services organizations that send cases to Philadelphia VIP for referral, and has increased collaborative efforts with them
- Philadelphia VIP board and staff members have met with Association leaders, including Section and Committee chairs, to better assess the interests of potential volunteers, and to explore new methods for referring cases, and supporting lawyers who take them
- Philadelphia VIP is developing training programs in various legal subject areas, and working to expand on-site training at law firms and elsewhere, and has begun to put training materials on its website
- Philadelphia VIP has reexamined its staffing arrangements, refining the roles of various staff members and improving the mechanics of the referral process
- Philadelphia VIP has expanded the use of its website as a pro bono resource, and is working with other organizations to explore the feasibility of on-line referrals.

2. Improved Collaboration with Other Legal Services Organizations

Philadelphia VIP is working collaboratively with other legal services organizations to create new pro bono opportunities, including:

- working with Hebrew Immigration and Asylum Services (HIAS) and Pennsylvania Immigration Resource Center (PIRC) to hold immigration trainings and to assign cases and mentors to attorneys willing to represent children and adults in INS detention centers
- working with CLS and Regional Housing Legal Services (RHLS) on the new Tangled Title Homeownership project
- working with PLA on a new Low Income Tax Clinic
- working with eight legal services organizations and the private bar to develop an approach for representing clients in domestic relations cases
- working with the Business Law Section, CLS and RHLS to develop Philadelphia LawWorks, formerly CEDPRO, to establish a referral network for pro bono services relating to community economic development and small businesses.

D. Support for Philadelphia VIP from the Philadelphia Bar Association

The Task Force review of various materials, testimony at its public hearing, subcommittee reports and information from other metropolitan bar associations and the American Bar Association all suggest that Philadelphia VIP's ongoing viability and future success depend upon its maintaining a close working relationship with the Association. Philadelphia VIP has its own board of directors and has sources of funding in addition to the Association. At the same time, however, the Association's support and participation in Philadelphia VIP as the foremost pro bono referral organization is an essential counterbalance to the unique operational challenges posed to such an agency, which is expected to handle the referral of the most difficult, time-consuming and time-sensitive matters to pro bono lawyers who are pressed for time and who require proper training and strong support.

The Association can provide critical support to Philadelphia VIP in many ways. The Task Force recommends that the Association take the following steps, while recognizing that other steps may be needed, and that these steps should be reassessed on a regular basis:

- Recognize the central role of Philadelphia VIP in the referral of pro bono matters, and that Philadelphia VIP must maintain its close relationship with the Association; strong Association leadership in promoting pro bono work by all sectors of the legal community is indispensable to Philadelphia VIP's success
- Honor the historical financial commitment of the Association to Philadelphia VIP by restoring the prior level of financial support and renewing its financial support on an annual basis
- Assist Philadelphia VIP in exploring and developing new sources of financial support
- Invite Philadelphia VIP to present an annual "State of Pro Bono" report to the Association
- Work in tandem with Philadelphia VIP to develop policies and strategies designed to encourage and support the full participation of the bar in pro bono activities.

While the opportunities for enhanced cooperation are many, the implementation of these baseline Recommendations would greatly strengthen Philadelphia VIP as a broad, and effective, pro bono referral organization. Additional measures should be investigated, developed and implemented as the need for such measures becomes apparent.

E. Conclusion

Philadelphia VIP is the creation of the Association, conceived and implemented in response to the critical need for pro bono legal services in order to make access to justice a reality for the needy and disadvantaged. Indeed, Philadelphia VIP was formed to give concrete expression to the Association's impulse and obligation to be an instrument of justice, to create a mechanism to match legal skills and energies with clients desperately in need of those skills, and to leverage and maximize the influence and resources of the Association and the private bar in the service of those in need.

The Task Force concludes that Philadelphia VIP can succeed only if it works closely and cooperatively in a partnership with the Association. The Task Force is convinced that Philadelphia VIP's Board and staff

would welcome the opportunity to renew and forge a deeper relationship with the Association, and it appears that Philadelphia VIP has already been energized by the potential potency of a renewed partnership with the Association.

V. SUBCOMMITTEE FINDINGS

The Task Force was organized into seven subcommittees, each of which targeted a segment of Philadelphia's legal community. The Large Law Firm Subcommittee, Corporate Counsel Subcommittee, Mid-Sized Law Firm Subcommittee, Small Law Firm & Solo Practitioners Subcommittee, Legal Services, Public Interest & Pro Bono Referral Agencies Subcommittee, Individual Volunteers Subcommittee, and Law Schools Pro Bono Subcommittee surveyed their selected groups regarding the delivery of pro bono legal services. Each subcommittee then reported its general findings and the suggestions that it received from its respective constituency. The Task Force took all of these suggestions into consideration when it developed the Recommendations set forth in Section VI of this Report.

Although much of the information gained by the subcommittees is antedoctal, several themes emerged during this process. The profession's commitment to pro bono service is challenged by economic realities and other obstacles. Many lawyers, particularly in large firms, rely heavily upon pro bono referral centers to access pro bono volunteer opportunities. Another theme that emerged is that the Association and the Foundation both have important, and indeed crucial, roles to play in providing structural support to facilitate pro bono participation.

The Task Force would like to thank all participants for their time and candor, without which the Task Force could not have fulfilled its mission.

A. Report of the Large Law Firms Subcommittee

The Large Law Firms Subcommittee was led by the co-chairs of the Law Firm Pro Bono Committee.²⁷ The Law Firm Pro Bono Committee created a survey to aid in assessing the challenges, impediments and opportunities for improving the delivery of volunteer legal services. This survey was distributed to the management and pro bono coordinators of 28 of Philadelphia's largest law firms, 20 of which responded.²⁸

1. General Findings

Of the 20 firms responding to the Law Firm Pro Bono Committee survey, 18 had policies and practices in place to enhance the quantity and quality of the pro bono work done at their firms. These policies and practices included:

- having either a pro bono committee or a pro bono coordinator (with 11 firms having both);

²⁷ This committee, affiliated with the Public Interest Section, is the Philadelphia Bar Association's forum for law firm lawyers to discuss concerns and ideas about the delivery of pro bono legal services to Philadelphia's neediest community. Sixteen of Philadelphia's largest law firms are currently members of the Committee, and it welcomes the participation of mid-size and smaller law firms as well.

²⁸ The Subcommittee also commends law firm leaders to materials developed by the Law Firm Pro Bono Project of the Pro Bono Institute, a selection of which is attached hereto as Appendix F.

- counting at least some pro bono hours as billable hours (13 firms);
- attending, hosting or being willing to attend or host trainings regarding cases that needed pro bono assistance but were out of the substantive area of practice for the firm's attorneys (18 firms);
- using their pro bono policy to recruit attorneys (17 firms);
- permitting summer associates to take on pro bono matters (17 firms);
- providing new associates with an overview of pro bono opportunities (15 firms);
- having a representative attend the Public Interest Section's Law Firm Pro Bono Committee (13 firms).

All 18 firms that had policies and practices in place stated that they viewed pro bono service as aiding in the professional development of the attorneys in their firms. Only two firms indicated that they did not support pro bono work at their firm, had no policy or practice in place and had no plans for putting one in place in the near future.

2. Obstacles to Service

The responding firms identified several factors that impede their attorneys in handling pro bono matters.

a. Lack of Knowledge About the Subject Matter

Attorneys are concerned about slipshod lawyering and often are reluctant to practice in unfamiliar areas of law. Several firms indicated a willingness to address this concern and volunteered to handle cases involving subject matters beyond their respective practice areas, provided they would be supported with training and mentoring.

b. Lack of Knowledge About Volunteer Opportunities

Thirteen of the firms stated that they wanted to obtain additional information about both pro bono opportunities and Philadelphia's legal services organizations. Many of the firms stated that the publicizing of pro bono opportunities was not always done in a manner that maximized attorney volunteerism. Opportunities were not always publicized widely enough or were presented as emergency matters or the information provided about a case that needed legal assistance on occasion was insufficient to permit a potential volunteer to take on the matter. Some firms reported that non-litigation or transactional pro bono opportunities were not sufficiently publicized.

c. Lack of Time

Most of the firms identified time as a constant challenge to doing pro bono work. Some identified the time lag encountered to actually connect a private lawyer with a client needing free legal services as a barrier. Distributing cases, arranging for appropriate supervision and trainings and encouraging participation by a wide variety of lawyers is extremely time consuming. Seven firms, including one of the firms who initially stated that it had no pro bono policy or practice and no intention of developing a pro bono policy or practice, cited billable hours as an impediment to providing pro bono legal services.

3. Suggestions from Large Law Firm Management

The firms that responded to the Law Firm Pro Bono Committee survey offered several recommendations to improve pro bono volunteerism among their attorneys.

a. Continued Financial Support for Philadelphia VIP

The firms stressed the need for continued financial support for the efforts of Philadelphia VIP, which makes possible much of the pro bono work that their attorneys do. They noted that Philadelphia VIP's intake and screening of cases are essential to the successful handling of these cases by large firm attorneys.

b. Technology and Institutionalized Use of Recruiting Tools

Several firms reported that pro bono volunteerism among large firm attorneys would improve with the better use of technology and more institutionalized use of recruitment tools. It was suggested that communication of volunteer opportunities and available trainings be made via e-mail, the Internet and the intranet, and that a website be developed. It was also suggested that coordinated trainings occur through Philadelphia VIP and/or other organizations, and that centralized listings be maintained.

c. The Need for Tailored Trainings

It was suggested that more attorneys at large law firms might accept pro bono referrals if there were well-organized and well-publicized training seminars that were tailored to the specific needs and interests of particular firms.

d. The Need for Coordination

It was also suggested that a pro bono coordinator, either at Philadelphia VIP or at the Association is needed to centralize the management and flow of information to large firm attorneys about pro bono opportunities, available expertise and trainings.

e. Bar Association Coordination of the Public Interest Road Show

Several of the large law firms recommended that the Association take responsibility of the Road Show so that those recruitment sessions could run more smoothly and be institutionalized at every firm.

f. Bar Association Pressure

The firms recommended that the Association utilize the power of peer pressure to encourage the large law firm community to increase its support of pro bono work. More specifically, it was recommended that the Association give press to the fact that giving billable hour credit for pro bono matters is the norm in Philadelphia, and urge firms' adoption and implementation of the Association's July 25, 1991 Model Pro Bono Policy.²⁹ In addition, it was suggested that large firm Managing Partners should address issues relating to pro bono volunteerism and meet with members of the judiciary periodically to discuss the large law firm community's progress toward increasing its pro bono participation.

B. Report of the Corporate Counsel Subcommittee

²⁹ See Section III.A.1.c.

The Corporate Counsel Subcommittee surveyed the pro bono activities of Philadelphia-area corporations. A total of 30 corporations were surveyed to determine to what extent their in-house counsel are involved in pro bono activities and whether corporations have established formal pro bono policies and programs.

The Delaware Valley Chapter of the American Corporate Counsel Association (“DELVACCA”) Pro Bono Committee gathered much of the information. Through its Pro Bono Committee, DELVACCA has encouraged and supported pro bono volunteer efforts by its corporate and individual members. DELVACCA membership includes corporate counsel in southeastern Pennsylvania, southern New Jersey and Delaware. Pro bono programs and assistance available from the national organization, the American Corporate Counsel Association (“ACCA”), also were reviewed.

1. General Findings

a. Corporate Law Departments

As a general rule, corporate law departments do not have formal pro bono programs or policies. Therefore, most of the information obtained in our survey is anecdotal. The attorneys with whom we spoke stated that their corporations and law departments support the pro bono efforts of individual attorneys. Many attorneys surveyed relayed that the corporation’s general counsel had articulated informally encouragement of participation in pro bono activities. A few attorneys reported that pro bono serve, public service and bar association activities were a minor consideration in their annual performance evaluations.

Some corporations – the minority of those surveyed – have developed more structured programs that involve partnering with a specific public interest law firm or pro bono organization. Some corporate law departments have pro bono coordinators whose functions vary from coordination with pro bono agencies, to tracking pro bono work by the attorneys, to being an advocate for pro bono work within the department. Usually the pro bono coordinators are active pro bono volunteers themselves.

b. DELVACCA Pro Bono Initiatives

DELVACCA has utilized a number of initiatives and programs to encourage its members to perform and support pro bono work. The more significant aspects of these programs are set forth below, and some features can form the basis for future collaboration among DELVACCA, the Association, law firms and pro bono organizations.

i. Pro Bono Committee

DELVACCA has established a Pro Bono Committee that is the focal point of the organization’s pro bono efforts. The Pro Bono Committee’s goal is to facilitate and encourage pro bono volunteerism by its corporate and individual members.

ii. CLE Classes

In cooperation with various pro bono organizations, as an accredited CLE provider, DELVACCA offers CLE training in specific areas of public interest law.

iii. Recognition

Annually DELVACCA recognizes one of its members for outstanding pro bono work, and contributes \$1,000 to the award recipient’s pro bono organization.

iv. Pro Bono Campaign

In conjunction with the Association, the Foundation and the ABA Section of Litigation Task Force on Children, DELVACCA sponsored a Pro Bono Campaign. The Campaign included an open house for which pro bono organizations set up information booths to meet with in-house counsel. This proved to be a convenient way for attorneys and organizations to meet and to determine if there was a good fit. DELVACCA proposes that such gatherings continue, sponsored jointly with the Association, and open to all members of the Bar.

v. Support for the Development of Corporate Law Department Pro Bono Programs

Through its parent organization, ACCA, DELVACCA offers its members the opportunity to participate in CorporateProBono.Org (“CPBO”), a national program designed to encourage and support pro bono work by in house counsel. CPBO assists DELVACCA members in numerous ways, most notably through a website that provides the following services: (1) a library of publications and resources tailored to meet the needs of in-house counsel; (2) corporate pro bono best practices guides compiled from its members’ model programs; (3) a practitioner network linking volunteers with experienced mentors; (4) invitations to partner with pro bono providers, in-house law departments, and law firms; (5) the ability to post and search volunteer opportunities throughout the country; (6) a model CPBO Corporate Legal Pro Bono Pledge.

2. Factors Affecting Corporate Pro Bono Service

The level of in-house pro bono activity is affected by a number of variables, including:

- Size of the corporate law department
- Type of substantive in-house legal expertise (e.g., whether litigation is done in-house)
- The corporation’s support for other nonlegal public service initiatives (e.g., Habitat for Humanity, the Philadelphia Reads Program), and
- Budgetary constraints

3. Recommendations from Corporate Law Departments

a. Key Elements for Corporate Law Department Pro Bono Programs

In the interest of generating a renewed commitment to pro bono work, the following practices are recommended as a model program. These practices are taken from the DELVACCA survey, and represent a composite of the individual programs. They are offered so that in-house law departments can select those practices that are best suited for them, while at the same time demonstrating their support and commitment to pro bono work.

- Appointing a senior member of the law department as a pro bono coordinator.

- Providing credit for pro bono work towards billable hours or other productivity measures.
- Including pro bono work as a criterion in performance appraisals and merit compensation.
- Providing recognition within the corporate law department of significant individual pro bono efforts.
- Partnering with a specific pro bono or public service organization or government welfare organization, e.g., scheduled on-site staffing or adoption of a facility.
- Making corporate counsel available for court-appointed representations, e.g., family court guardians ad litem.
- Providing administrative and secretarial support to attorneys performing pro bono work.
- Providing flexibility in individual work schedules to enable pro bono work during business hours.
- Partnering with outside counsel and the pro bono programs at other firms.
- Encouraging outside counsel to support pro bono programs, and including pro bono activities of outside counsel for purposes of evaluating outside counsel performance and retention.

One DELVACCA member that is a legal search and staffing firm encourages its attorney candidates to perform pro bono work, and provides information to attorney candidates about pro bono opportunities.

b. Sign the CPBO Corporate Legal Pro Bono Pledge

Corporate law departments should demonstrate their commitment to pro bono work by signing the CPBO Corporate Legal Pro Bono Pledge.³⁰ This demonstration should be publicly disclosed and announced.

C. Report of the Mid-Sized Law Firm Subcommittee

The Mid-Sized Law Firm Subcommittee conducted confidential interviews of the managing partners of ten mid-sized size law firms to ascertain their policies regarding pro bono activities, participation in pro bono activities, comments on present systems for delivery of pro bono services, and suggestions for improvements to the systems for delivery of pro bono services.

1. General Findings

³⁰ The CPBO Corporate Legal Pro Bono Pledge is co-sponsored by the American Corporate Counsel Association and the Pro Bono Institute at the Georgetown University Law Center. A copy of the pledge is attached hereto as Appendix G.

a. No Formal Pro Bono Policies in Place

None of the mid-sized firms had formal pro bono policies akin to those adopted by several large law firms. Only two of the ten firms reported any formal pro bono policies. These two firms had designated pro bono coordinators responsible for evaluating whether potential pro bono cases were appropriate for handling by the firm, namely, whether they fit the firm's/attorneys' area of expertise. One of these two firms is staff counsel for an insurance company and reported that its policy prohibited representation of other clients. Interestingly, it appeared that this firm had not inquired whether this prohibition was intended to include pro bono legal services.

b. Informal Pro Bono Policies Exist

The informal pro bono policies and the pro bono activities of the firms varied widely. Nine of the ten firms reported some participation in pro bono activities. Of those nine, seven defined pro bono activities to include legal services only, and two included community service. Five firms encouraged pro bono work. Three firms neither encouraged nor discouraged pro bono work. One firm reported that spending a significant number of hours on pro bono work would be viewed negatively. One firm has a strong culture of pro bono service, with several partners actively handling pro bono cases, as well as serving on the boards of various pro bono organizations. That firm encouraged pro bono service and led by example, but left the decision on participation in pro bono activities to its individual attorneys. Another firm had an established relationship with a church in North Philadelphia and received referrals of pro bono cases from that church. That firm supported pro bono activities of its associates with mentoring and supervision by its partners. Other firms offered encouragement and support to attorneys in their individual pro bono efforts.

c. Pro Bono Hours Don't Count

None of the surveyed mid-sized firms included time spent on pro bono cases in billable hours requirements. However, one firm reported that fewer billable hours were expected of someone known to be handling a pro bono case in a given month, and another firm reported that when it assigned an associate pro bono legal work on behalf of another firm employee that work was included within the associate's billable hours requirements. Two firms reported that they have non billable time requirements (which include training and education) and that pro bono activities were included within their non billable time requirements.

d. Access to Opportunities Varies

The referral sources identified by the mid-sized firms for pro bono cases varied widely. Two firms reported that referrals were made directly to individual attorneys by community and religious organizations, such as schools and synagogues. One firm received referrals through an ongoing relationship with a church and through Philadelphia VIP. Five firms received referrals from pro bono organizations, including the Homeless Advocacy Project, Philadelphia VIP, the Legal Clinic for the Disabled, and Child Advocates. Of these five, two firms also received referrals from programs administered by the federal courts, and/or directly to individual attorneys through churches and synagogues. One firm reported that its individual attorneys sought pro bono opportunities through organizations of their choice.

e. Subject Matter Varies, but Litigation Prevails

The pro bono cases of all of the surveyed firms were litigation matters -- none involved transactional pro bono services. One firm focused its pro bono efforts on civil liberties cases. Another focused upon

business litigation; the other firms reported that they did not focus upon a particular area of the law for pro bono matters.

2. Obstacles to Service

The mid-sized firms identified several impediments to pro bono service for their attorneys; several of which are consistent with those identified by large law firm pro bono coordinators and/or firm management.

a. Law Firm Economics

One of the most significant, and most frequently cited, impediments to participation in pro bono activities was economic pressure. Several firms reported that “the tough economic climate,” “the economic necessities of a law firm” or “bottom line issues” had forced them to focus more upon the business aspects of the practice of law in recent years.

b. Billable Hour Requirements

Similarly, the increase in billable hour requirements was cited as a significant impediment to pro bono service. Several firms reported that their billable hours requirements had increased dramatically in recent years, with the result that less time was available for participation in pro bono services.

c. Referral of Volunteer Opportunities

The majority of mid-sized firms reported no systematic relationship with the legal services organizations for referrals. Most relied upon personal contacts between members of the firm and members of the legal services organizations, or other community organizations, for referrals. Several firms reported that they had systemic relationships with pro bono organizations in the past, but that these relationships had diminished in recent years.

d. The Nature of Pro Bono Litigation

Two firms cited lack of predictability of the extent of the time commitment as a problem endemic to pro bono cases. Two firms commented that civil cases involving trivial claims were brought in the pro bono arena which would never be brought by someone who had to pay for legal services. One firm cited lack of client cooperation — the inability or failure of clients to follow through or honor deadlines — as a recurrent problem. One firm noted communications difficulties, for example, when working with homeless clients where the usual methods of communication did not work.

e. Training is Not an Obstacle

Training was not a significant issue for the mid-sized firms. In fact, five firms expressed no interest in receiving training for pro bono referrals. One firm was interested only if it received referrals of cases outside its area of expertise. One firm expressed concern that it would not be able to generate enough interest to justify the time commitment by legal services organizations. Two firms indicated some interest, but felt they were not large enough to justify the time commitment by legal services organizations.

3. Suggestions from Mid-Sized Law Firm Management

The mid-sized firms provided interesting and diverse recommendations to improve the systems for delivery of pro bono services.

a. Institute Personal Contacts

More than one firm suggested that the pro bono intake centers law centers place personal calls to attorneys requesting that they accept referrals. This suggestion was accompanied by the comment that it is unlikely that someone will say “no” to a direct request that he/she take a case -- and equally unlikely that the same person will pick up the phone and volunteer.

b. Advertise

It was suggested that the pro bono organizations disseminate brief videotape “pitches” of pro bono opportunities, which could be presented to new associates during orientation. Along the same lines, it was suggested that the legal services organizations present brief “advertisements” of the pro bono opportunities available through their organizations at CLE courses.

c. Designate Contact Persons for Referrals

It was suggested that the mid-sized law firms designate contact persons to permit the agencies to establish and maintain relationships with the contacts, and call those persons with specific requests that the firms accept a specific number of cases or cases in a specific area of the law.

d. Legal Services Agencies Should Cast a Broader Net for Volunteers

A recommendation was made that the legal services organizations expand and diversify the firms and persons they call and request to take pro bono cases. This person commented that a small percentage of the bar membership does a lot of pro bono work, and a large percentage of the bar membership does little. It was also suggested that the Task Force investigate the methods used by other bar associations to increase participation in pro bono services.

e. Increase Service Support

It was suggested that more people may accept referrals if they had access to a resource person who is expert in the field. It was suggested that improvement of support services with court reporters, medical witnesses and experts is necessary. Particularly in domestic relations custody and support cases, there is frequently a need for medical experts, especially psychiatric and psychological experts. The development of relationships with outside vendors, such as medical copy services and court reporters would improve the quality of legal services delivered.

f. Award CLE Credit for Participation

It was suggested that more attorneys might accept pro bono cases if CLE credit were awarded for bono pro representation.

g. Create a Culture of Volunteerism

A suggestion was made that the legal profession needs to create a culture of pro bono service in law schools. (This thought was echoed by another firm, which commented that young associates in lower

paying law firms are burdened by debt, feel that they have not shared in the much-reported boon to legal salaries, and therefore feel less responsibility to give something back.)

h. Contributions in Lieu of Pro Bono Hours

It was also suggested that, in lieu of hours of service, contributions of money should be solicited to fund the provision of pro bono services.

D. Report of the Small Law Firm & Solo Practitioners Subcommittee

The Small Firms & Solo Practitioners Subcommittee was charged with the task of analyzing the problems faced by small firm attorneys and solo practitioners in accepting pro bono representations. The Subcommittee developed a questionnaire which was administered primarily by volunteer law students working in clinical programs at Temple University and the University of Pennsylvania. Several members of the Task Force also contacted solo practitioners and attorneys from small firms. The observations and responses of these attorneys define the obstacles to pro bono volunteerism in this segment of the legal community.

1. General Findings

a. Strong Support for Pro Bono

The accepted wisdom has long been that small firm attorneys and solo practitioners actively represent clients on a pro bono basis and accept pro bono referrals from various agencies in Philadelphia's public interest legal community.

Not surprisingly, all of the surveyed attorneys stated that they supported pro bono work and/or handled pro bono cases. In general, the attorneys explained that they support pro bono work because it "promotes the public good" and provides "access to attorneys for those who cannot afford attorneys." Several of the attorneys also stated that every lawyer has "a professional duty to do pro bono work."

Many of the surveyed attorneys stated that they can accommodate one to two cases per year on a pro bono basis. One attorney stated that he handles approximately 12 pro bono cases each year. All of the attorneys indicated that they accept more cases during years when their practice permits them to do so. One attorney stated that although he regularly does pro bono work, he is "more interested in the qualitative nature of advancing the public interest, rather than an individual's mendacious private interest."

Certain attorneys added important qualifiers to their responses. For example, one attorney stated that although s/he supports pro bono work, s/he does not do it because "I cannot financially afford to provide" legal services on a pro bono basis. Another attorney stated that s/he only supports pro bono work if the representation has a "wider application" than simply affecting a single client. Another attorney warned that s/he is "concerned that the debate regarding providing pro bono services ignores services rendered to individuals who have too many resources to be indigent, but insufficient resources to pay for major litigation." Lastly, some of the attorneys stated that although they supported pro bono work, they were not presently handling pro bono cases because they could not financially afford to do so.

b. Pro Bono Does Not Necessarily Translate Into Professional/Business Development

Many of the surveyed attorneys stated their belief that the legal profession has an obligation to accept pro bono cases. However, they also cautioned that while they fully support pro bono work, doing such work

did not necessarily benefit their professional and/or business development. Two of the attorneys did report, however, that their pro bono work had had a positive effect on their professional and/or business development because they only accepted pro bono cases in their area of expertise.

c. **Pro Bono is a Decidedly Second-Best Means of Delivering Legal Services to the Poor**

Two attorneys expressed frustration with the justice system, in general, despite accepting pro bono cases. "I question whether pro bono services necessarily . . . address the bigger issue of access to fair dispute resolution mechanisms." "Pro bono services seem to be a band-aid for a system that should be cheaper, more efficient, and hence more available to average folks." They cautioned that pro bono services rendered by private sector attorneys differ from the lawyering conducted at legal services agencies. "I don't think the services rendered [by private sector attorneys] are the same as those that are rendered by legal services agencies. Legal services agencies are better at getting at systemic problems and in filing actions that could change the law. . . . I would not want a push to do pro bono work at the expense, particularly the funding expense, of supporting legal services work by legal services agencies."

2. **Obstacles to Service**

Small firms and solo practitioners are particularly challenged in their ability to volunteer while balancing representation of their clients, generating business and running their law practices. The comments that the Small Law Firm & Solo Practitioners Subcommittee received regarding impediments to pro bono service reflect this reality.

a. **Financial Constraints**

The several attorneys who do not accept pro bono cases explained that impediments to accepting such cases are as follows: "I cannot finance expert fees, depositions, and other costs while litigation is pending." "I cannot financially afford to represent a client for free." "I think that many people who do not have the financial wherewithal to afford legal services often have ancillary psychological and emotional problems with which I, as a lawyer, am ill-equipped to deal." Another attorney cited health reasons for not being able to, at present, accept pro bono representations.

b. **Referrals Not Within Area of Expertise**

Several of the surveyed attorneys stated that receiving pro bono referrals outside their substantive area of expertise was an impediment to their pro bono participation.

3. **Suggestions from Small Law Firm & Solo Practitioners**

Several solo practitioners and attorneys who practice in small law firms recommended ways to further encourage their peers to accept pro bono cases. Although several of these recommendations were unique to this constituency, many of them overlapped with the recommendations put forth by both public bar attorneys and private attorneys at mid-sized and large law firms.

a. **Award CLE Credit for Pro Bono Representation**

Several of the attorneys stated that it would be extremely helpful if they could receive CLE credit for accepting pro bono representations. This policy change, which would have to be approved by the Pennsylvania Supreme Court, would alleviate the concern of these attorneys that they do not have enough

time to handle pro bono representations. Obviously, since time has to be expended in satisfying CLE requirements, accepting a CLE matter would not create an additional time burden.

b. Provide Financial Support for Administrative Costs

Several of the attorneys responded that they would be greatly assisted in their handling of pro bono cases if they were reimbursed for the costs of such cases or if a legal services organization assisted them with the administrative burdens associated with these cases. A small firm or solo practitioner who agrees to accept a pro bono representation should be able to receive reimbursement for out of pocket expenses, such as costs of cases. Although there clearly is a scarcity of funds in the legal services community, financially assisting solo practitioners and small firm attorneys in paying out of pocket expenses in pro bono cases would likely lead to a great increase in the number of these attorneys willing to take on such representations.

c. Procedural Incentives from the Judiciary

Several of the attorneys recognized that the judiciary can play a decisive role in promoting pro bono work. One attorney stated that s/he "would like to see the court system supporting pro bono work" by accommodating attorneys' schedules with court listings if they are representing a client on a pro bono basis.

d. Partnerships with Legal Services Providers

Solo practitioners and small firm lawyers stated that they would prefer to co-counsel with an attorney from a public interest agency when accepting a pro bono representation. For example, if a solo practitioner represents a client in a real estate matter involving tangled title and tax lien sale issues, the attorney would prefer to co-counsel the case with a CLS lawyer. Partnering in this fashion would significantly reduce the amount of time required to be expended by the CLS attorney on the matter, while providing the solo practitioner or small firm lawyer with the means to quickly receive forms and legal advice.

e. Access to Experts

The attorneys stated that receiving litigation support, including access to experts, would greatly assist them in handling pro bono cases.

E. Report of the Individual Attorneys Subcommittee

The Individual Volunteers Subcommittee sought to ascertain the perspective of two separate classes of attorneys – active pro bono volunteers and attorneys who had handled a pro bono matter in the past but were not currently handling any such matters. The perspective of these attorneys was elicited by written survey, telephone interview and through two focus groups led by Chancellor Gordon.

1. Obstacles to Service

The attorneys whom the Individual Volunteers Subcommittee spoke to identified several obstacles to their pro bono participation and the pro bono participation of their colleagues. Their observations were, for the most part, entirely consistent with the observations made by private bar attorneys in large, mid-sized and small law firms as well as solo practitioners.

a. Time Constraints

The attorneys observed that pro bono matters compete with both billable and non-billable demands on their time. Some attorneys prefer to spend their time pursuing paying clients or working on fee-generating matters. Many attorneys have familial obligations. Others believe that serving on nonprofit boards offers the optimal use of their time, energy, organizational ability and legal acumen. These concerns were best captured in the comments of two different attorneys.

I don't have the time. I still volunteer time with my church and a nonprofit group, work 50-60 hours a week and have 3 children and a wife. There are not enough hours in a day.

The parts of my professional life that are not devoted to work are taken up with other sorts of community, non-billable activities, such as sitting on a nonprofit board, church activities, and speaking engagements. I don't feel that I would adequately commit to other types of pro bono work at this time.

b. Financial Constraints

Some attorneys felt the need to focus on paying clients to ensure the continued viability of their firms and/or their career prospects. One attorney reported that her firm spent more than \$100,000 in time and costs on a pro bono matter, only to have the Magistrate suggest cutting its fees notwithstanding the fact that the firm succeeded in obtaining a substantial verdict in a difficult case. "As a result, successful effort is not rewarded in matters where [my] firm has to make a significant investment."

c. Unsatisfactory Experience

For some lawyers, representing a pro bono client left a "bad taste" in their mouths. The attorneys identified three categories of concern in this regard, namely a lack of training, a lack of appropriate screening in the pro bono case that was referred to them, and unsatisfactory client experiences.

i. Lack of Training

Some attorneys complained that they did not feel equipped to handle their pro bono representations because they involved substantive areas of law that were out of their areas of expertise. They questioned whether they may have “missed issues” and did not feel, in retrospect, that they were particularly effective in their representations of their pro bono clients.

ii. Lack of Screening

Some attorneys complained that their pro bono matters had not been appropriately screened, both in terms of the merits of the case and in terms of the facts surrounding the matter. As a result, the cases took more time than anticipated. Other attorneys indicated that they would more likely take on additional pro bono representations if they did not receive cases on such a “last minute” basis.

iii. Bad Client Experience

Some attorneys reported having difficult and/or nonresponsive clients. They reported having difficulty making initial contacts with their pro bono clients and/or maintaining that contact during the duration of the representation. One attorney reported that the plaintiff in her first pro bono matter from the Employment Discrimination Attorney Panel of the Eastern District of Pennsylvania reported her to the disciplinary board, which ultimately exonerated her.

d. Pro Bono Time Is Not Valued Equally

There was also a concern, particularly among younger attorneys, that law firms do not honestly value pro bono work and give sufficient credit for time spent on pro bono cases. For others, the concern was that their respective law firms were not always supportive of their involvement with a legal services organization.

2. Suggestions from Individual Attorneys

The attorneys offered several recommendations to improve the delivery of pro bono legal services.

a. Team Assignment/Mentoring

When a case is assigned to a volunteer, that person should be given the name of another attorney in another firm or in the same firm who has experience in that area of law to assist the volunteer.

b. Lead by Example

There should be a requirement that all attorneys who are elected to a leadership position within the Association have at least one active pro bono case. There is also a need for senior associates and partners in law firms to serve as mentors for young associates. Further, all area law firms should be encouraged to annually report how many hours are spent on average per attorney in the representation of low income clients through: 1) an area pro bono agency; and/or 2) serving as a mentor or advisor to a volunteer attorney. The report results should be made public on an annual basis and firms with significant pro bono participation should be recognized by the Association.

c. Expand Training Opportunities

Adequate training provides a direct means for combating the feelings of incompetence that volunteer attorneys sometimes feel. Training also educates prospective volunteers about the transferability of the skills they already have. Several of the attorneys commented that the initiatives started by some of the

area pro bono agencies connecting CLE credit with the taking of a particular case in that area should be continued if not expanded. The ongoing drive to ensure that an attorney has the requisite CLE credits can diminish an attorney's interest in taking a training session in an area outside the attorney's area of expertise, even if that program is free. Area pro bono agencies should strengthen their relationship with CLE accredited providers as a way to get reduced cost CLE programs for volunteers.

d. Screen Cases Prior to Referral

Many of the attorneys commented that it is imperative that their pro bono cases have the appropriate "work up." Cases should be screened for merit and the pro bono agencies should: 1) identify the type of legal work that needs to be performed by the volunteer attorney; and 2) provide as much of the requisite underlying paperwork as possible. The file should also contain a list of relevant trainings, information about malpractice coverage and contact information for a mentor.

e. Procedural Incentives from the Judiciary

Judges can actively employ the prestige of the bench to encourage attorneys to undertake pro bono representation by providing scheduling flexibility for pro bono attorneys and giving pro bono attorneys some flexibility or leeway with respect to requests for continuances and knowledge about a particular area.

f. Recognition for Involvement

Area pro bono agencies should be encouraged to contact firm management in situations where attorneys have provided excellent representation to pro bono clients.

g. Intake Assistance & Advice

The attorneys recommended that members of the profession be encouraged to provide pro bono representation in alternative ways. Attorneys who are unwilling to handle a pro bono representation could instead volunteer to help a pro bono agency with client intake. In other instances, the attorney may be able to provide some legal advice to a client on behalf of the agency for those cases that may not actually require legal representation.

h. Recognize and Encourage Non Pro Bono Support

Some attorneys may not be interested in or able to take cases or even serve as mentors or advisors to other attorneys. Those attorneys may, nevertheless, have skills that can be utilized by pro bono agencies, primarily in the area of fundraising. Attorneys could be solicited to participate in the organization of specific fund raisers without having to commit themselves to assisting with all of an organization's fundraising events. Other attorneys can assist pro bono agencies in developing and/or reviewing grant proposals. Still others can use their personal and/or business contacts to help in fundraising. While some of these practices already take place, the volunteer attorney usually has an ongoing relationship with the organization. Instead, under this recommendation, an attorney is being asked to participate on only one project - nothing more. If the attorney enjoys the experience he or she may decide to volunteer more often.

i. Publicize the Unmet Legal Need

Many attorneys commented that private bar attorneys are generally not aware of the extent of the unmet legal needs of Philadelphia's needy, cannot relate to the problems of the indigent, and do not appreciate how difficult problem solving can be when dealing with poor or disadvantaged clients. More of the greater legal community should be made aware of the needs of Philadelphia's poor in order for them to feel that they have more of a connection to the greater community.

j. Market the Benefits of Pro Bono Work

The attorneys commented that many members of the profession do not realize that one of the big payoffs of doing volunteer work is gaining valuable practice skills and improving one's lawyering skills. This could be addressed by more effectively publicizing of the benefits of pro bono work.

k. An Enhanced Role for the Bar Association

The attorneys suggested that the Association could facilitate pro bono volunteerism by attorneys at their law firms by: 1) developing a pro bono pledge for law firms to sign on to; 2) encouraging law firms to report the number of hours they spend on pro bono representations; 3) issuing an annual report on the state of the delivery of pro bono services in Philadelphia; and 4) creating a video that highlights pro bono attorneys sharing their experiences, to be shown to new law firm associates on an annual basis.

F. Report of the Legal Services, Public Interest & Pro Bono Referral Agencies Subcommittee

The leadership of Philadelphia's public interest law community confers regularly in the monthly meetings of the Delivery of Legal Services Committee ("DLSC"), a standing committee of the Association's Public Interest Section. The Legal Services, Public Interest & Pro Bono Subcommittee used the collective experience of DLSC members, and also gathered its information from surveys and meetings with directors, staff and volunteers. Because many people turn to the public interest law agencies as the "poverty law professionals," the Subcommittee focused on two related questions: how can pro bono legal services contribute to meeting the vast unmet needs of the poor and disenfranchised, and how can the legal services organizations improve their links to, and use of, pro bono legal services and thereby expand the overall capacity for delivering legal services to the poor?

1. General Findings

a. **There Exists a Large Unmet Need for Legal Services**

The public interest legal community as a whole is presently unable to meet the demand for their services. One director noted that “we are completely swamped.” A witness at the hearings said “people get lost when they call.” Despite their size and expertise, CLS and PLA simply cannot meet the legal needs of all those who cannot retain a lawyer, even within the areas of law in which they practice every day. Numerous other areas of law have no organized poverty law practice extant in the Philadelphia area. Many people seeking assistance are interviewed, but cannot be represented for lack of sufficient legal staff; their cases are typically then referred to Philadelphia VIP for possible referral to pro bono lawyers in private practice. For example, PLA presently conducts open intake for six hours per week, and often the influx of cases from that small window of access is more than its staff can handle. Cases that are referred from CLS and PLA for pro bono representation are frequently simply bounced back, i.e., rejected for lack of a volunteer attorney to handle them.

Most members of the public interest community recognize that family law matters are the largest single area of need for pro bono service.³¹ Of course, many other areas of need exist.

Our public interest community has developed an array of agencies, clinics and service projects to meet some of the myriad needs. This diversity of services is a sign of vitality and is generally viewed as beneficial to the community, but it nonetheless falls far short of meeting the need.

³¹ An informal survey conducted at a joint meeting of the Law Firm Pro Bono Committee and the Delivery of Legal Services Committee in 1998 revealed numerous areas of unmet need in family law. In dependency cases, Community Legal Services represents approximately 600 parents per year, and turned away 300-400 parents; representation was also provided by private court-appointed “list attorneys,” but only one-third to one-half of all parents were represented despite the fact that there is a statutory right to counsel in such matters. Child Advocates reported the need for more volunteers to represent children referred by the court. In domestic relations cases, approximately 50% of all requests for legal services, or approximately 1300 requests, were referred to pro bono agencies. The Legal Clinic for the Disabled “turned away” 100 cases, the Homeless Advocacy Project “turned away” 150-200 cases, and the AIDS Law Project “turned away” 70 cases. The discussion also highlighted critical related issues, including the extremely high numbers of pro se litigants in domestic relations cases; divorces that are needed but not pursued (many persons believe “common law divorce” exists) and pro bono needs in suburban Philadelphia counties served by local and regional public interest agencies.

b. Pro Bono Service Is Valued By Legal Services Organizations

Legal services and public interest agencies welcome the participation of the private bar. Attorneys in private practice, when well trained and given the opportunity to take the work seriously, not only can take on cases that the agencies must decline due to lack of capacity, but also can take on cases too burdensome for small public interest agencies to handle. The attorney brings his or her firm or corporation along in handling the matter, with all the resources and supports that a law firm can provide.

Some kinds of pro bono work is particularly appealing. One referral agency reported that, when placing a request for participation in an *amicus* brief in a domestic violence case, it had such a positive response from several different firms that it had to create an internal rule of ‘first come, first served.’ Like most people, lawyers are generous, giving of themselves to the activities and needs that they know, such as their children’s schools, their own colleges and graduate schools, and the organizations on whose boards they serve. Pro bono service stands as another way for lawyers and other legal professionals to give.

A variety of opinion exists in the legal community about the relative quality of pro bono service when compared with staff attorney services. Can the individual case be handled better, or more efficiently, by legal services staff attorneys? Perhaps. Yet with so much unmet need, efforts must be made to add capacity to the organizations by developing or expanding pro bono services as a component of the delivery system. The various public interest agencies have found positive results from engaging volunteers in such diverse assignments as direct representation, class-action advocacy, briefs *amicus curiae*, and policy initiatives. Strictly speaking, pro bono work is not necessarily *free* to the public interest agency, as costs are incurred in providing substantive guidance and technical assistance to volunteers, covering cases in the volunteers’ absence and in other circumstances. For example, in the specialty work of child abuse, Child Advocates uses staff social workers teamed with volunteer lawyers in a collaborative model on every case. But the benefits of pro bono assistance in addressing the unmet need demand that every reasonable effort be employed in expanding pro bono services.

c. Intake Issues Invite Attention

The various intake and referral mechanisms currently in place in our city need review. The Subcommittee, and the Task Force as a whole, heard numerous reports of clients being shuffled from one agency to the next, either because they repeatedly were sent to the wrong agency or because, at each agency the client met the “no vacancy” sign of insufficient capacity. Of course, the clients who are “bounced around” frequently are the clients whom no one can assist. While the crux of the issue may be the ultimate lack of adequate resources to meet client need, it is clear that the system needs to be more user-friendly for both clients and volunteers. However, the operations of legal services organizations that do not use pro bono services are not within the mandate of the Task Force evaluation, and therefore the Subcommittee did not address this issue extensively with the public interest legal community.

d. Volunteer Recruiting Efforts Must Expand

Traditionally, the various pro bono referral agencies have recruited volunteers through independent efforts and presentations. The agencies often rely on their current and former Board members, and their experienced volunteers, to distribute training and recruiting announcements or to place cases. Some firms designate a lawyer or other firm employee to serve as liaison to one or more of the organizations, but in many large and midsize firms, recruiting has been erratic or not highly structured. Every agency has reported increased difficulty in recent years in recruiting sufficient numbers of lawyers to handle its cases.

In the mid-1990s, and then again in summer 2001, many of the agencies organized the Road Show in which they described their work, and their pro bono needs, to all of the large firms. This effort has been well received by both the organizations and the firms. As a general matter, each law firm chooses the

subject areas of law or the public interest agencies for which the firm is interested in hearing a presentation. Often, three or more agencies make a presentation at a firm-wide or associate breakfast or lunch meeting. The Road Show has been attractive for its efficiency and for its diversity of service opportunities. Unfortunately the agencies have not yet gained access to some of the large firms in which it seems likely that a number of lawyers would step forward to do pro bono work, if made aware of the opportunities and given internal support for their efforts. The Road Show also has not yet been able to expand to the many mid-sized firms in the city. A major factor limiting use of the Road Show approach is that the collaborative recruiting effort takes significant staff time to organize and schedule. Most pro bono recruiting work is done without the benefit of trained marketing professionals.

In addition to taking cases, volunteers might be recruited to serve as consultants, in mentoring relationships and to provide technical assistance. Recruiting efforts should also be expanded to other professionals, whose services can be essential in certain types of cases. Collaborative services such as physical exams and diagnoses, mental health assessments and accounting services are in some cases integral to proper legal representation. Similarly, recruiting efforts should include ancillary litigation services, such as court reporters and investigators.

e. Volunteer Training and Management Can Be Creative

All volunteer organizations are concerned with the support, training and management of volunteers. Legal services agencies are no different. Agencies that identify themselves by their litigation or advocacy components sometimes fail to identify themselves as *volunteer*-based organizations and, consequently, neglect to manage accordingly. One experienced agency worker reported his understanding of the importance of supporting volunteers this way: “My job is principally to be the cheerleader, and our task is the care and feeding of volunteers.”

Many pro bono referral agencies have developed methods for supporting their volunteers. Some agencies have staff attorneys that generally provide expertise and technical assistance. Others have begun working with partnership with law firms to create special pro bono structures within the firm, such as Child Advocacy Practice Groups, family law practice groups, and legal clinics jointly sponsored by the agencies and law firms.

Specialized trainings help address and ameliorate the feelings of unfamiliarity that often dissuade lawyers from working outside their areas of practice. Philadelphia VIP, Women Against Abuse Legal Center, Philadelphia Volunteer Lawyers for the Arts, Child Advocates, the Homeless Advocacy and the Consumer Bankruptcy Assistance Project are among the best-known presenters of these specialized trainings. When offered to the legal community at large, such as through continuing legal education programs sponsored by PBI/PBEC, the sessions can also turn into excellent recruiting vehicles.

By the same token, pro bono volunteers must understand the need to reach out to the public interest organizations for expert guidance. At its public hearing, the Task Force was advised of one troubling case in which a public interest agency had placed a guardianship matter involving a person with a mental disability. The agency anticipated that the lawyer to advocate for the self-reliance and independence of the client, but the agency learned after the case had ended that the volunteer attorney in fact had argued that his client should be found incapacitated and in need of a delegate to manage his care and affairs. The agency concluded that the attorney had betrayed the client and violated a trust that the agency had imparted. The need for closer communication on both sides in pro bono cases is apparent, particularly in complex cases.

More generally, the traditional model of case referral places a high degree of responsibility on the volunteer lawyer. This level of responsibility, combined with reports from pro bono lawyers that they sometimes are uncomfortable, or even feel incompetent, to take on pro bono matters outside their areas of

expertise make it clear that staff support from legal services organizations is needed for consultation, fieldwork and case coverage. With so much pro bono service provided by young lawyers, training must be focused and effective. Such training and support can help address attorney reluctance to take on pro bono in new areas and, in so doing, increase the numbers and kinds of pro bono cases for which effective volunteers are found.

f. Fundraising and Financial Supporters Are Essential

Philadelphia's legal services, public interest and referral agencies are faced with the constant threat and pressure of reduced support and increased costs. It is likely that there is not a single pro bono or other public interest agency in Philadelphia today that could sustain any significant downturn in its funding. One director reported this situation to the Task Force in these terms: "Staying where we are is becoming an impossible task."

It should be noted that, over the past four decades, charitable foundations have donated millions of dollars to support legal services to the poor and disenfranchised in our region. One principal example of foundation leadership is that of the Independence Foundation, which created the Public Interest Law Fellowship Program in 1996. This program recruits applications and awards one-year fellowships, renewable for a second year, for several law school graduates who seek to work full-time in legal services organizations, and emphasizes the importance of developing new and creative ways to address unmet legal needs. The Independence Foundation also makes grants to legal services organizations through its Public Interest Legal Aid Program.

Several other prominent national and regional foundations provide critical support for programmatic and other types of legal services activities, including but not limited to The Pew Charitable Trusts, the William Penn Foundation, the Seybert Institution, the Samuel S. Fels Fund, the Philadelphia Foundation, the Connelly Foundation and many others.

Legal services organizations must develop strategies for keeping current donors and prospecting for new ones, devise specific fundraising proposals and expand short and long-term fundraising strategies.

2. The Need to Investigate Feasible New Models

The Legal Services, Public Interest & Pro Bono Referral Agencies Subcommittee surveyed legal services, public interest and referral agency attorneys and staff regarding the unmet legal needs of Philadelphia's poor and possibilities for developing feasible new models for the delivery of pro bono legal services.

While these attorneys and staff members agreed that various existing models for pro bono service work well and are needed, they were of the view that the legal community needs to explore and develop new models in areas with longstanding unmet needs. The need for creativity in this area also reflected concern about the recent emergence of new areas of legal need, such as the implementation of tightened standards governing immigration and asylum, expanding expulsion and other zero-tolerance policies in the schools, tighter statutory restrictions on prisoner appeals and habeas petitions, HIV-based discrimination in employment and family law, and the emergence of predatory lending practices. Legal services providers identified certain concepts and approaches that should be further investigated and evaluated.

a. Neighborhood- Based Clinics

A number of legal services attorneys and staff members expressed a concern that many poor Philadelphians do not fully realize that they have legal problems, or that there is help available. The legal services organizations have long been aware of this "neighborhood need," but do not have the resources to address it.

It was suggested that instituting periodic neighborhood, site-based legal clinics, sponsored by Philadelphia VIP or other intake and referral centers, might help address this critical need. Such clinics might be part of, or be embraced by, new "faith-based" initiatives that have developed in Philadelphia and around the nation --organized at churches, temples, synagogues and other faith-based centers around the city.³²

The collateral question raised, however, is how such clinics would be staffed, and how cases developed through intake and referral would be referred to pro bono attorneys. From the legal services organizations' perspective, the neighborhood clinic concept seems somewhat illogical, at least at the present time, as the organizations already have an overwhelming caseload, and are unable to place the cases that have already come in with pro bono attorneys.

In fact, the legal organizations effectively "hide" from clients by not advertising and frequently closing intake to new cases for lack of pro bono resources. Similarly, Philadelphia VIP has had trouble placing the cases it has received through existing intake and does not need additional cases.

It appears that such neighborhood clinics, if they are to succeed, would require faith-based and other community organizations to go beyond providing space and publicity for legal clinics; community organizations would need to commit to creating a network of neighborhood-based pro bono lawyers, legal assistants and other professionals to conduct the intake and referral process and handle the matters that come in through such clinics.

b. Senior Lawyer Mentoring Program

A number of legal services attorneys and para-professionals commented that recently retired and other senior lawyers should be organized to advise pro bono lawyers in individual cases. These senior lawyers could provide guidance in specific subject areas, such as landlord-tenant law, tax issues, real estate and zoning issues, and family law matters, to young lawyers taking on pro bono cases. If implemented through Philadelphia VIP and other existing agencies, the organizational and start-up needs, such as telephone and Internet communications systems and malpractice insurance coverage, might be met without major new expense.

c. Directory of Legal Services Lawyer-Consultants

The lawyers in Philadelphia's legal services organizations, public interest law centers and pro bono intake and referral centers, though few in number compared to the private firm bar, are nonetheless legal experts in a wide range of subject areas within the umbrella of "poverty law," such as landlord-tenant law, welfare rights and benefits, and disability, employment and education issues.

Legal services lawyers already guide those pro bono lawyers who are aware that legal services agencies are, in fact, a resource. By creating a formal directory of legal services attorneys who are "experts" and who are willing to accept phone calls or emails from pro bono lawyers, the legal community could encourage more private firm lawyers to take on pro bono cases in areas otherwise unfamiliar to them. The availability of such lawyer-consultants would also encourage law firm management to support efforts of volunteer lawyers engaging in new areas of practice on a pro bono basis, because firm leaders would know that the necessary subject matter expertise and guidance is readily available to their lawyers.

d. Shared Directory of Pro Bono Lawyers

³² Indeed, this was previously attempted on a pilot basis by Philadelphia VIP.

The creation of a shared directory of private firm attorneys who handle pro bono matters could have significant benefits at minimal cost. This directory could list lawyers who regularly handle pro bono matters in certain areas, such as Social Security disability benefits and special education law, who would be willing to be contacted by other private firm lawyers taking on matters in these areas. As with the directory of legal services lawyer-consultants, the experienced pro bono lawyers could provide guidance, leveraging their own knowledge and experience for the benefit of needy city residents.

e. Attorneys-on-Call For Special Situations

The legal services community also recommended the creation of a directory of attorneys who are willing to make themselves available from time to time to handle short-notice, short-term assignments, or essentially, to handle matters where the necessary preparation can be done in a relatively short period of time. Two areas with great demand for such services are drug-related evictions from public housing and traffic court. In eviction cases, innocent relatives who are frequently elderly are faced with possible eviction based on alleged drug activity by absent relatives. In traffic court cases, individuals, who for whatever reason have accumulated traffic tickets, become unable to negotiate payment plans for this debt, and as a result are blocked from access to essential social services that they and their family members may need. Lawyers can help break the logjam and help prevent such persons from developing more serious problems.

A number of other pro bono delivery systems were suggested, including:

- Telephone hotlines for non-English speaking residents
- Law firm-sponsored fellowships to allow firm lawyers to work in legal services centers for two years or other specific period
- Matching nonprofit organizations needing legal help with law firms that could provide general-counsel type assistance
- Hiring a consultant to work with referral agencies on how to better obtain all critical information and improve turn around time
- Creating a list of pro bono attorneys willing to advocate at zoning hearings and to governmental and political institutions.

3. Suggestions on Improving the Public-Private Linkage

The Philadelphia legal services community ascertained many years ago that an important element in increasing the quality and amount of pro bono legal services is to create, and to continually expand and fine-tune, a partnership between the legal services community and the private law firm community. This partnership is alive and healthy in Philadelphia, but it needs to be further developed.

There needs to be more communication between the public and the private bar across the spectrum of legal issues that disproportionately impact on the poor, the homeless, the disabled and others who are disadvantaged. The legal services community offered many suggestions how law firms could improve coordination between these two groups, including:

a. Two Joint Meetings a Year

Three committees of the Association, namely, the Law Firm Pro Bono Committee, the Large Firm Management Committee and the Delivery of Legal Services Committee, should meet twice a year to address the broad range of issues relevant to pro bono legal work, including changes in the unmet area of need for legal services; new developments in statutory and case law; intake and referral issues; training and recruiting, and law firm pro bono management issues.

b. Jointly Sponsored Training Programs

The Road Show and other efforts conducted by the legal services organizations to provide expert substantive training, frequently with CLE credit available, should be expanded. Law firms should take a leading role in seeking out, and actively supporting and participating in such programs. In addition to increasing awareness of the need for pro bono legal services, training programs encourage private firm lawyers to take on pro bono initiatives, and provide meaningful and practice expertise that, itself, will generate a higher level of support and cooperation from law firm leaders. Ultimately, such training programs serve to increase the quality and effectiveness of the pro bono work done by private firm lawyers.

c. Working Toward Improved Phone and On-Line Referral Programs

The Public Interest Section of the Association is in the early stages of exploring the possibilities created by high-speed telephone, Internet and computer connections to create systematic, timely, and effective ways to improve the access of the poor and disadvantaged to needed legal services, including the process of referring such matters to qualified, interested and available pro bono attorneys. Law firms, legal services organizations and the Association and Foundation should dedicate themselves to sharing their perspectives, insights and expertise in efforts to leverage these new technologies in a way that increases the availability of pro bono legal services in the greater Philadelphia community.

G. Report of the Law School Pro Bono Subcommittee

The Task Force has frequently heard the call that it is necessary to create a culture of pro bono service among the members of the bar. One good place to start is at the beginning — creating a culture of pro bono service among law students. The four Philadelphia area law schools, Rutgers School of Law - Camden ("Rutgers"), Temple University Beasley School of Law ("Temple"), The Law School at the University of Pennsylvania ("Penn"), and Villanova University School of Law ("Villanova") have already answered this call, and have developed, and are continuing to develop, public interest or public service programs.

The law schools recognize that public service programs serve three important goals. They: 1) provide critical legal services to those who would otherwise go without them; 2) teach important legal and real world practice skills; and 3) show students by example that pro bono work can and must be part of their legal careers.

The law schools afford students the opportunity to provide legal services to the indigent through a combination of pro bono projects, clinical course programs, and relationships with pro bono organizations. Penn has taken a giant step forward in adopting a public service requirement. All Penn students must complete 70 hours of law-related public service work to graduate.³³

³³ See Summary of Area Law Schools Pro Bono Description Summary, attached hereto as Appendix H.

1. Collaboration Among the Area Law Schools

The Public Interest Directors of the four local law schools meet monthly at the Association to exchange information, work on collaborative projects, and brainstorm. They are currently developing at least one joint project, possibly a program in which students can educate refugees and immigrants about their constitutional rights, and monitor the standards of detention facilities. In addition, reciprocity discussions are underway which may ultimately mean that students in the four schools may participate in certain of the other schools' projects.

2. Law School Pro Bono Programs in Other Areas of the Country

The need for pro bono programs has been addressed by law schools throughout the United States. Many have established relationships with their local bar associations for the delivery of pro bono services.³⁴

3. General Pro Bono Referral Agencies Across the Country

The need for a general agency to coordinate pro bono referrals has been recognized in many cities across the country. The Subcommittee surveyed certain selected cities regarding the practices at their respective intake and referral centers and obtained antedoctal and self-reported information from several bar associations and agencies.³⁵

4. Recommendations from the Law Schools

a. Academic/Association Collaboration

Law school pro bono programs should collaborate with the bar to identify how law students could increase the number of clients served by, but not limited to, assisting practitioners with pro bono cases; assisting legal services attorneys with case preparation; providing research and writing as needed (without committing to further assistance on a case); conducting "know your rights" sessions in the community; developing closely supervised projects where students provide direct legal assistance in areas of greatest need; a assisting pro se litigants in filing procedures and assist in intake.

b. School Collaboration

Law schools should jointly sponsor events that introduce students to public interest practitioners and opportunities in their offices; pro bono opportunities in the private sector; educate law students on current issues; publicize fellowship opportunities.

c. Association Recognition

The Association should recognize law students who have provided more than 100 hours of uncompensated and non academic credited legal services to the poor, income eligible community groups and or underserved populations.

³⁴ See Summary of National Law School Pro Bono Description Summary, attached hereto as Appendix I.

³⁵ See Survey of Selected Intake and Referral Programs in Other Communities, attached hereto as Appendix J.

VI. TASK FORCE RECOMMENDATIONS

From December 2001 to June 2002, the Task Force surveyed and met with numerous members of Philadelphia's legal community regarding the delivery of pro bono legal services to the poor, disadvantaged and disenfranchised. The Task Force also conducted a public hearing regarding Philadelphia's pro bono delivery of legal services system.

The following Recommendations are based on the information obtained by the Task Force and the collective insights, experiences and wisdom of Task Force members. Our Recommendations can be viewed in the light of three themes. First, we must *Grow The Number* of lawyers and others performing voluntary legal service for the poor and disadvantaged. Second, we must *Honor Accountability and Professionalism* as the foundations of our profession and essential to making justice available to all. Finally, we must *Engage The Future* with creativity, courage and zeal.

The Task Force submits these recommendations to encourage the legal community to renew and expand its commitment to the delivery of pro bono legal services. As well, the Task Force commends the reader to the reports and suggestions of the various Subcommittees for specific details in each area.

A. Institutionalize Pro Bono Support in the Profession

1. Make Pro Bono Service Part of the Culture of the Legal Community

The entire legal community must commit itself to dramatically increasing its participation in the direct representation of the poor and disadvantaged. Pro bono service must become a part of the culture and fabric of what it means to be a Philadelphia lawyer.

The Philadelphia legal community has been an active champion for and significant contributor to pro bono service throughout its impressive history. Yet our justice system remains closed to many. The Task Force finds that too many clients are being turned away for lack of lawyers and support staff who might serve them. All the procedural reforms, creative initiatives and lofty aspirations will be for naught if vastly more lawyers do not come forward to serve. We must all work to create the expectation and reality that all Philadelphia lawyers contribute their time to the guarantee of access to justice.

2. Adopt 50 Hour Aspirational Standard

The Pennsylvania Supreme Court should adopt the measurable standard of 50 hours of annual pro bono participation as a standard to which all lawyers should aspire, as set forth in Model Rule 6.1 of the American Bar Association.

Pro bono service is the cornerstone of the legal profession's identity – the key element that makes the practice of law a higher calling and a profession, and not merely a trade or business. The singular privilege of practicing law, and the fundamental importance of equal access to justice, impose a unique responsibility on all lawyers to help ensure that equal access for truly available, regardless of income, status or disability. The Task Force concludes that the Association should consider recommending that the Pennsylvania Supreme Court adopt the measurable standard of 50 hours of annual pro bono participation as an aspirational goal as set forth in Model Rule 6.1 of the American Bar Association.

The Task Force also recommends that all licensed lawyers set a personal goal of providing a minimum of 50 hours of pro bono service on an annual basis.

3. Adopt Mandatory Reporting

All licensed attorneys should annually report to the Pennsylvania Supreme Court on what they did in the preceding year to satisfy their obligation to render legal services to the disadvantaged and indigent under Rule 6.1 of the Pennsylvania Rules of Professional Conduct. The Court should maintain the confidentiality of these reports and use the information to assess the need for increased service and improvements in access to the justice system.

The Bar and judiciary share the obligation to ensure access to justice for all. As the primary institution responsible for the administration of justice, the Supreme Court stands in a unique and important position. As the ultimate authority on lawyer conduct, the Court also has a critical role in calling the legal profession to do its part. The Task Force suggests that the Court, through the Administrative Office of Pennsylvania Courts (“AOPC”), administer a program of mandatory reporting of *pro bono publico* service under Rule 6.1 of the Pennsylvania Rules of Professional Conduct, under such definitions and by such reporting devices as the Court and AOPC would develop. Mandatory reporting is a natural follow-up to Rule 6.1, and is intended to remind attorneys of their professional obligation under Rule 6.1 and encourage more pro bono service.

4. Award CLE Credit for Pro Bono Representation in New Areas

Lawyers who accept a pro bono case in a new area of practice should be eligible for a one-time award of two additional CLE credits in recognition of their need to devote themselves to considerable preparation and experiential learning in order to provide high-quality representation to indigent clients.

The legal needs of the poor, disadvantaged and underrepresented often require legal assistance in subject areas that are not familiar to private practitioners. In order to accept these cases on a pro bono basis and fulfill the professional responsibilities expected of lawyers by Rule 6.1 of the Pennsylvania Rules of Professional Conduct, private practitioners must necessarily devote themselves to considerable preparation and continuing learning in order to provide high quality representation to indigent clients. By necessity, this preparation and learning occurs principally in two forms: training obtained in a traditional classroom setting and experiential learning obtained from consulting with experienced practitioners and from actually undertaking a representation.

Pennsylvania’s mandatory continuing legal education requirement is intended to insure that lawyers admitted to practice continue their education and maintain the requisite knowledge and skill necessary to fulfill their professional responsibilities. Credit is routinely awarded to lawyers for satisfying courses and training offered by approved CLE providers on practice and procedure, substantive law, lawyer ethics and professional conduct, and professionalism. Formal training offered by approved CLE providers in areas related to pro bono referrals is already eligible for CLE credit under existing guidelines. This proposal is intended to extend CLE eligibility to award two additional CLE credits on a one-time basis each time that lawyers undertake pro bono representation in an area of practice that is new to them, and which requires that they engage in preparation and experiential learning in order to demonstrate appropriate competency levels in their new representation.

This additional one-time award of two credits shall be given only upon proper certification by the lawyer and by the approved pro bono program that the lawyer has accepted a pro bono case in an area of need for which the lawyer has no prior experience and that the lawyer has engaged in needed preparation and experiential learning during the course of undertaking representation. There is precedent for awarding one-time additional credits that foster the overall purposes of Pennsylvania’s continuing legal education program. For example, teaching credit for preparation is granted on a one-time basis for a course for which the lawyer has prepared quality written materials, while repeat performances of the same course will be awarded credit only for the time spent at the course. Similarly, this proposal would award two

additional credits for preparation and experiential learning that are required because of pro bono responsibilities in a new area of practice, while no additional credit would be awarded for repeat pro bono representation in the same area of practice. In so doing, this proposal would advance the general competencies of the practicing bar while encouraging pro bono involvement.

B. Leadership by the Philadelphia Bar Association

1. Philadelphia Bar Association Leaders Should Be Visible Supporters of Pro Bono and Lead by Example

The leadership of the Philadelphia Bar Association should demonstrate its commitment to the pro bono ethic through the active handling of at least one pro bono matter annually and by providing leadership for private bar participation in pro bono activities.

The Association should lead by example by making it a requirement that all officers and elected members of the Board of Governors take a pro bono case during each year of their service on the Board. The Association should encourage the Sections to adopt the same requirement for officers of their Sections.

The leadership of the Association should meet annually with leaders of the private bar, corporate counsel, government attorneys, law school faculty and other segments of the profession to ensure that they too are leading by example.

The Large Law Firm Pro Bono Committee, the Large Firm Management Committee and the Delivery of Legal Services Committee should also meet twice a year to address the broad range of issues relevant to pro bono legal services. Bar leadership should also encourage large and mid-sized law firm management to meet periodically with members of the judiciary to discuss the large and mid-sized law firm community's progress in delivering pro bono legal services.

2. Support Philadelphia VIP

The Philadelphia Bar Association should fully embrace Philadelphia VIP by honoring its historical financial commitment and recognizing its central role in the delivery of pro bono legal services.

The Association should recognize the central role of Philadelphia VIP in the referral of pro bono matters, and reaffirm that Philadelphia VIP must maintain its close relationship with the Association. Strong Association leadership in promoting pro bono work by all sectors of the legal community is indispensable to Philadelphia VIP's success. The Association must honor its historical financial commitment to Philadelphia VIP by restoring its prior level of financial support and renewing its financial support to Philadelphia VIP on an annual basis. Correspondingly, Philadelphia VIP should maintain close communication with the Association regarding its ongoing operations.

The Association's support of Philadelphia VIP should not be limited to financial support. The Association should also support VIP in its efforts to create collaborative networks of legal services and pro bono attorneys to respond to both extant and emerging unmet legal needs. It should work in tandem with Philadelphia VIP to develop policies and strategies designed to encourage and support the full participation of the bar in pro bono activities.

3. Encourage Large and Mid-Sized Firms to Fully Support Pro Bono

The Philadelphia Bar Association should encourage law firms to fully support pro bono.

Firm compensation has risen dramatically along with billable hour requirements. Attorneys at law firms are facing increased pressures to focus on paying clients. Although many law firms have established pro bono policies and other structures to facilitate *pro bono publico* efforts many of their attorneys are unwilling or hesitant to handle pro bono representations because they do not believe that their firms honestly value pro bono service. The Association should encourage law firms to develop an active institutional commitment to pro bono service rather than simply accommodating the pro bono interests of their individual attorneys.

The Association can accomplish this by encouraging firms to: 1) implement internal structures that support pro bono service; 2) publicly adopt and publish a written pro bono policy that genuinely values the pro bono activities of their individual attorneys; and 3) establish concrete, quantifiable means by which the law firms can report the number of hours they spend on pro bono representations on an annual basis.

4. Coordinate the Development of a Mechanism for the Annual Reporting of Pro Bono Participation by Law Firms

The Philadelphia Bar Association should coordinate the development of a mechanism for the annual reporting of law firms' pro bono participation.

The Association should encourage the creation of a research instrument by an independent entity that would act as the local equivalent of the AmLaw 100 Pro Bono Survey. The independent entity could survey law firms on their pro bono participation, and record and publicize the survey results on an annual basis.

5. **Devote an Annual Meeting of the Board of Governors to the “State of Pro Bono”**

An annual meeting of the Board of Governors should be dedicated to the state of pro bono delivery of legal services in Philadelphia.

The Board of Governors should devote one meeting each year to assessing the state of pro bono legal services in Philadelphia. The Executive Director of Philadelphia VIP, along with other pro bono leaders, should be invited to address the Board of Governors on the unmet legal needs of Philadelphia’s poor, successful efforts over the preceding year, priorities and goals for the coming year, and new initiatives that are needed. Leaders of the practicing bar and the judiciary should be encouraged to participate.

6. **Gather Better Pro Bono Data in Association Surveys**

The Philadelphia Bar Association should improve its collection of data on the response of the Philadelphia legal community to the unmet needs of the poor and disadvantaged.

Periodically, the Association surveys its members about diverse issues and current interests, including participation in pro bono activities. However the survey instruments and results have not been as helpful as they might be in the examination of this issue. For example, the 1990, 1995 and 2000 Association Surveys did not distinguish between "legal representation" and other "civic/charitable participation." The Task Force recognizes the significance of monetary support for legal service organizations and the many forms of personal participation by lawyers in activities to improve the law, the profession and the legal services organizations themselves. However the Association's strategic consideration of ways to respond to the unmet need is hampered by a lack of specific data. Future Surveys should include a series of questions designed to more accurately assess the Association member's forms and degrees of support for pro bono service.

7. **Expand Pro Bono Opportunities for Para-Professionals**

The Philadelphia Bar Association should welcome para-professional involvement in pro bono work.

Legal assistants and legal secretaries can provide valuable help to lawyers in pro bono cases and can themselves serve in pro se clinics and administrative proceedings. For example, legal assistants were active in daily staffing of the KidsCAP program in Family Court and regularly participate in Child Advocates’ Children’s Paralegal Project. Legal assistants also revised and updated Philadelphia VIP’s intake forms, and offer assistance in other office management functions.

The Association, in conjunction with the Philadelphia Association of Paralegals, Philadelphia VIP and other legal services organizations, should develop a special program that acknowledges the extraordinary role that para-professionals can play and that utilizes their considerable experience and talents in providing pro bono legal assistance.

8. **Recognize Outstanding Pro Bono Service by Law Students**

The Philadelphia Bar Association should formally recognize area law students who have provided more than 100 hours of uncompensated and non-academic credited legal services to the poor, disadvantaged and underserved.

Increasingly, area law students are performing valuable pro bono service while in law school that is uncompensated and that does not receive academic credit. These student efforts contribute significantly

to expanding the availability of legal services while, at the same time, serving as a peer role models and examples of leadership for all law students.

The Association should formally recognize area law students who exceed 100 hours of pro bono service while in law school. By so doing, the Association will publicly honor this extraordinary pro bono commitment, encourage more students to aspire to this standard, and cultivate the integration of pro bono within the profession at the earliest possible stages of professional development.

C. Leadership by the Philadelphia Bar Foundation

1. Raise More Money to Increase Its Critical Financial Support for Legal Services

The Philadelphia Bar Foundation should expand its role in providing financial resources for legal services providers.

The Foundation plays a critical role in providing unrestricted general operating support for Philadelphia's legal services organizations. Unrestricted support allows legal services organizations to set their own priorities, based on their missions and the unique needs that they address on a daily basis. It also enhances the ability of legal services organizations to obtain funding from sources outside the legal community. The Foundation relies on contributions from Philadelphia lawyers to provide this critical support. The Foundation must raise more money from lawyers and the larger community if it is to support the expansion of legal services to the poor.

2. Initiate Other Efforts on Behalf of Legal Services

The Philadelphia Bar Foundation should expand its role in coordinating other resources to support legal services.

The Foundation currently supports legal services by coordinating contributions of in-kind goods, services and other resources such as recycled computers and office equipment and technology support. The Foundation should expand its role in resource development from the legal and business community in the metropolitan area.

3. Improve the Bar Foundation Fellowship Program

The Philadelphia Bar Foundation should explore ways to improve the management and operation of the Bar Foundation Fellowship Program.

The Philadelphia Bar Foundation Fellowship program, which was created in 1994, allows first year associates to customize their first year of law practice and broaden their legal knowledge and experiences across the public/private sector spectrum. The program also provides its participating law firms with a recruiting tool and an opportunity to tangibly demonstrate their commitment to the delivery of legal services to the poor.

Members of the Task Force held a focus group discussion with several of the Fellowship's past participants to discuss the Fellows' respective experiences. Fellows need to develop skills that are transferable to private practice. They want a sense of connection with their respective firms, for example, participation in associates' meetings and trainings, and the like. Area law schools and their first and second year students need information about the program. The Foundation should work closely with the Fellows, law schools, law firms and host organizations to address these concerns.

D. Joint Initiatives by the Philadelphia Bar Association and the Philadelphia Bar Foundation

1. Maximize Technology to Enhance the Delivery of Legal Services

The Philadelphia Bar Association and Philadelphia Bar Foundation should facilitate pro bono participation by supporting the development of technology-based initiatives.

The digital revolution continues to play a crucial role in improving the delivery of pro bono legal services. The Foundation should be credited for its support of the Delivery of Legal Services Committee's Public Interest Coordinator, who recently developed the Public Interest Section Web page on the Association's website. This Web page now provides information regarding pro bono volunteering and training opportunities, includes a calendar of public interest events, and maintains central listings. The Web page should be further developed to enhance recruitment and support of pro bono attorneys through means such as lists of law firms' pro bono coordinators, and registries of both public and private bar attorneys who would be willing to serve as mentors to less-experienced volunteers. Ultimately, it is hoped that emerging technology will allow pro bono attorneys to receive virtual training through Philadelphia VIP or any other legal services provider.

2. Market Pro Bono Needs and Opportunities to Serve

The Philadelphia Bar Association and Philadelphia Bar Foundation should foster pro bono participation with new marketing approaches to highlight the area's unmet legal needs, volunteer opportunities and stories of exemplary pro bono service.

Although the Philadelphia legal community can be proud of its longstanding commitment making legal services available to the poor, more must be done to educate members of the profession about unmet legal needs and the legal services community. New communication vehicles and venues should be used to expand volunteerism. Pro bono service should be promoted in public and bar media outlets, including for example, video promotions in CLE trainings and videotapes. A professional marketing campaign should be used to highlight unmet legal needs, volunteer opportunities for lawyers and others, best practices in representation and delivery systems, and individual stories of volunteers' success and dedication.

3. Educate the Public at Large

The Philadelphia Bar Association and Philadelphia Bar Foundation should inform the public about the ways in which attorneys are addressing the unmet legal needs of our community.

A public that is informed about the unmet legal needs of our community and ways that lawyers are responding, will in turn support efforts to meet these needs. Corporate and other large firm client support for pro bono will make law firm participation more likely. Foundations and other charitable donors will begin to see their important role in supporting legal services to the poor and disadvantaged. Public awareness about legal issues will invite more prospective clients to seek legal advice. The Association and the Foundation should take advantage of all available high-profile venues to educate the public regarding the profession's pro bono ethic and the profession's numerous contributions to the greater good. This effort will not only improve the standing of the profession in the eyes of the public, but may also lead to greater attention and resources being dedicated to the larger societal issues that attorneys grapple with when they provide pro bono representation to the poor.

4. Develop Revolving Fund for Litigation Costs

The Philadelphia Bar Association, Philadelphia Bar Foundation and legal services organizations should work together to design and develop a revolving fund to support out of pocket expenses incurred in pro bono service.

The Task Force heard from various sectors that the costs of litigation, including copying costs, expert fees, and the like, are a significant burden on and impediment to pro bono service. Every effort should be made to obtain these services pro bono, or to have law firms that are able to do so to absorb these costs. But especially for small law firm and solo practitioners, a fund is needed. At present, funds are available on a limited basis in certain types of cases. PILCOP manages a revolving fund, created by a generous donation of a private firm's fee award, to support institutional reform litigation. Philadelphia VIP provides limited support for litigation costs. The Eastern District of Pennsylvania provides for costs incurred by pro bono counsel in prisoners civil rights and plaintiffs' employment cases. An omnibus fund would be useful for diverse civil litigation expenses. Costs should be reimbursed if and when recovered by the attorney.

5. Investigate the Feasibility of a Central Home for Legal Services to the Poor

The Philadelphia Bar Association, Philadelphia Bar Foundation and the legal services community should engage in a long-term process to assess the feasibility and efficacy of a shared facility.

For many years, several Center City Philadelphia buildings have been the common sites of multiple public interest agencies: 125 South Ninth Street, 801 Arch Street, 1315 Walnut Street, 1424 Chestnut Street, 42 South Fifteenth Street, 924 Cherry Street, 1211 Chestnut Street, and others. For many, the experience of being together was or is itself an attraction and a benefit. Two questions emerge for the future. First, would there be any value to expanding the sharing of space? Second, would there be any added value to *owning* a shared space?

The adjacency of several agencies has offered opportunities for shared equipment, space and technology, strategic cooperation, case consultation and supportive personal interactions; in general, out-of-pocket costs go down while operational efficiency increases. Likewise, clients and other members of the community come to know the location as a place where they could access legal service. The potential burdens and disadvantages are also numerous. Site selection is often tied to mission and personal preference, and can be difficult. Entities might experience a loss of fundraising clout and community identity that comes with specialization. Rent may be chargeable to foundation and government grants in a way that ownership costs are not.

What does ownership add to the equation? Clearly, the aggregate cost of rents paid by the public interest community is large, and prudent property investment and ownership can be less costly. Yet, with all the pressures on these programs to meet current budgets and to increase their capacity for service, such a capital investment could not be conceived or supported with current dollars. Therefore, for the public interest community, a common home (or more than one) would seem to be feasible only if it were funded with *new funds only*. The common wisdom of fundraising is that many donors are often more apt to give to permanent, capital projects than to temporary operational needs. Likewise, some private foundation and government monies are available *only* to capital projects. Further, the burdens of building ownership scare many away, and should not be viewed lightly.

A committee of experienced legal, real estate and fundraising professionals might perform the due diligence required of such an enterprise. The legal community should be ready if and when a wealthy lawyer or other well-intentioned friend decides to leave a legacy, in the form of a building or asset. The Philadelphia legal community should cultivate opportunities for planned long term giving and should take the time to make this decision wisely and well.

E. Initiatives By Philadelphia Volunteers for the Indigent Program

Although the partnership between the legal services community and the private law firm community is alive and healthy, that partnership must be further developed to respond to the ongoing need for legal services for the poor and disadvantaged. The need to revitalize and expand that partnership is greater than ever, in light of pressures on private law firms to increase billable hours that pulls against pro bono efforts, and the reductions in funding for legal services organizations. Philadelphia VIP, working with other legal services agencies, is ideally suited to promote and coordinate such partnering efforts.

1. Build Resource Teams For Pro Bono

Philadelphia VIP, in conjunction with other legal services organizations, should build resource teams in subject areas most relevant to pro bono need.

Philadelphia VIP is well positioned to bring together discrete segments of the legal community to develop legal and other resources for those engaged in pro bono. As the central pro bono referral agency of the Association, Philadelphia VIP should facilitate the building of pro bono resource teams. These teams can take many forms: teams of two or more law firms; between law firms and corporate counsel; between pro bono attorneys and legal services organizations, between solo practitioners and law firms, between pro bono attorneys and senior members of the bar; between law school faculty and pro bono attorneys; and between pro bono attorneys and law students.

Regardless of the particular pairings, these resource teams should include experienced attorneys with expertise in various legal subject areas, who would be visibly identifiable in the legal community. The resource teams would, among other roles, do the following:

- conduct training programs
- share sample pleadings and forms
- promote “best practices” in various legal subject areas
- be available for consultation by pro bono attorneys

2. Revive Traditional Pro Bono Mentoring Programs

Philadelphia VIP should renew and expand mentoring programs, particularly in light of the broad base of subject areas and issues within the purview of VIP’s referral program, and in light of the need for supervision for lawyers taking on new kinds of pro bono work.

Private bar attorneys would be more inclined to handle a pro bono representation in a legal area outside their area of expertise if linked with another pro bono attorney or legal services attorney with expertise in that particular area. In the past, Philadelphia VIP has used such mentoring arrangements to encourage pro bono. Given the new pressures on law firm lawyers, it is more important than ever that both the individual lawyer and his or her own law firm know that experienced lawyers with subject matter expertise have agreed to be available to review a brief, discuss strategy, explain statutes and regulatory provisions, and provide general guidance to lawyers handling pro bono matters.

Philadelphia VIP is ideally situated to renew and expand mentoring programs. First, the broad base of legal subject areas and issues reflected in the cases it processes and refers requires that well-trained, seasoned lawyers be available to insure professional handling of the pro bono matters it refers to private firm lawyers. Second, unlike the specialty referral centers like Child Advocates, HAP and CBAP, volunteers for Philadelphia VIP cases may be less aware that seasoned lawyers have handled cases of the type they take on, and are willing to provide guidance; without such knowledge, some volunteers may avoid VIP referrals out of a concern that the volunteers will be “left alone” to handle new and perplexing legal issues. Finally, since cases in newly-emerging areas of legal need are more likely to be directed to Philadelphia VIP for referral, Philadelphia VIP must be able to reassure volunteers that expertise is available if, and when, needed.

3. Create Collaborative Networks In New and Intractable Areas

Philadelphia VIP should take the lead in creating collaborative networks to meet the demand in emerging areas of legal need and for complex legal matters.

Philadelphia VIP, with support from the Association, should also create collaborative networks of legal service, public interest, and pro bono attorneys to respond to requests for legal services by the poor and disadvantaged in emerging areas of the law, and for those cases that do not fit neatly into one or more legal subject areas.

New issues have arisen in recent years in such areas as tightened immigration, national security and detention policies, school expulsion and zero tolerance policies, HIV-based discrimination in employment and housing, and predatory lending. Although a number of specialized legal services agencies have taken steps to address these issues, these are areas where the interaction of law, medicine, science and public policy is still in flux, and the need for a broad range of expertise is particularly acute.

An excellent example of the role Philadelphia VIP can play in more “intractable” areas is its role in the “tangled title” project. There is an acute need for pro bono representation of low-income Philadelphians at risk of losing their homes because of tax liens due to “tangled title” issues. These issues can arise when the record owner of a property dies intestate and a relative continues to occupy the property without transferring title, or someone occupies a property for many years, but was never the record owner. Tax liens accrue and tax sales threaten the occupants’ ability to remain in the home.

At the same time that the City of Philadelphia’s proposed sale of tax liens to private servicers for collection threatened to escalate tax sales of these homes, a number of groups, including the University of Pennsylvania, the Greater Philadelphia Urban Affairs Coalition, Judicare, the Philadelphia Corporation for the Aging, and HUD were studying the issues faced by low-income elderly residents.

The legal services community, led by Philadelphia VIP, Community Legal Services and Regional Housing Legal Services, joined forces with these groups to address the issue. Funding from the City of Philadelphia was secured for a vacancy prevention program to meet the costs involved in resolving tangled title cases handled by pro bono attorneys. The collaborative effort accomplished the following:

- identified a fragmented need for legal services
- coordinated and publicized the availability of legal services
- secured funds to pay the costs involved in resolving tangled title cases
- cooperated with the City in resolving back taxes issues on reasonable terms
- resolved four cases utilizing grants from the tangled title fund to pay costs, and has thirty more cases “in the pipeline” for resolution
- conducted pro-active training programs for community groups and social services providers to address problems contributing to vacancies, such as back taxes, utility bills, predatory lending, wills and estate planning.

Not all collaborative efforts need be as sweeping, or complex, as the successful effort to begin addressing the “tangled title” issue. However, Philadelphia VIP, working with other legal services agencies and with the support of the Association and its Sections and committees, is in a position to play a leading role in such collaborations. In this example, success required funding, some of which has been provided by the City, as well as attorneys with expertise in real property law. The Association’s Real Property Section, working with Philadelphia VIP and the Elder Law Committee, has initiated a program to provide the needed pro bono legal services.

Given its broad mandate, and the wide range of cases in its portfolio, Philadelphia VIP should lead the way in creating such collaborative networks, leveraging the resources of the Association and the legal community at large.

4. Support Pro Bono Efforts By Small Firm and Solo Practitioners.

Philadelphia VIP should particularly focus on supporting small firm and solo practitioners who take on pro bono projects.

Philadelphia VIP, with support from the Association, should make a special effort to provide support to small firm and solo practitioners engaged in pro bono work. The Task Force recognizes that the cost of support

services and other expenditures for pro bono matters can be more burdensome to small firm and solo practitioners than to attorneys handling pro bono matters at larger firms and corporate law departments.

Philadelphia VIP can provide sample pleadings, consultations with experienced attorneys in particular subject areas and other forms of assistance to small firm and solo practitioners who take on pro bono projects.

5. Work With the Philadelphia Bar Association to Encourage Full Participation by the Bar in Pro Bono Activities

Philadelphia VIP should take a leading role in seeking full participation in pro bono by all sectors of the legal community.

Philadelphia VIP, given its unique relationship to the Association and its broad mandate to process and refer pro bono legal matters to members of the private bar, should take a leading role in encouraging full participation in pro bono activities by all members of the profession. Working in tandem with the Association, Philadelphia VIP should develop strategies and policies designed to encourage and provide support for pro bono activities. Philadelphia VIP's success in this area can not only attract young attorneys from all sectors of the Bar to engage in pro bono but also leverage the Association's reputation as an innovative and progressive force in promoting equal access to justice.

F. Leadership by Large and Mid-Sized Law Firms

Large and mid-sized law firms are well-positioned to create pro bono programs that help to meet the vast unmet need for legal services, while at the same time providing personal and professional benefits for attorneys and firms. Successful programs need to be organized; firms need to provide meaningful credit equivalent to billable hour credit for pro bono work; and firm leaders must explicitly support the pro bono effort.

The Task Force reviewed and evaluated the empirical findings of the various subcommittees, certain best practices in other cities and regions, and, in particular, the recommendations of the Large Firm Subcommittee, the Mid-Sized Firm Subcommittee and the Legal Services, Public Interest & Pro Bono Referral Agencies Subcommittee. At the suggestion of the Large Firm Subcommittee, the Task Force also considered detailed information published by the Law Firm Pro Bono Project, based at the Georgetown University Law Center.

The Task Force believes that effective law firm pro bono programs must include the following key elements:

1. Create a Pro Bono Committee

Law firms should organize their pro bono programs around a Committee that includes, at a minimum, partners and associates and that is representative of the geographic reach of the firm and the legal subject areas in which it specializes. Both transactional and litigation attorneys should be represented.

2. Appoint a Pro Bono Director or Coordinator

Law firms should designate an attorney to serve as director or coordinator of the firm's pro bono effort who is authorized to spend a dedicated amount of his or her time to this effort. The administrative efficiencies and increased productivity of having a point person more than justify the resources so dedicated.

3. Lead by Example

Successful pro bono programs require leadership from the top. Too many experienced partners assume that pro bono is the province of younger attorneys. Pro bono efforts by law firms will only increase if firm leaders understand both the internal and external benefits of pro bono service, and regularly express their support to lawyers in the firm and regularly handle pro bono cases themselves.

4. Develop Pro Bono Policies

Pro Bono Committees should develop policies that address, among other things, the firm's definition of qualifying pro bono work, the importance of such work to the fair and efficient administration of justice and to the community in which the firm is located; the internal benefits to firm lawyers, including training and job satisfaction; the internal benefits to the firm itself, including training, recruiting and enhanced reputation in the community; and, most importantly, the fact that pro bono work is approved, and encouraged, by the firm. Pro bono policies should be in writing, be regularly circulated, and be readily available in firm policy files and/or firm intranet systems.

5. Adopt Procedures to Support Pro Bono Work

As a practical matter, pro bono participation will grow only if firms implement procedures to ensure that attorneys are encouraged to do it. At a minimum, these procedures, tailored to the particular needs and desires of the firm, should be carefully considered:

i. Billable Hour Credit

Law firms should seriously consider giving some kind of credit for pro bono work, whether it is full parity with fee work; a number of hours per year (such as 50 hours per year); a percentage of hours tied to an attorney's fee hour productivity (such as 10% of actually-billed fee hours); or some other reasonable measure that creates a meaningful basis on which to assure attorneys that their firms recognize the legitimacy and value of pro bono work. It is essential that firms do not send mixed messages about pro bono credit □ the credit policy adopted by the firm must be explicit, and must be applied uniformly and equally across all sections and management units of the firm if it is to succeed in promoting a pro bono policy that is consistent with all of the firm's other business and professional goals.

ii. Pro Bono Service In Evaluations

Pro bono work should be expressly included as a positive factor in evaluating attorney performance, for both associates and partners. As President Judge Massiah-Jackson of the First Judicial District stated in a letter to the Task Force: Equal justice and equal access from volunteer lawyers is a responsibility to low-income persons. And the responsibility remains with attorneys at all levels of experience and not only with newer associates.

iii. Publicity

Firms should internally publicize outstanding pro bono efforts, including but not limited to court victories and other success stories, as a means for encouraging pro bono work and recognizing its value.

iv. Awards

A number of firms have created annual awards to recognize outstanding pro bono work, often with a cash prize that is donated to a legal services organization or other nonprofit agency in the honoree's name. Such awards generate recognition for the firms as well.

6. Identify and Promote Useful Projects

The need for pro bono legal services is so great that there are many opportunities for law firms to create specialized pro bono efforts, such as community development and other transactional law projects, immigration law clinics, family law counseling projects, and special relationships with legal services and community organizations in need of legal services. These projects can also build new areas of legal expertise within law firms.

7. Survey Lawyer Interests and Match With Pro Bono Work

Some law firms survey their lawyers to ascertain their interests, and then match pro bono opportunities with those interests. While this may seem an onerous task, in fact law firms report that this is a straightforward process, and that such efforts increase the effectiveness of pro bono work and the personal satisfaction of volunteer attorneys.

8. Provide Supervision and Mentoring

Law firms should ensure that younger lawyers doing pro bono work are supervised by partners or other senior lawyers to ensure that high quality work is produced. This is a natural process in most law firms, and enhances the development of essential legal skills that attorneys use in all aspects of their practice.

9. Keep an Open Mind as to New Opportunities

Law firm leaders should recognize that the kinds of legal services needed vary over time, as do the interests of lawyers, and be flexible and open to new opportunities. Some firms have adopted a signature project in an area in which the firm has substantial expertise, which may have the incidental effect of further enhancing the firm's reputation in that area. Other firms prefer that their attorneys self-select the kinds of work they do. The legal services agencies in Philadelphia coordinate the Road Show in which two or three agencies travel to firms to describe their work and their training opportunities. Firms can request a Road Show visit, and on-site training, from those agencies in which the firms have a particular interest.

10. Partner with Public Interest Organizations and Clients

Law firms that have tried this approach report that it enhances the quality of pro bono services rendered and builds relationships that promote not only pro bono work but also new business relationships for the firms. This is particularly true with transactional pro bono efforts.

11. Provide a Choice of Pro Bono Projects for All Summer Associates

Law firms should consider pairing summer clerks with attorneys on pro bono matters, and otherwise encourage summer clerks to do pro bono. Some firms permit clerks to spend part of the summer at a legal services organization at firm expense, giving the summer clerks a broad summer experience.

12. Support the Philadelphia Bar Foundation Fellowship

Participating firms hire law school graduates who spend their first law firm year at a legal services organization and their second year at the firm; the firm pays the associate half a year's salary in year one, and the other half in year two. The Fellowship, apart from creating a much-needed staff attorney to help the organization address a pressing legal need, also offers significant benefits for the firm. It allows the firm to recruit a highly-desired law school graduate who might otherwise choose another firm, and the fellow becomes a visible sign of the firm's commitment to pro bono. To succeed, however, the firm needs to treat the fellow as one of its own, integrating the fellow into the firm in both years. A participating firm should invite the associate to all training, practice group and social events at the firm in both years, while allowing the associate to spend a year developing specialized expertise while serving those in need.

The Task Force recognizes that not all these Recommendations are right for every law firm, and that law firms, like other entities, have individual identities and business plans that will color the application of these Recommendations in any case. However, the Task Force believes that these are concrete, and realistic, ideas that offer a starting point for creating a pro bono program, or for re-energizing an existing program. On the basis of its research and evaluations, the Task Force concludes that these measures have been proven in practice to expand the amount and quality of legal services provided to the poor, disadvantaged and disenfranchised, while at the same time creating personal and professional benefits for individual attorneys and institutional benefits for their firms.

G. Greater Participation by Small Firm and Solo Practitioners

While the Task Force recognizes the unique burdens placed on small firm and solo practitioners, they are well positioned to contribute to addressing the unmet legal need in their respective areas of expertise.

Small firm lawyers have broad expertise in areas such as family law, landlord-tenant and real estate issues, and Social Security benefits. These areas of unmet need are oftentimes unfamiliar to lawyers in large and mid-sized firms who lack the necessary expertise in these areas. It is critical that small firm and solo practitioners continue to step up to the plate to handle these legal needs.

H. Leadership by Corporate Law Departments

Corporate law departments should create formalized pro bono programs that help to meet the vast unmet need for legal services. General counsel must explicitly support the pro bono effort by leading by example, partnering with outside counsel on pro bono initiatives, and by taking into consideration a private law firms' pro bono participation when making outside counsel performance and retention determinations.

Corporate law department attorneys can play an important role in the delivery of pro bono services through formalized pro bono programs. These programs will only be successful, however, if they contain certain key elements. While the Task Force recognizes that not all corporate law departments are alike, it believes that these Recommendations are concrete, realistic and offer a starting point for creating an in-house pro bono program, or for re-energizing an existing program.

1. Sign the CPBO Corporate Legal Pro Bono Pledge

Corporate law departments should demonstrate their commitment to pro bono work by signing the CPBO Corporate Legal Pro Bono Pledge. This demonstration should be publicly disclosed and announced.

2. Lead by Example

General Counsels should support the delivery of pro bono legal services by publicly announcing their willingness to handle at least one pro bono representation per year.

3. Appoint a Pro Bono Coordinator

Corporate law departments should center their pro bono programs around a Pro Bono Coordinator. This individual should be a senior member of the law department and should be authorized to spend a dedicated amount of time on pro bono activities.

4. Credit Pro Bono Participation

Corporate law departments should provide credit for pro bono work toward billable hours or develop other productivity measures that assures attorneys that they recognize the value of pro bono work. Pro bono participation should be included as a criterion in attorney performance appraisals and merit compensation reviews.

5. Provide a Pro Bono Infrastructure

Corporate law departments can support the delivery of pro bono legal services by providing administrative and secretarial support to attorneys performing pro bono work. They should also consider providing their attorneys flexibility in their individual work schedules to enable them to handle pro bono matters during business hours.

6. **Recognition**

Corporate law departments should recognize and publicize significant pro bono efforts undertaken by their attorneys.

7. **Make Pro Bono Service an Important Factor in Selecting and Retaining Outside Counsel**

Corporate law departments can support the delivery of pro bono legal services by making pro bono participation an important factor in their selection and retention of outside counsel.

8. **Partner with Outside Counsel or Public Interest Law Centers**

Corporate law departments should strongly consider partnering with outside counsel or public interest law centers on pro bono initiatives. These initiatives can take many different forms, from the handling of individual representations to participating in community based education projects.

I. Leadership by the Judiciary

1. Promote the Recruitment and Retention of Pro Bono Volunteers

Judges should, in the finest traditions of the profession, play a leading role in ensuring access to justice by encouraging expanded pro bono participation.

The judiciary can play a crucial role in the development of new strategies for encouraging pro bono service and can actively employ the prestige of the bench to encourage attorneys to undertake pro bono representation. There are a number of specific and tangible ways in which judges can facilitate the delivery of pro bono legal services to the poor.

Letters of recognition from the court and public acknowledgements greatly enhance a pro bono attorney's experience. Judges should seek and accept appointments to boards of directors of legal services organizations; they should lend their names and presence to pro bono recognition ceremonies and recruit attorneys to participate in organized pro bono efforts. The participation of judges in continuing legal education seminars for pro bono attorneys would also improve the delivery of pro bono legal services. Members of the judiciary should write letters, editorials and opinion pieces for newspapers, magazines and bar publications about the profession's pro bono ethic and the need for pro bono attorneys. They should include references to pro bono service in speeches to bar associations and new bar admittees and sponsor and support judicial resolutions calling on lawyers to engage in pro bono service.

2. Adopt Incentives to Encourage Pro Bono Service

Judges should institute procedures in their respective courtrooms to facilitate pro bono representation.

The judiciary can expand and promote the delivery of pro bono legal services by instituting procedures to encourage pro bono services in their courtrooms. For example, court files could be marked to indicate that an attorney is serving on a pro bono basis through an organized program, and, while avoiding the appearance of partiality, the court could express its appreciation to the attorney for appearing pro bono. Judges could also provide scheduling flexibility for pro bono attorneys and schedule attorneys' pro bono cases close to the time when they are appearing in another matter. In addition, judges could schedule special pro bono matters on the default calendar and grant early listings.

3. Liberalize Withdrawal of Appearance Requirements for Certain Pro Bono Matters

Local and state rulemaking bodies should create rules to allow withdrawals of appearance after a significant event of pro bono service.

The obligation to remain assigned to a case or client for long periods of time dissuades prospective volunteers from accepting cases, particularly in custody and other family law matters. Volunteers should be permitted to withdraw from representation of a pro bono client following completion of a contested hearing or other significant event.

J. Leadership by the Legal Services Community

1. Cast a Broad Net for Volunteers

The legal services community should expand and diversify the pool of firms and individuals contacted to take pro bono cases.

Referring agencies should establish or renew relationships with contact persons at law firms. Where appropriate, personal calls should be placed to attorneys requesting that they take on pro bono matters. Attorneys should be encouraged to help in alternative ways. Those who are unwilling to handle a pro bono representation could instead volunteer to help with client intake, such as a “Lawyer for a Day” program. Volunteers could also provide legal guidance on behalf of an agency in a manner that does not require actual legal representation.

2. Improve Training for Pro Bono Attorneys

Pro bono referral agencies should team up with accredited CLE Providers to provide free CLE classes for their pro bono attorneys. Training should be tailored to the specific needs and interests of the particular firms and to individual areas of practice.

Volunteers must be taught how to do the cases given to them, if they are unfamiliar with the subject matter of the cases assigned. The legal services agencies, cooperating law firms and organizations such as PBI must increase their roles in creating training programs for new volunteers. Each referring organization and Association committee should dedicate itself to the goal of sponsoring at least one CLE program each year, targeted to prospective volunteers, in areas of critical unmet need.

The referral agencies must use creative new approaches to train volunteers in areas where recruitment is particularly difficult. For example, given the tremendous need for pro bono service in child custody and other family law cases, interested agencies might work with the Family Law Section to create a Custody Training Institute to teach the special skills and law needed for representation of parents and children in domestic relations cases.

3. Develop Mentoring & Co-Counseling Relationships

The legal services community should help develop informal mentoring relationships (both within and between firms) among more experienced attorneys and new volunteers.

When a case is assigned to a pro bono attorney, he or she should be given the name of an attorney who has experience in that area of law and will provide guidance on the matter. Legal services providers should encourage co-counsel relationships, where appropriate, between pro bono attorneys on specific cases rather than just referring a case to a pro bono attorney. Partnering in this fashion would significantly reduced the amount of time required to be expended by the legal services/public interest attorney on the matter, while providing the pro bono attorney with the means to quickly obtain forms and legal advice.

4. Improve Case File Screening & Work-Up

Initial referrals should provide detailed statement of the facts and legal issues to be addressed.

Many respondents expressed concern that they might miss issues in unfamiliar areas of law. Each referral agency should develop intake screening protocols and apply these protocols to all matters. The agencies should ensure that these cases are thoroughly worked up so that pro bono volunteers receive an accurate summary of the issues, all relevant documents, information about malpractice coverage, mentor contact information, and a description of the specific legal work to be done.

5. Improve Case Tracking

The referring agencies should track all cases that are referred to pro bono attorneys to their conclusion.

Volunteers often need support through the life of a case, and sometimes even reminders to proceed with or complete a matter. The agencies should provide consultation and fieldwork services as well as case coverage in cases that are referred to pro bono attorneys.

6. Recognize Pro Bono Service Publicly

Referring agencies should publicly recognize pro bono service.

Volunteer service should be publicized whenever possible. Media releases and photos are welcomed by local newspapers such as a volunteer's hometown. When a case is closed, the referring organizations should send a formal letter to the volunteer's immediate supervisor and firm management to provide the attorney with recognition within the law firm.

7. Include Pro Bono Attorneys Within Malpractice Coverage

Malpractice coverage should be provided to volunteers.

Law firm leaders and prospective volunteers often raise the question of whether pro bono attorneys are covered by the referral agencies' malpractice policy. Referring agencies should make clear to their volunteers that malpractice coverage is provided.

8. Recruit Volunteers from Other Professions

The legal services community should develop a panel of pro bono experts and other professionals to support pro bono service.

Accountants, physicians, mental health professionals, contractors, building inspectors and others are often needed in civil legal services, and many of these professionals give their time voluntarily when invited. Many organizations have successfully engaged non-lawyer professionals in their work, and some of these supporters have invited their colleagues to join the effort. The Task Force recommends that the legal services community and the private bar join in an effort to institutionalize this potentially rich resource.

9. Develop Service Opportunities for Volunteers

Referring agencies should create opportunities for attorneys and other members of the legal community to participate in the activities of the agency.

The agencies would be enriched by participation from a broad of the community. For example, business leaders can contribute to fundraising efforts. Para-professionals can prepare case and family social summaries for referral packets. Court reporters deliver toys in the Child Advocates annual holiday toy drive. The HAP annual fundraiser is organized almost entirely by volunteers. Legal secretaries and paralegals assist with office management.

10. Expand and Professionalize Fundraising

The pro bono referral agencies must work to improve their capacity to raise funds from charitable and governmental sources and seek assistance as needed from development professionals.

Each legal services director spends significant time raising money to support general operations, special projects, and other rising costs. Cutbacks in government and private and increased competition for limited financial resources have created an environment in which the legal staff and board members of these agencies are spending more time focused on fundraising and organizational survival and less on the delivery of legal services to the poor. Competition for charitable dollars for legal services comes from all sectors of the larger community, from arts to human services to political campaigns and even with one another. This competition will continue to increase.

The agencies must continue to improve and professionalize their approaches to fundraising, and add staff where needed. Each provider organization should work to: I) develop strategies for keeping current donors and prospecting for new ones; ii) develop collaborative fundraising strategies; iii) review strategies for annual and capital campaigns; iv) research corporate and foundation prospects and coordinate the development of fundraising proposals; and v) structure their own complete fundraising plan. Agencies that lack the expertise or resources in-house should seek technical assistance and support from the Bar Foundation and other entities.

K. Leadership by Law Schools

Law schools should provide increased opportunities for students to engage in legal representation of the poor and to participate in live client clinical programs in order to expand the delivery of legal services and to inculcate a pro bono ethic in all future lawyers, regardless of career path.

The Philadelphia region is fortunate to have many highly regarded law schools. These institutions have the opportunity to play an important role in the delivery of pro bono legal services by expanding the resources available to assist low-income clients, while at the same time inculcating a pro bono ethic in future lawyers and providing a valuable introduction to pro bono service undertaken by the larger Philadelphia legal community.

The faculty and administration of area law schools should meet periodically with the leadership of the Association, Foundation and legal services organizations to collaborate on ways that law students can participate effectively in the delivery of pro bono legal services to the poor and underserved. In part, this can be accomplished through closer partnerships with pro bono attorneys and legal services providers. With proper supervision, law students can participate in community-based education projects, assist *pro se* litigants in filing procedures, assist legal services organizations with general intake and advice, and provide legal research and writing on issues that arise in pro bono cases. Students could be mobilized in teams to assist on new and emerging problems or in areas of need that present special challenges to Philadelphia's pro bono community. Law schools should work much more closely with each other and with the legal community to share resources and to develop a common sense of purpose and mission in meeting the challenge of providing access to justice for those who cannot afford legal assistance.

Finally, Law Schools should inspire pro bono service in their students through leading by example. Deans and faculty should participate in pro bono service and regularly inform their students of the nature and value of their pro bono efforts. They should integrate access to justice themes into the curriculum and demonstrate how pro bono service is important and relevant to every area of legal practice.

L. Streamlining the Public's Access to Pro Bono Legal Services

Philadelphia needs a more streamlined, consumer-friendly and efficient means of accessing pro bono legal services. The Philadelphia Bar Association and Philadelphia Bar Foundation should work closely with Philadelphia's legal services community to develop entry points of public access that are readily visible and easy to use so that indigent and disadvantaged clients are able to access legal help in times of need. At the same time, greater public access will result in increased demand upon already overburdened resources and therefore expanded access must be coupled with recruiting additional pro bono volunteers and obtaining increased financial support for Philadelphia's legal services providers.

One of Philadelphia's greatest strengths is its extraordinary network of public interest and pro bono organizations that deliver high-quality legal representation to the poor, disadvantaged and underserved. At the same time, the large number of separate organizations, some providing generalized services, some providing highly specialized services, and others concentrating on referrals, can be confusing and difficult to navigate for unsophisticated clients in need of immediate help. The Task Force received substantial input recommending that the Association take steps to make the system easier to access so that clients find the right organization to handle their type of problem, without being bounced among agencies and without having to wait long periods of time, take time off from work or drag their young children from place to place, often needlessly. The harder the system is to access, the more likely it is that clients will be lost in the process, without receiving the help they need.

In the short run, the Task Force recommends that the Association and Foundation work closely with the city's public interest and pro bono organizations to develop a comprehensive access plan that offers the public a visible, streamlined and efficient means by which to access free legal help. After further study, this may take the form of a centralized system of access (such as a hot line number) or a neighborhood based system of access that draws upon schools, religious organizations, local libraries and emergency services units, or, perhaps, some combination of the two. At a minimum, an access plan should consider ways that members of the public who cannot afford legal representation can find out where to turn for help from their homes by making one phone call, transmitting one e-mail message, or sending one fax, in a language that they understand. Reduced to its lowest common denominator, this is a way simply to begin accessing pro bono services; it is not intended as a sophisticated intake and legal advice system.

In the long run, the Association and Foundation should assist legal services providers in assessing the efficacy of intake and advice systems now in place. Are they well-coordinated and do they serve the public in the most efficient way? Or, would they be improved by better coordination, consolidation or centralization? The Task Force understands that this is a very difficult issue with no easy, immediate solution. Ultimately, this issue must be answered by the public interest and pro bono organizations themselves. However, the Association and Foundation should be part of the solution by committing their resources and expertise to assisting public interest and pro bono organizations in a study of the feasibility of a comprehensive intake, advice and referral system (centralized or decentralized) that best meets the needs of Philadelphia's impoverished and disadvantaged population. It must be emphasized, however, that a meaningful solution will not be achieved unless additional resources are found to serve the increased numbers that will seek legal help as a result of improved access. It would not be desirable or appropriate to expand access and raise client expectations, if scarcity of resources will not permit the provision of meaningful help. Without additional pro bono lawyers and increased financial support for legal services organizations, new investments in sophisticated intake systems run the risk of diminishing

existing resources available to provide needed representation, thereby hurting Philadelphia's low income population in the long run. Therefore, efforts to expand and streamline public access to legal services must be closely coupled with securing additional pro bono volunteers and obtaining increased financial support for legal services providers.

VII. AFTERWORD: A VISION FOR OUR FUTURE

The ultimate criterion for measuring a successful law firm pro bono program is whether there is a genuine commitment by the firm's leaders – some would call it “The Power of Money Partners.” If firm leaders merely pay lip service to pro bono, that position quickly becomes apparent to today's intelligent and perceptive young lawyers – who will quickly size up and adapt to the established realities at the firm.

In today's market, every law firm and every lawyer recognizes the real-world economics and the inexorable pressure to produce higher revenues and earnings to remain competitive, support lawyers, staff and their families, and the huge fixed costs and at the same time address constantly rising fixed costs associated with the practice of law. Each year, new and more work product must be generated – there is no inventory of widgets in the supply room to carry us forward. Concern over receipts and the bottom line is a legitimate and necessary responsibility of every lawyer.

Notwithstanding these legitimate concerns, we lawyers are also professionals who occupy a privileged position in our society. With that privilege comes a responsibility to ourselves, our clients and our profession that transcends the daily task of doing quality work and making a living. As lawyers, we are officers of the court and have a unique responsibility to make sure that our legal system and legal process are available to all members of society. That demands that we devote at least some portion of our time to representing those who cannot not afford to pay for our services. These individuals are as much influenced by, and subject to, our legal system as are those capable of paying for representation. In addition to serving our paying clients, we must fulfill our obligation to ensure access to justice for the poor because it is a principal element of our privileged position and our civic duty. We also must meet this obligation if we are to be faithful to the full calling of the law, to be faithful to the high standards of our profession, and to be faithful to our individual commitment to what the law is all about, that is, if we are to confirm who we are, and what we are, as lawyers.

Pro bono publico if nothing else, affirms all of these values. If we just drift, day after day and year after year, faithful to our economic concerns and responsibilities but failing in our professional values, we will be, without doubt, losing a part of our professional souls. In the process, we will be contributing to the decline in the dignity of, and the respect for, the legal profession.

It is our fervent hope that this Task Force Report will not simply be read and applauded (or perhaps condemned), and then be put aside. We strongly urge the Bar Association leadership and the entire legal community to study our Findings and Recommendations, and then roll up our sleeves and work towards ensuring access to justice for all.

Lawyers are professionals whose primary role is to promote and ensure justice in human affairs. The existence of widespread poverty and its deleterious effects gives mute witness to the need for members of the Bar to continually reexamine the role of their profession, and to make a commitment to reform both the practice and institutions of the law, so that lawyers become the de facto guarantors of equal access to justice.

One can envision a future where the provision of legal services to all Philadelphians is a seamless whole where issues and clients now seen as the province of “poverty lawyers” would be embraced by the entire legal community. Lawyers at every stage of their careers would serve proudly as vigorous advocates and champions of those at the margins of society. Law firms and legal departments would develop prestigious practice groups and specialize in specify subject areas of the law now reserved for poverty law

practitioners alone. This approach would help to erase the stratified view of legal needs, in which the concerns of business clients and wealthy individuals wind up taking precedence over the needs of the poor, the disadvantaged and the disenfranchised.

Pro bono service, delivered in effective programs and engaging all lawyers, works to eliminate this distinction, to ensure that all people, of whatever means or pedigree, are provided with the same access to the legal system. Only then will ours truly be a system of justice, rather than merely a system of laws.

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