

**PHILADELPHIA BAR ASSOCIATION  
PRO BONO TASK FORCE REPORT**

**OCTOBER 2017**

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## I. INTRODUCTION

In December 2001, Philadelphia Bar Association Chancellor Allan Gordon empaneled a 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.” The 2002 Pro Bono Task Force issued a comprehensive report (available at: <http://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/TaskForceReport.pdf>) presenting detailed findings and recommendations to “encourage the legal community to renew and expand its commitment to the delivery of pro bono legal services.”

Fifteen years later, in December 2016, Philadelphia Bar Association Chancellor Deborah R. Gross convened the present Task Force. Our charge was to examine the state of pro bono legal services in Philadelphia, to report on how far we have come in the intervening fifteen years, and to provide recommendations to encourage and expand pro bono work. As in 2002, the Task Force was composed by the Chancellor to reflect the diversity of perspectives in the Philadelphia legal community. The 18 members of the Task Force included representatives from private practice (ranging from large firms to solo practitioners), public interest organizations, corporate legal departments, law schools and the judiciary.

Our goal was not to attempt to redo the work done by the 2002 Task Force, or to rewrite the 2002 Task Force Report. Rather, we sought to build on the foundation laid in the 2002 report to assess what progress has been made in implementing the recommendations made in that report, and to provide recommendations to continue progress in the future.

Our Task Force met as a whole to identify key issues and outline approaches, and then divided into four subcommittees: Private Practice; Public Interest Organizations; In-House and Government; and Attorneys In Transition and Legal Assistants. Each subcommittee gathered

data, conferred and worked together to compose a report identifying challenges and obstacles to pro bono work, and recommending specific actionable solutions. This report was prepared from the subcommittee reports, and was reviewed and adopted by the Task Force as a whole.

Overall, our Task Force found that the legal community has employed the strengths and capabilities identified in the 2002 Task Force Report, adopted many of that Report's recommendations, and, as a result, has meaningfully expanded pro bono legal work within Philadelphia. Leadership by the bench and bar, public interest organizations, law firms and corporations, have encouraged pro bono in important and productive ways. Technology advances over the past 15 years have made it easier to collaborate and share information, and to respond rapidly to emergent needs.

At the same time, our Task Force also found that there continue to be significant obstacles to expansion of pro bono work. The substantial demands of the practice of law continue to limit the ability of lawyers to take on pro bono work, particularly where structures have not been adopted to encourage pro bono engagements. While information about pro bono needs and opportunities has become more readily available, there is more that can be done to collect information from disparate sources and organizations and make it easier to find potential pro bono projects. And there is more work to be done to help attorneys to take on pro bono work in practice areas or for client populations that are unfamiliar. Our report provides specific recommendations on ways to address these obstacles as they present in each of the sectors of our legal community.

Pro bono legal work is the responsibility of every attorney and legal professional. Lawyers' reasons for performing pro bono work consistently include a sense of satisfaction and a sense of obligation. The sense of obligation is borne out of Pennsylvania Rule of Professional

Conduct 6.1, based on the ABA's Model Rule 6.1, which essentially codifies the professional obligation of every lawyer to provide free legal services for the public good:

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 or organizations, by service in activities for 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.

While we have made much progress over the past fifteen years, there is still much to be done. The legal needs of those members of our community who cannot afford to pay for legal representation have only grown, and will continue to grow. Moreover, an unforeseen widespread gap in legal assistance can develop rapidly from economic forces, shifts in governmental priorities or a natural disaster. Pro bono legal services are an essential part of addressing these needs. We hope that this report will help identify measures that can be taken to encourage and expand pro bono work in our unending effort to better serve the needy, disadvantaged and disenfranchised in Philadelphia, and will help to foster conversations about how to improve access to justice.

## **II. PRIVATE PRACTICE**

### **A. EXECUTIVE SUMMARY**

The private practice arena encompasses large, mid-sized and small law firms, as well as solo practitioners. While each type of firm and practice presents its own challenges and opportunities in providing pro bono services, considerable advances appear to have been made in the pro bono sphere by private practitioners in Philadelphia during the fifteen years since the 2002 Task Force Report. Law firms of all sizes, and solo practitioners, can draw upon that experience to continue to improve their pro bono efforts.

It appears that many of the large firms in Philadelphia, especially those with national practices, have established pro bono programs that effectively encourage firm attorneys to undertake pro bono representations. Such practices appear to be most effective when:

- the firm’s leadership promotes pro bono activities and leads by example;
- the firm creates a pro bono infrastructure by appointing a pro bono committee or coordinator;
- the firm adopts policies and procedures (including billable hour credit, meaningful mentoring and work evaluations, and some kind of public recognition) that support pro bono work; and
- the firm helps attorneys to identify projects that are meaningful and match their interests.

Such firms also often undertake large-scale pro bono assignments from or collaborations with public interest law groups nationwide or with the City’s legal services organizations that can involve a team of firm attorneys working on a single representation. These were all within the recommendations contained in the 2002 Task Force Report (pp. 62-64).

Data is harder to come by for mid-sized firms, small firms and solo practitioners. However, national reports and data provided by the Philadelphia VIP program indicate that attorneys at smaller firms and in solo practices, as a group, may actually outpace attorneys at large firms in terms of their provision of pro bono services – especially in the types of matters that would be referred by a legal service organization (LSO) such as Philadelphia VIP.

## **B. COLLECTION AND ANALYSIS**

The Private Practice Subcommittee reviewed the following materials and information:

1. Philadelphia Bar Association, Large Firm 2017 Pro Bono Survey;
2. Scott Flaherty, *Big Law’s Pro Bono Hours Tick Upward*, The American Lawyer, July 1, 2017, <http://www.americanlawyer.com/id=1202791117587>;

3. Lizzy McLellan, *Pa. Firms Double Down on Pro Bono Commitment*, The Legal Intelligencer, June 29, 2017;
4. Pepper Hamilton LLP, *How Pro Bono Contributes to a Successful Career*, The Pennsylvania Lawyer, May/June 2016;
5. Pro Bono Commitment: Lawyers Motivated by Personal Fulfillment to Use Their Skills for the Public Good, Lexis Hub Staff, LexisNexis® Legal Newsroom, March 29, 2011  
<https://www.lexisnexis.com/legalnewsroom/lexis-hub/b/pro-bono-public-interest-news/archive/2011/03/30/pro-bono-commitment-lawyers-motivated-by-personal-fulfillment-to-use-their-skills-for-the-public-good.aspx>;
6. Kathleen J. Hopkins, A Review of Pro Bono and Public Service Work by Solos and Small Firms, Vol. 29 No. 1 GPSolo , Jan/Feb. 2012  
[https://www.americanbar.org/publications/gp\\_solo/2012/january\\_february/review\\_pro\\_bono\\_public\\_service\\_work\\_solos\\_small\\_firms.html](https://www.americanbar.org/publications/gp_solo/2012/january_february/review_pro_bono_public_service_work_solos_small_firms.html);
7. Leslie C. Levin, Pro Bono Publico in a Parallel Universe: The Meaning of Pro Bono in Solo and Small Law Firms, Hofstra Law Review, Vol 37:699 (2009)  
[http://law.hofstra.edu/pdf/academics/journals/lawreview/lrv\\_issues\\_v37n03\\_cc2\\_levin\\_final.pdf](http://law.hofstra.edu/pdf/academics/journals/lawreview/lrv_issues_v37n03_cc2_levin_final.pdf);
8. Learning From Success, *A Report by The Standing Committee on Pro Bono Legal Services*, Judicial Conference of the District of Columbia Circuit, June 16, 2004  
<http://www.dcbart.org/pro-bono/resources-and-training/success-index.cfm>;
9. Philadelphia Bar Association Chancellor’s Pro Bono Task Force Report Findings and Recommendations (“2002 Task Force Report”)  
<http://philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/TaskForceReport.pdf>;
10. Philadelphia VIP data;
11. Pro bono Honor Roll of the First Judicial District of Pennsylvania; and
12. Informal mid-sized and small firm surveys.

From these sources, we report the following findings and analysis:

### **Large Firms**

In the 15 years since the 2002 Task Force Report, many of Philadelphia’s large firms have adopted the 2002 Task Force recommendations with demonstrated success. Some have

gone further and instituted mandatory pro bono policies. Several Philadelphia firms are recognized in *The American Lawyer's* annual survey of pro bono work at the AmLaw 200 firms. Some of the firms that have dedicated pro bono leadership also participate in the Association of Pro Bono Counsel (APBCO), a mission-based membership organization dedicated to improving the delivery of pro bono services by large firms.

Data from the Philadelphia Bar Association's surveys of the 30 largest private law firm offices in Philadelphia over the past 12 years demonstrates that focused attention to pro bono work has significantly enhanced pro bono practices at many of the large firms. While there is substantial variation among the pro bono efforts of large firms in Philadelphia, a comparison of aggregate data from the Philadelphia Bar's first published survey in 2005 with the 2016 survey demonstrates the following:

- Pro bono hours of firms that report their results increased from 106,000 hours to 133,000 hours (about 25%). The annual time value of pro bono work at these large firms increased by over \$9 million to more than \$44 million annually;
- The average hours of pro bono service per attorney increased by 42%, from 36.9 hours to 52.7 hours per attorney;
- Of the 18 firms that reported on pro bono activities of their lawyers, 11 reported that 80% or more of their lawyers undertook some pro bono service in 2016, which included 6 firms at which 90% or more of their lawyers did so (up from 2 firms in 2005). Notably, all 18 of the responding firms provide some level of billable hour credit or similar incentives for attorneys who undertake pro bono service.<sup>1</sup>

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<sup>1</sup> Twenty of the large firms responded to the survey, but two of those reported that they do not maintain such information. The firms that did not respond seem to identify themselves as regional, rather than national, law firms. One of the two firms that reported more than 90% lawyer participation in some pro bono service in 2005 subsequently dropped its pro bono staffing and encouragement of pro bono representations by its attorneys. Over the years, its participation numbers dropped and this year the firm did not respond to the survey. The willingness of national law firms to collect and share pro bono information may be explained by marketing and recruitment incentives as well as the firms' need to respond to requests for pro bono data from multiple sources, including national publications such as AmLaw and Vault, law schools, and states that have mandatory pro bono reporting requirements.

Further, according to a recent report released in June 2017 by *The American Lawyer*, twelve firms with significant presences in Philadelphia averaged – on a nationwide basis – more than 20 hours of pro bono work per attorney in 2016, and nine of the firms averaged more than 40 hours per attorney. Two of the leading firms in the Philadelphia large firm community in terms of pro bono activities respectively achieved – on a nationwide basis – averages of 107 and 73 pro bono hours per attorney in 2016.

Commentary from the firms cited in *The American Lawyer* report shows that most have dedicated pro bono coordinators and/or committees, and that many of the attorneys at these firms participate in large-scale pro bono efforts with particular focuses. The firms were involved in matters relating to voter rights, civil rights and landlord-tenant issues; The Clemency Project; the Innocence Project; citizenship cases and applications; cases that required mandated resentencing hearings for individuals who were sentenced to life in prison as juveniles; and assisting transgender individuals to complete name changes. Some firms also reported having instituted a partner leadership award for pro bono activities within the firm, on top of a similar award for associates that had been in place. Another method that some firm representatives cited as increasing pro bono activities is that some of the firms' corporate clients have gotten involved in certain pro bono endeavors, which has helped get lawyers at the firms more interested.

### **Smaller firms and solo practitioners**

Data is harder to come by from smaller firms and solo practitioners. However, national reports and Philadelphia data indicate that many solo and smaller firms and their lawyers maintain substantial pro bono practices. Indeed, a study issued in 2008 reported that “solo and small firm (two to five) lawyers, who comprise 63% of private practitioners, contribute more time and in greater numbers to the pro bono legal representation of persons of limited means than any other group of lawyers.” Leslie C. Levin, *Pro Bono Publico in a Parallel Universe: The*

*Meaning of Pro Bono in Solo and Small Law Firms*, Hofstra Law Review, Vol. 37:699 at 699-70 & n.5 (2009). The report further found – citing a number of examples – that “the ways in which pro bono work is found and performed, the motivations and incentives for performing it, the types of work performed, and the supports available for this work are often significantly different in solo and small firms than they are in large firm settings.” *Id.* at 700. Philadelphia VIP, the primary pro bono referral agency in Philadelphia, reports that most of its volunteers are drawn from smaller firms, corporations and other organizations, and solo practices. Specifically, Philadelphia VIP reported the following data as of July 2017:

Volunteers with Open VIP Cases According to Organization Size

Large Firms (50+ lawyers)	41%
Medium Firms (26-49 lawyers)	2%
Small firms (1-25 lawyers)	23%
Corporations / other organizations	12%
Others (primarily solo practitioners and lawyers without affiliations)	22%

Similarly, every year, the First Judicial District honors and publicly recognizes those attorneys who have provided pro bono service in the Philadelphia court system during the preceding year. The list of honorees has grown to more than 1,100 attorneys annually, with the majority drawn from the ranks of smaller firms and solo practitioners.

Clearly, there are burdens placed on smaller firms and solo practitioners to establish large-scale pro bono programs. Such firms, for example, will rarely be able to create a position for a pro bono coordinator. Indeed, although some of the pro bono work performed by small firms and solo practitioners “is received from referrals by organized pro bono programs, more often it comes through friends, family, and existing clients,” and in most cases, “no one vets these cases for them before they take them on.” Levin, *Pro Bono Publico in a Parallel Universe*,

at 701. Firms that often undertake representations on a contingent basis also have limitations on the kinds of fixed pro bono-related costs that larger firms can support. Nevertheless, based on national reports and data from agencies and public interest centers within the City, it appears that attorneys from smaller and solo firms have actively represented clients on a pro bono basis and accept pro bono referrals from various agencies regularly. Reliable data on the amount of time expended on pro bono activities by lawyers within the smaller firms, or the extent of attorney participation in pro bono representations within the firms, does not appear to be readily available, but would be valuable to capture in order to identify opportunities to expand pro bono work within this subcategory of private practitioners.

### **C. CHALLENGES**

The 2002 Task Force Report identified various challenges and obstacles pertaining to pro bono activities of the Philadelphia legal community. While it appears that the large firms have sought to minimize such obstacles and challenges through the initiatives noted above, the following challenges still appear to exist for lawyers to participate meaningfully in pro bono representations across the spectrum of the private practice bar:

1. the hectic pace of work, along with firm and financial pressures on lawyers within the private practice bar;
2. the concept that an attorney's pro bono activities are done "on his/her own time" and is not part of the attorney's required time commitment to his/her private practice and other firm responsibilities, which appears to remain prevalent at some firms, either explicitly or implicitly;
3. attorneys' views that they lack sufficient knowledge, expertise or experience in the subject matters of referrals made by Philadelphia public interest and referral organizations;
4. attorneys' views that taking on pro bono representations does not lead to professional and/or business development;
5. attorneys' views in certain practices (*i.e.*, attorneys who take criminal court appointments, attorneys who have personal injury or consumer

practices, and the like) that their practices are also already devoted to representing the underrepresented within society; and

6. the economics of particular law firms and their financial constraints.

Moreover, even for attorneys with the inclination to devote significant portions of their work lives to “non-billable” and non-firm-related matters, such attorneys often take on service on boards and/or officer positions in religious, public interest, bar association and/or community groups, which they consider to be “for the public good” and that also take time and effort away from the time that such attorneys need to devote to their “billable” practices and other firm responsibilities.

#### **D. ACTIONABLE SOLUTIONS AND STRENGTHS**

The Task Force believes that with appropriate firm-wide incentives, and additional outreach and education efforts, large firms can continue to enhance their pro bono representations and attorneys at mid-sized, small and solo firms can also be positioned to make progress in contributing meaningfully to address unmet legal needs.

As noted above, pro bono activities by attorneys at firms are significantly supported, aided and encouraged where (a) a firm’s leadership promotes pro bono representations and leads by example, (b) there are pro-active pro bono coordinators and/or committees that can match attorneys’ interests with potential pro bono representations, (c) a firm credits hours that its attorneys work on pro bono matters and provides meaningful mentoring and work evaluations, (d) the firm provides its partners and associates with public recognition for pro bono activities, and (e) the firm or its attorneys can coordinate pro bono activities with pro bono efforts of firm clients. Opportunities to obtain CLE credit for training for particular types of pro bono work are also useful.

Several years ago, the D.C. Bar and the Standing Committee on Pro Bono Legal Services, Judicial Conference of the District of Columbia Circuit, undertook a “Best Practices” project to learn from law firms that had been successful in encouraging and supporting pro bono legal work. *See Learning From Success, A Report by The Standing Committee on Pro Bono Legal Services*, Judicial Conference of the District of Columbia Circuit, June 16, 2004. The lessons learned from that project echo the recommendations of the 2002 Task Force for large and mid-sized firms, but can be scaled to the full range of firm sizes. Those lessons, which may be adapted by Philadelphia firms of all sizes, are as follows:

- Make pro bono part of the firm’s culture - one of the first steps is for a firm to make a visible and sustained commitment to participate in pro bono work.
- Set up a pro bono infrastructure that fits your firm - while the number of dedicated pro bono managers has increased dramatically in the past decade (the Association of Pro Bono Counsel now has more than 180 members, with some firms having multiple lawyer-coordinators), many firms use a committee system or have a point person for whom administering the pro bono program is a collateral duty. The right configuration will depend upon the size of the firm, the number of offices, management structure and practice areas. What is important is that someone be tasked with the responsibility to develop, manage, and supervise pro bono work, and will be supported by firm management in doing so.
- Ensure pro bono has a place in the firm’s policies – pro bono activities are encouraged when a firm has a written policy which makes it clear that pro bono work is both supported and expected. Such policies can include case management and supervision, minimum or mandatory pro bono expectations, and the like.
- Get the right pro bono cases for your lawyers - successful pro bono programs invest some time to get the right pro bono fit. Thus, in establishing a more effective pro bono structure, a pro bono coordinator or committee might ask questions like: Do lawyers in the firm prefer transactional or courtroom opportunities? Do they want to partner with other lawyers or work alone? Do they want to do pro bono work that fits with their existing practice (*e.g.*, family law, landlord-tenant or wills) or try something new? Are there conflicts to address? And does the firm want to have a signature project, whether for team building, training, risk management or marketing purposes? The answers to these questions will help determine the type of pro bono matters to pursue, and whether training or other support is necessary.

- Keep pro bono visible by articulating and demonstrating expectations - in order for pro bono to succeed, it must be a visible part of firm culture, and visibly supported by firm management. Partner participation, clear expectations and firm recognition of pro bono work are key elements of visibility.
- Reap the collateral benefits - while ensuring access to justice and the proper functioning of our legal system are the underpinning for the pro bono obligation of every lawyer, there are undeniable collateral benefits that flow from pro bono work, including skill building, acquiring relationships with judges, client development and reputation, and recruitment opportunities.
- Tap available resources for more information - Philadelphia has particularly strong resources for private practitioners interested in starting or enhancing a pro bono practice. For instance: the public interest legal nonprofits and the Philadelphia Bar Association offer frequent training, the public interest law firms in the area offer frequent training sessions, materials, mentoring, referrals, practice groups to support volunteers; several state and federal courts also offer pro bono referrals and support; the courts, Philadelphia Bar Association, legal services agencies and legal publications publicly recognize and celebrate pro bono service. Further, for more than a decade, the public interest section of the Bar Association has included a “Large Firm Pro Bono Committee” that has evolved to include participants from small and mid-sized firms, as well as corporate counsel and public interest agencies, to share best practices, mentor each other, and collaborate on pro bono projects.

*See also* Pepper Hamilton LLP, *How Pro Bono Contributes to a Successful Career*, The Pennsylvania Lawyer, May/June 2016.

These types of actions should be made a topic of conversation within the Bar Association and at more of the firms, whether they are large, mid-sized or small. Other suggestions from the 2002 Task Force that appear to be equally applicable today include that (1) the pro bono agencies can provide additional support, training and a team approach (e.g., SCCA, VIP) which addresses attorneys’ perceived lack of knowledge/area of expertise concerns, and (2) the Bar Association’s ability to facilitate pro bono activities and opportunities has certainly been enhanced over the years.

Finally, while the Task Force has not concluded that the following measures should be implemented at this time, the Bar Association might also consider:

1. Championing efforts to mandate pro bono reporting by all attorneys and strengthening the pro bono requirement in the Rules of Professional Responsibility as other states have done and as is required by the Bar Association's Board of Governors; and
2. Restructuring the Bar Foundation Fellowship as a jointly funded fellowship (by Bar and firms) to enhance pro bono collaboration and opportunities with local legal services.
3. Consider renaming the Bar Association's "Large Firm Pro Bono Committee" to be the "Law Firm Pro Bono Committee" to formally broaden its reach and to promote more engagement and best practices among the group that appears to need it the most, large regional and mid-sized firms. (Large, national firms already have organizations that address their particular needs - the Association of Pro Bono Counsel and Pro Bono Institute). In practice, the committee is already a de facto gathering point for those firms interested in improving pro bono performance, regardless of size. With a name change, the Bar could more actively promote engagement of the mid-size firms, perhaps convening a forum on best practices and strategies for those firms or having the Chancellor explicitly invite representatives from firms that are not currently participating. The Committee could also set up a mentoring program for firms that are newly engaged in pro bono work.

#### **E. CONCLUSION**

While considerable advances appear to have been made in the pro bono sphere by private practitioners in Philadelphia during the 15 years since the 2002 Task Force Report was issued, there is more that law firms of all sizes can and should do. There are recognized activities and cultural changes that have been shown to work to increase a firm's pro bono participation, and the data shows that such activities are not limited to large firm attorneys. Indeed, the national report and VIP data cited above indicates that small firm and solo practitioners have definitely pulled their weight in undertaking pro bono representations. The firms, the Bar and the Courts should encourage further advances in the future.

### **III. PUBLIC INTEREST ORGANIZATIONS**

#### **A. EXECUTIVE SUMMARY**

In many respects, the pro bono movement has matured and strengthened beyond the aspirations of the 2002 Task Force Report. Many of the recommended strategies and interventions proposed then have blossomed into robust, regular practices among many pro bono and public interest agencies in Philadelphia.

Some of the same obstacles, however, remain firmly rooted fifteen years after that report. Chief among them is the continued pressure on attorneys to dedicate time to billable work and other priorities. The strengthening of our Philadelphia pro bono sector has also created a new challenge for 2017: multiple entry points for volunteers, each with different procedures and service opportunities.

#### **B. COLLECTION AND ANALYSIS**

The Public Interest Subcommittee reviewed the following comprehensive research reports by the American Bar Association and Legal Services Corporation:

1. American Bar Association Standing Committee on Pro Bono and Public Service, Supporting Justice III: A Report on the Pro Bono Work of America's Lawyers, March 2013 (available at: [https://www.americanbar.org/content/dam/aba/administrative/probono\\_public\\_service/ls\\_pb\\_Supporting\\_Justice\\_III\\_final.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_Supporting_Justice_III_final.authcheckdam.pdf))
2. Legal Services Corporation, Report of the Pro Bono Task Force, 2012 (available at: <http://www.lsc.gov/sites/default/files/attach/2015/09/Report-ProBonoTaskForce-2012.pdf>)

In addition, the Subcommittee also invited contributions and considered unpublished findings from internal agency “best practices” and volunteer feedback from public interest legal organizations focused exclusively or substantially on pro bono volunteer services, including, among others: Philadelphia VIP, the Homeless Advocacy Project, Consumer Bankruptcy

Assistance Project, Legal Clinic for the Disabled, Senior Law Center, and Support Center for Child Advocates.

### **C. CHALLENGES**

What key factors discourage attorneys from taking pro bono clients for ongoing/extended representations (e.g., traditional cases)?

1. Attorney time constraints, compounded by uncertainty about the time investment that will be needed for representation.
2. Unfamiliarity with the legal subject matter or client population.
3. Employer emphasis on billable work, lack of employer support for pro bono.
4. Clients who are not able to sustain an extended attorney-client relationship.
5. Lack of funding for/access to case-critical ancillary services, such as court reporters, factual investigations, experts, title searches, interpreters/translators, notaries, process servers, other fees/case costs.
6. Service opportunities are decentralized across multiple agencies and volunteer intake processes may make it more challenging for volunteers to engage quickly in pro bono.
7. Threshold barriers to pro bono case engagements due to special court rules, bar admission requirements, or positional conflicts.

### **D. ACTIONABLE SOLUTIONS & STRENGTHS**

Current best practices that encourage attorneys to take pro bono clients:

1. Pro bono agencies devote significant efforts to volunteer recruitment and onboarding.
2. Agency resources for volunteers to feel confident and comfortable in subject area – trainings, CLEs, technical support, manuals and forms, mentoring and advising by more experienced attorneys.
3. Clear communications about projected time investments and options for limited-scope volunteer assignments (clinics, brief services) as well as extended representations.
4. Sound client screening and preparation for the attorney-client relationship.

5. Integrating and including corporate legal departments in pro bono initiatives and partnerships.
6. Volunteer support from agency staff and peer volunteers in groups (e.g., pro bono practice groups and committees) and one-on-one (e.g., mentors, staff advising).
7. Other supportive resources, such as malpractice insurance coverage, meeting space, case expenses (partial or full waiver/reimbursement).
8. Expanded use of the “one-stop” one-day legal clinic model, where volunteers are trained and matched with clients on the spot, with legal services/pro bono staff attorneys present to guide them, as a gateway to deeper pro bono engagements.

Future solutions: What actions or resources could mobilize more attorneys to volunteer?

1. Jointly coordinated efforts to recruit and deploy volunteers in areas of high need, or high volunteer interest that would impact a broad range of pro bono agency clients.
2. Firms should make the highest use of current joint recruitment efforts, such as the Bar Association Pro Bono Road Shows in which an array of public interest organizations introduce pro bono opportunities in an interactive one-hour pro bono informational fair format.
3. Leverage the Bar Association/Foundation’s website as a central clearinghouse for pro bono onboarding options, by creating a digital (and more easily searchable) version of the Pro Bono Resource Guide published for the Bench-Bar Conference.
4. Launch a joint effort to build a centralized clearinghouse for scarce ancillary services (in kind/free or discounted for pro bono) that are frequently sought by multiple agencies, such as interpreters, translators, court reporters, and other ancillary services, as discussed above.
5. Continue advocacy to modify attorney licensure/admission requirements and limited scope recommendations, in order to expand the pool of willing volunteer attorneys.
6. Support the launch the Equal Justice Center which will collocate dozens of legal nonprofits in one building to create more client-centered services, promote increased pro bono activity, expand the delivery of legal services to underserved Philadelphians and improve access to justice for all. It will build on existing collaborations between agencies and launch new collaborations at both the management and staff levels.

## **E. CONCLUSION**

Fifteen years ago, the pro bono mission in Philadelphia needed core strengthening and essential infrastructure. As pro bono volunteer programs have matured and become centers of excellence, the future may require more coordination among pro bono programs to ease the volunteer onboarding process and deploy volunteers efficiently to address citywide and regional needs.

The Philadelphia Bar is blessed with a rich array of legal services organizations and an abundance of civic-minded private practitioners who believe in pro bono. We hope this summary helps to inspire dialogue and action to mobilize this wealth of legal talent in pro bono service even more effectively, for a greater impact.

## **IV. IN-HOUSE AND GOVERNMENT**

### **A. EXECUTIVE SUMMARY**

Our Task Force identified as a special focus of analysis two segments of Philadelphia's legal community: corporate in-house law departments and government law departments. Although these two components of our legal community are unmistakably very different, attorneys in these constituencies face some similar challenges and bureaucratic obstacles in trying to participate in local pro bono volunteer opportunities. For example, both of these constituencies operate without the infrastructure of a traditional law firm; and may not naturally or regularly interact or associate with governing bodies, such as the Philadelphia Bar Association, that have traditionally powered pro bono volunteerism in Philadelphia. In this way, our Task Force found it helpful to contemplate both constituencies concurrently through an In-House and Government Subcommittee.

The 2002 Task Force Report did not focus heavily on either of these constituencies. The Report stated that as of 2002, “[a]s a general rule, corporate law departments do not have formal

pro bono programs or policies”. Moreover, the 2002 Task Force did not look independently at government law departments. Our updated review of these segments found what appears to be increased engagement with pro bono volunteerism as compared to 2002, but we also found that both of these segments of the legal community continue to present opportunities for increased participation, saturation and engagement in pro bono activities.

## **B. COLLECTION AND ANALYSIS**

The In-House and Government Subcommittee quickly realized that focusing its analysis exclusively on Philadelphia (i.e., within the confines of the jurisdiction of the Philadelphia Bar Association) would present an eclipsed view of the existing pro bono framework for corporate in-house law departments and government law departments. In today’s global marketplace and era of multinational corporations, most corporate in-house law departments with a presence in Philadelphia also have attorneys sitting outside of Philadelphia and/or answer to a corporate headquarters outside of the city’s borders. Similarly, other than perhaps the city law departments, government lawyers’ participation in pro bono is impacted and, in some cases, governed by rules and policies outside of the City of Philadelphia (e.g., USDOJ policies developed at Main Justice). For this reason, the Subcommittee coupled its collection of national benchmarking and secondary sources with conversations with local leaders operating within Philadelphia.

With respect to in-house law departments, Corporate Pro Bono (CPBO) -- the global partnership project of the Pro Bono Institute (PBI) and the Association of Corporate Counsel (ACC) -- coincidentally released its biannual benchmarking report, “An Overview of In-House Pro Bono,”<sup>2</sup> at a PBI Conference in March 2017 shortly after the Subcommittee was established.

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<sup>2</sup> Some relevant statistical findings from the survey with respect to corporate in-house law departments included:

The Subcommittee reviewed the report, which contained updated survey data from 55 in-house departments, including a number of companies with personnel in the Philadelphia area.

Additionally, the Subcommittee procured notes summarizing a session at that PBI Conference that focused on challenges facing corporate in-house law departments engaged in pro bono activities. Furthermore, the Subcommittee reviewed a report that Philadelphia VIP prepared in 2016 about a pilot program to engage more corporate in-house law departments in pro bono efforts, which included findings with respect to challenges and solutions regarding in-house attorneys' participation in pro bono in Philadelphia. The Subcommittee also had in-depth conversations with pro bono leaders from the ACC Greater Philadelphia Chapter and several other corporate leaders engaged in pro bono. Finally, the Subcommittee attended a panel discussion at the 2017 In-House Counsel Conference entitled, "Pro-Bono in the Greater Philadelphia Area: Opportunities and Partnerships for Corporate Counsel," which discussed many areas of consideration in the Subcommittee's analysis.

With respect to government law departments, the Subcommittee reviewed several publicly-available resources discussing pro bono volunteerism while serving in government, including the USDOJ Policy Statement on "Pro Bono Legal Services." The Subcommittee used these resources to better understand the statutory and ethical obstacles that government attorneys face when trying to volunteer. Additionally, the Subcommittee leveraged United States

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- 87% have a Pro Bono Committee
  - 91% have Committee Chairs that oversee pro bono activities
  - 77% have a Pro Bono Policy
  - 92% allow non-attorneys to participate in the Pro Bono Program
  - 0% make pro bono participation mandatory; 32% use it as a factor in evaluations
  - 100% permit pro bono activities during work hours
  - 91% work with legal services providers that provide coverage
  - 87% enter into pro bono partnerships with law firms
  - 88% track pro bono participation

Magistrate Judge Marilyn Heffley’s extensive contacts in government and the judiciary to receive first-hand feedback regarding government attorneys’ engagement in pro bono activities.

### **C. CORPORATE IN-HOUSE LAW DEPARTMENTS CHALLENGES**

1. In-house attorneys are less experienced with the areas of law frequently encountered by low income Philadelphians; therefore, they are sometimes not comfortable accepting certain cases.<sup>3</sup> For example, in-house attorneys may be resistant to going into court because of a lack of experience and may feel that finding programs that make an impact, but have a low probability of resulting in courtroom activities, are difficult to identify. Similarly, many corporate in-house law departments may only have a single attorney in a particular specialty, which makes committing to a case involving a particular area of the law challenging.
2. Corporate in-house law departments lack some of the resources traditionally found at similarly-sized law firms, including access to research tools (e.g., Westlaw) and support staff (e.g., Legal assistants with knowledge of the procedures for filings in local courts).
3. Corporate in-house attorneys are increasingly looking to the Association of Corporate Counsel (ACC) and in-house targeted publications, as opposed to Bar associations and their publications, for professional support and association which has caused a disconnect from traditional ties to the local pro bono community.
4. Corporate in-house law departments are often geographically dispersed and, given the often localized nature of pro bono volunteerism and pro bono provider organizations in Philadelphia, it is difficult to create a program and build its identity across the corporation’s attorneys. This is especially true for attorneys who sit outside of the Company’s headquarters or at a location where the General Counsel is not located, given the importance of the involvement of leadership to program building and budgeting.
5. Many large corporations today have formalized their corporate social responsibility, charitable/foundation and volunteer programs. Pro bono programs at corporations may have difficulty fitting themselves into the Company’s general initiatives. Furthermore, many pro bono opportunities may not be open to non-attorney staff in corporate in-house law departments, which may create a divide in a department’s volunteer efforts and dilute participation.

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<sup>3</sup> See Philadelphia VIP Report re: “2016 Pilot Project,” available at <https://www.phillyvip.org/wp-content/uploads/2016/09/CCC-Report-FINAL-with-Appendices-and-Back-Cover.pdf>.

6. Issues around risk management and malpractice insurance are frequently raised as concerns from corporate in-house law departments. Increasingly, in today's political and viral media environment, corporate in-house law departments are concerned about the optics of certain types of pro bono representations and their impact on the Company's image.

**D. CORPORATE IN-HOUSE ACTIONABLE SOLUTIONS & STRENGTHS**

1. Rather than duplicating efforts by maintaining a separate committee for in-house attorneys, the Philadelphia Bar Association leadership should work with the ACC Greater Philadelphia Chapter to engage in-house attorneys in Philadelphia. The Philadelphia Bar Association should serve as a conduit to the ACC Greater Philadelphia Chapter, including the Chapter's Pro Bono Committee, so that each pro bono provider organization does not need to individually establish a relationship with ACC.
2. The Philadelphia Bar Association should encourage law firms to work with their corporate in-house law department clients to jointly take on pro bono opportunities, perhaps by presenting best practices and success stories about how law firms have used pro bono to deepen their ties to their clients while working in the public interest. Corporate in-house law departments can benefit from access to the resources of law firms and the "safety net" they provide in terms of broader subject-matter expertise and many of the law firms serving corporations have established pro bono infrastructure. Collaborating on pro bono can provide great opportunities for client development beyond traditional client networking events.
3. To engage the corporate in-house law department constituency and counter concerns about lengthy engagements, pro bono provider organizations should present "one-and-done" clinic options. In doing so, they should alleviate traditional concerns from this constituency by being clear in promotional materials as to whether any training is needed to participate and addressing concerns about malpractice insurance and conflicts. Additionally, pro bono opportunities targeting in-house corporate law departments should clearly state whether they are open to administrative staff and Legal assistants.
4. The Philadelphia Bar Association should facilitate conversations between leaders of mature corporate in-house pro bono programs and General Counsels of corporations that may want to start or develop a program. The Subcommittee found that buy-in for pro bono at the General Counsel and senior attorney level is crucial to jumpstarting a program. Sharing best practices between leaders of corporate in-house law departments, who might not otherwise interact, regarding "making the case" for pro bono, how pro bono can fit into the Company's larger CSR and business goals, pro bono policies, risk management, conflicts issues and malpractice insurance would be beneficial.

**E. GOVERNMENT LAW DEPARTMENTS CHALLENGES**

1. Government attorneys are already performing “one of the highest forms of public service”<sup>4</sup> as a part of their day-to-day practice. As a result, government attorneys may appropriately not have the same calling to pro bono service as private attorneys, who in contrast often seek out pro bono volunteerism as an opportunity to practice in the public interest. For some government attorneys, such as Federal Defenders, their day job may be handling a case that a private attorney might view as a pro bono opportunity.
2. Government attorneys often have to navigate complex conflicts considerations and case-specific approval requirements to take on pro bono representations. For some attorneys, such as USDOJ attorneys, the restrictions may emanate from statutory provisions preventing the representation of third parties before the government, which may limit pro bono opportunities.
3. Government law departments are often under-resourced, so diverting resources to pro bono service may compromise the already important work that needs to be done on behalf of the government. Additionally, the Subcommittee found that there may be issues around using government resources, such as government email, letterhead and other supplies, for non-governmental purposes that may further complicate the resource issues for government attorneys.
4. The pro bono policy in a government law department may depend and change based on the leader of the office. For example, individual judges may establish policies with respect to their staff and clerks.

**F. GOVERNMENT LAW DEPARTMENTS ACTIONABLE SOLUTIONS & STRENGTHS**

1. The Philadelphia Bar Association should develop briefing materials for the pro bono provider organizations regarding the obstacles that government attorneys face when taking on pro bono matters. In this way, the pro bono provider organizations will know which government attorneys to target for particular opportunities and be prepared to help busy government attorneys navigate ethical, conflicts and approval requirements.
2. To the extent government law departments or judges do not have pro bono policies, the Philadelphia Bar Association should consider providing resources to help with their development, including research regarding the

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<sup>4</sup> See DOJ Policy Statement 1200.03, available at <https://www.justice.gov/jmd/file/861211/download>.

relevant ethical considerations. Given the often under-resourced nature of government law departments, this might be viewed as valuable assistance that could jumpstart pro bono volunteerism. The Subcommittee determined that engaging with the leaders of a government law department would be the most-effective way to establish a pro bono program, since individual government attorneys would likely need (and be encouraged by) buy-in from the top before pursuing a pro bono opportunity.

3. The Philadelphia Bar Association should look for ways to engage judges in Philadelphia and encourage them to present their clerks with the opportunity and encouragement to participate in pro bono opportunities. Some of the challenges faced by government attorneys may not fully extend to judicial clerks, who may be a valuable group for pro bono provider organizations to engage, given their potential to launch into private practice in the imminent future and continue their volunteerism.

## **G. CONCLUSION**

Although great strides have been made in terms of the involvement of these constituencies in pro bono service in Philadelphia, there is still room for increased participation and an opportunity to tap into these large groups of attorneys. The Subcommittee believes that the challenges to pro bono service that are associated with these segments can be (and have been) overcome and that the Philadelphia Bar Association can play a significant role in that effort.

## **V. ATTORNEYS IN TRANSITION AND LEGAL ASSISTANTS**

### **A. EXECUTIVE SUMMARY**

Our Task Force also thought it was important to examine the pro bono question through the lens of attorneys entering and leaving the practice as well as Legal assistants. We sought out information pertaining to those attorneys looking to re-enter after an absence from the profession, those who will be entering the profession for the first time i.e.: law students, and Legal assistants as they have the ability to participate in the pro bono efforts of the profession in a significant way.

Attorneys re-entering practice after an absence, or transitioning to another phase of practice, may need additional assistance and support in order to find and manage pro bono work. The Bar Association and legal services organizations can provide that support. By providing such support, it may be possible to expand pro bono services through an often-underutilized resource: attorneys who have left the full-time practice of law but who still want to do some legal work.

Legal assistants are another sometimes underutilized resource. Paraprofessionals can and do regularly perform important pro bono services. Law firms, corporate law departments and legal services organizations should be encouraged to include Legal assistants as an integral part of their pro bono efforts, providing them with opportunities to do pro bono work and recognition for doing it.

Law school students are a critically important part of the pro bono community, performing much-needed volunteer legal work while learning important legal skills. Local law schools have commendably devoted significant resources to expanding pro bono opportunities for students and to serving their communities through pro bono work. Law schools can also play an important role in expanding pro bono opportunities for alumni, particularly attorneys in transition. Early and regular exposure to pro bono work can help attorneys entering the world of practice, whether for the first time or after an absence, reach their long-term goals.

## **B. COLLECTION AND ANALYSIS**

The Subcommittee On Attorneys In Transition and Legal Assistants reviewed available resources discussing how to introduce the topic of pro bono for new associates, the benefits of that type of work, and other resources for attorneys wishing to do pro bono work. In particular, Pennsylvania Law Schools reported to IOLTA in July 2017 information related to pro bono

work. While this information relies on law schools being able to obtain the data from its alumni, it is helpful in determining how pro bono fits into the career path of a lawyer.

The Subcommittee also reached out to public interest experts to determine who may have information related to pro bono work and the already existing legal services agencies. There are 48 different organizations listed on the Philadelphia Bar Association website. One of the Subcommittee's objectives was to see if there is a possible matching of interests and needs between some of the Public Interest Organizations and attorneys who are looking to return to the practice of law. We assume that frequently, though not exclusively, those attorneys would be women who left the practice for family reasons. The idea is that people looking to return to the practice would be willing to work Pro Bono with a Public Interest Organization.

With regard to Legal assistants, we determined that the National Federation of Paralegal Associations ("NFPA") has five Regions in the United States. Local associations belong to a region depending upon geographic location. The Philadelphia Association of Paralegals ("PAP") is a member association of NFPA (Region IV). NFPA has voluntary pro bono reporting via its website, which our Subcommittee was able to review.

NFPA has Legal assistants completing pro bono in all five NFPA regions (though not in every association nationwide). Many of those Legal assistants also participate in a wide variety of community service events. NFPA continues to partner Legal assistants with the local bar associations in order that they may locate and assist with local pro bono opportunities.

### **C. RESOURCES**

#### 1. Law School Alumni Associations

##### **Drexel College of Law -**

[http://www.drexel.edu/law/studentLife/careers/alumni-services/Get\\_Involved/Alumni%20Association%20Council/](http://www.drexel.edu/law/studentLife/careers/alumni-services/Get_Involved/Alumni%20Association%20Council/)

**Penn:**

<https://www.law.upenn.edu/alumni/involvement/law-alumni-society.php>

**Rutgers (CAMDEN) Univ. Law School Alumni Assoc:**

<https://law.rutgers.edu/rutgers-school-law-camden-alumni-association>

**Temple:**

<http://www.mytlawconnection.com/s/706/rd/interior.aspx?sid=706&gid=1&pgid=1531>

**Villanova:**

<http://www1.villanova.edu/villanova/law/alumni/alumniassociation.html>

**Widener Delaware School of Law -**

<http://delawarelaw.widener.edu/alumni/get-involved/alumni-association/>

2. Law School Placement Offices

Drexel - <http://drexel.edu/law/studentLife/careers/career-strategies-office/>

Penn - <https://www.law.upenn.edu/careers/staff.php>

Rutgers - <https://law.rutgers.edu/alumni-information>

Temple - <https://www.law.temple.edu/resources/career-services/>

**Villanova-**

<https://www1.villanova.edu/content/villanova/law/careers/careeradv.html>

**Widener -**

<http://delawarelaw.widener.edu/current-students/career-development-office/>

[https://www.americanbar.org/groups/probono\\_public\\_service.html](https://www.americanbar.org/groups/probono_public_service.html)

3. Philadelphia Bar Association Law School Outreach Committee

<http://www.philadelphiabar.org/page/PISSchool?appNum=2>

4. Philadelphia Bar Association Public Interest Resources

<http://www.philadelphiabar.org/page/PublicInterestSectionResources?appNum=4>

5. NALP Pro Bono/PD Corner

[http://www.nalp.org/probono\\_pd\\_corner](http://www.nalp.org/probono_pd_corner)

6. ABA Pro Bono

[https://www.americanbar.org/groups/legal\\_education/resources/pro\\_bono.html](https://www.americanbar.org/groups/legal_education/resources/pro_bono.html)

7. NALP – PSJD Student pro Bono Resources

[https://www.psjd.org/Student\\_Pro\\_Bono\\_Resources](https://www.psjd.org/Student_Pro_Bono_Resources)

**D. CHALLENGES AND ACTIONABLE SOLUTIONS & STRENGTHS**

1. In discussing attorneys re-entering the practice after an absence, it is difficult to find a single source to provide access to attorneys coming back to practice. Those attorneys come back in a variety of ways to a whole host of legal positions across the profession. Returning attorneys may need special help in finding pro bono engagements.
  - a. The Philadelphia Bar Association can serve as an important and useful resource for attorneys returning to practice. Pro bono work should be a primary focus of those resources offered by the Bar Association to returning attorneys.
  - b. Other possible resources include law school’s placement offices, law school alumni associations and PBA's Women in the Practice Committee. These groups should also be encouraged to assist returning attorneys to find pro bono engagements, either through those organizations directly or by referral to the Bar Association or Philadelphia VIP.
2. Legal assistant challenges: (1) training; and (2) partnering with local attorneys for supervision in completing pro bono.
  - a. The Philadelphia Bar Association can reach out to the leadership of NFPA and PAP to obtain information and work together in arranging trainings for Legal assistants with legal services organizations such as Philadelphia VIP and the Support Center for Child Advocates to address these challenges and offer to brainstorm solutions and provide resources we may have to assist. Law firms and corporate law departments should be encouraged to partner attorneys (who may already be involved in specific pro bono projects) with Legal assistants in order to assist in a pro bono setting by completing intakes, client screenings, requesting records, and assisting at hearings.

**E. CONCLUSION**

There is tremendous untapped potential within this particular group. Attorneys in transition make up a large number of practitioners, and finding a way to identify this group and harness its potential would be a huge benefit to the pro bono community. Legal assistants also offer, and have long offered, a huge resource to the pro bono community in their ability to navigate and manage the legal process. Efforts to expand pro bono work should prioritize outreach to attorneys in transition and Legal assistants to take on pro bono work.

## **APPENDIX**

### **Members of the Private Practice Subcommittee:**

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