

**United States District of Columbia Circuit Judicial Conference
Standing Committee on *Pro Bono* Legal Services**

**REPORT
OF THE STANDING COMMITTEE
ON *PRO BONO* LEGAL SERVICES**

**to the
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The Judicial Conference
of the District of Columbia Circuit**

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I. INTRODUCTION

The economic downturn of the past two years has had a dramatic impact on the need for legal services for the poor in our community. At the same time, the availability of legal representation from the traditional legal services provider community has been strapped because funding from virtually all sources -- both governmental and private -- has diminished. The District of Columbia Circuit, with its robust *pro bono* culture, has seen dedicated members of its Bar increase their efforts to close the gap in legal services, contributing millions of dollars worth of time and resources to underserved individuals in our community each year. The Bar is fortunate to have the support in this effort of the Judges of this Circuit and the local judiciary. In particular, our Chief Judges have lent their support to numerous events and receptions aimed at highlighting the value of *pro bono* services and the genuine need in our community.

Since our last report to the Circuit in 2008, the number of attorneys doing *pro bono* and their level of commitment have increased. To further awareness of the D.C. Circuit Resolution which sets the ethical standard for *pro bono* service at 50 hours per attorney,¹ the Standing Committee on Pro Bono Legal Services conducts a survey each year and, with the judges of this Circuit, recognizes those firms in which at least 40% of the attorneys have performed at least 50 hours of *pro bono* service. The annual 40 at 50 Breakfast has become a springtime tradition among the city's law firms. Seven years ago, when the Judicial breakfast was first held, only seven firms met this standard while this past year 32 firms accomplished this goal. In addition, in 2009, the Committee began recognizing those firms in which 40% or more of its partners performed 50 or more *pro bono* hours in the preceding calendar year. In 2009,

¹ In 1998, the D.C. Circuit Judicial Conference passed a resolution calling on all lawyers admitted to the bars of its courts to provide at least 50 hours of *pro bono* legal service to the poor. (Resolution on *Pro Bono* Legal Services by Members of the Bar of the Federal Courts of the District of Columbia at Appendix A.)

five firms were recognized for reaching this benchmark, and in 2010, four firms met this high level of partner involvement. Participation among government attorneys in *pro bono* work has experienced similar expansion.

In addition to this promising trend in *pro bono* activity, the D.C. Access to Justice Commission has continued its efforts to secure allocations of funding from the D.C. City Council for civil legal services for underserved populations. Through a grant to the D.C. Bar Foundation, the District of Columbia government for the past three years has provided at least \$3.2 million each year for civil legal services. For fiscal year 2010, this grant has been reduced significantly to approximately \$2.86 million.

These encouraging efforts, however, must be viewed against the backdrop of increasing poverty and legal need in the District of Columbia. As noted in a recent report, *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia*, “Even before the recession, there was not enough legal aid to meet the needs of low-income District residents. . . [Legal services] programs report losing more than 25% in revenue and have shed approximately 12.5% of their lawyers . . . As a result of these staff cuts, thousands of District residents who need legal help did not get served.”² While the official unemployment rate in the District is 11.4%, the rate in the poorest wards of the city is as high as 28%. These rising poverty rates have inevitably resulted in increased demand for legal services in the areas of foreclosures, evictions, domestic violence, homeless issues and unemployment compensation.

The Standing Committee is committed to working cooperatively with other organizations in our Bar to meet the legal needs of those in our community through innovations

² District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers Joint Report, *Rationing Justice: the Effect of the Recession on Access to Justice in the district of Columbia* (November 2009) at 1.

and increased *pro bono* work by attorneys of this Circuit. The Committee's collaboration with the D.C. Bar's *Pro Bono* Program, the D.C. Access to Justice Commission and Federal Interagency Pro Bono Working Group are detailed in this Report.³

II. PRO BONO LEGAL WORK IN PRIVATE LAW FIRMS

In January of 2010, the Standing Committee sent its 6th biannual survey to the managing partners of 128 law firms with offices in the District of Columbia to gather information about *pro bono* programs in the private sector. With this survey, the Standing Committee sought to learn whether firms were communicating the Judicial Conference *pro bono* standard to their lawyers, and the extent to which lawyers were meeting that standard. In addition, the Committee sought information about the structure of firms' *pro bono* programs and the manner in which law firm lawyers are encouraged to meet the Judicial Conference *pro bono* standard, in an effort to better understand the elements of successful law firm programs. (Transmittal letter and survey at Appendix B). This year, the Committee also introduced a new question in its survey with respect to whether law firms are monitoring their attorneys' compliance with the D.C. Court of Appeals' standard of making a monetary contribution to DC *pro bono* legal services organizations. Committee members followed up with telephone calls and e-mails. In all, as of April 26, 2010, the Committee received responses from 53 firms, for a response rate of 41 percent—a 12 percent decrease from the 2008 response rate of 53 percent.

³ District of Columbia Access to Justice Commission and the D.C. Consortium of Legal Services Providers Joint Report, *Rationing Justice: the Effect of the Recession on Access to Justice in the district of Columbia* (November 2009) at 2.

The Circuit Resolution on *pro bono* stands out -- it is addressed to *individual* lawyers, not to law firms. For this reason, since 2002, the Standing Committee's biannual survey has asked how many individual attorneys at each firm have met the Circuit's 50 *pro bono* hours standard during the prior year. With the results of this year's survey, the Committee now has five surveys' worth of information spanning eight years concerning individual attorney *pro bono* hours in the District of Columbia. Most of the 2010 respondents also participated in the 2002, 2004, 2006 and 2008 surveys, providing a useful benchmark for observing trends in District of Columbia *pro bono* programs.⁴

A. Results of the Law Firm Survey

The survey results reflect only a segment of the several hundred law firms in the District of Columbia: All of the responding firms had at least 26 lawyers; most (38 firms) had 75 attorneys or more, with 18 firms reporting that they employed 200 or more attorneys in their District of Columbia office.⁵ Thus, as in prior years, the results reflect the state of *pro bono* programs at larger firms that, in general, have already made at least some level of commitment to *pro bono*.

All but two of the firms responding to the 2010 survey have a written policy covering *pro bono* legal work; over half of the firms (32 firms) include a *pro bono* goal in their policy. Of the 32 firms having a written *pro bono* goal, 25 reported having goals that matched or exceeded the Judicial Conference standard of 50 annual *pro bono* hours. We believe it is safe to

⁴ Forty-two of the firms responding to the 2010 survey also responded to at least one of the surveys sent in 2002, 2004, 2006 and 2008. Eleven of this year's responding firms are new respondents, or firms that did not respond to the 2002, 2004, 2006 or 2008 surveys. Fourteen law firms have responded to all five of the Committee's surveys. A list of the firms that responded to the 2010 survey is attached at Appendix C.

⁵ The Committee sent surveys to all firms listed on the National Association of Law Placement (NALP) directory and categorized as having 26 lawyers or more in the DC office. See <http://www.nalpdirectory.com>.

assume that the non-responding firms would not have reported markedly stronger or more active *pro bono* programs than those existing at the participating law firms.

There are many ways to measure the strength and depth of a firm's *pro bono* legal program. The Standing Committee has chosen to use the Judicial Conference standard of 50 annual hours of *pro bono* as a touchstone for its inquiry. Overall, the actual number of lawyers meeting the 50-hour annual target for *pro bono* legal service has not been high.

The trend over the past eight years suggests, however, that *pro bono* work is on the increase and that *pro bono* programs are firmly anchored in more firms. When first surveyed on this issue, most firms reported that only 25 percent or fewer of their attorneys met this goal in 2001.⁶ One-third of the firms responding to that earlier survey had not even communicated the 50-hour standard to their lawyers.

The *pro bono* practice of the District of Columbia's law firms appears to have shifted in the past eight years. Since the Committee began conducting its survey of individual attorney performance in law firms in 2002, incremental but steady gains have been made in the number of private sector lawyers doing *pro bono* legal work. Most notably, for eight years the number of top *pro bono* performing firms has been increasing while the number of low performing law firms has been decreasing.

⁶ Standing Committee on Pro Bono Legal Services of the Judicial Conference of the District of Columbia Circuit, Report to June 2002 Meeting of the Judicial Conference of the District of Columbia Circuit, p. 5 (June 2002). It is likely that higher percentages of attorneys at the law firms responding to each of the Standing Committee's surveys fulfilled at least one of the prongs of the standard recommended in the Conference Resolution, which includes, in addition to 50 hours of *pro bono* service, the alternatives of taking on one *pro bono* case or making a monetary contribution to legal services provider organizations in the District of Columbia. All of the Standing Committee's Reports can be found at <http://www.cadc.uscourts.gov/internet/home.nsf/Content/Pro+Bono>.

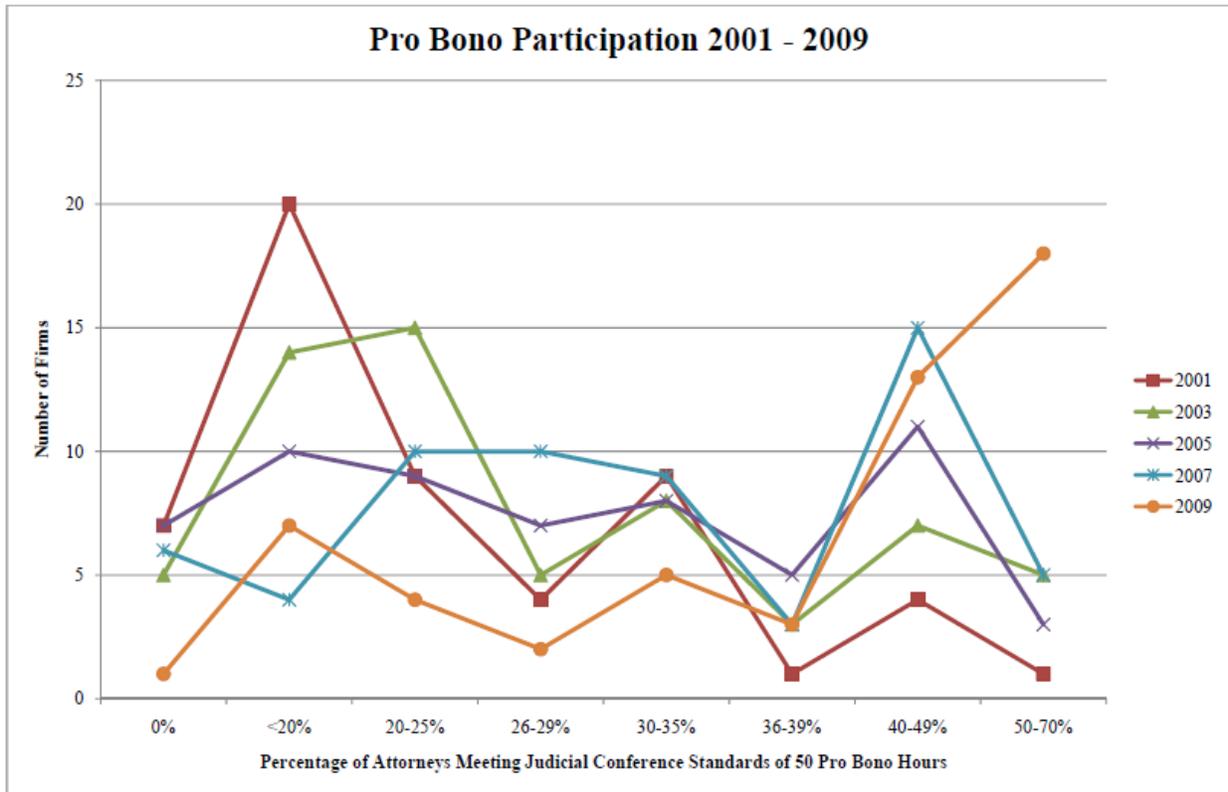
In response to the 2002 survey (seeking information on law firms' *pro bono* performance for 2001),⁷ 27 firms were on the low end of the scale, reporting that fewer than 20 percent of their lawyers met the 50-hour mark. Only six firms were on the other end of the scale, with more than 35 percent of their lawyers performing at least 50 hours of *pro bono*.

The 2004 survey saw an improvement of *pro bono* performance: 19 firms reported relatively low rates of *pro bono* service, and 15 law firms reported relatively high rates of *pro bono* service. Responses to the 2006 survey continued this trend, with 17 firms performing *pro bono* at relatively low rates, and 19 law firms reporting higher rates of *pro bono* service. For the 2008 survey, again, the number of law firms performing *pro bono* service at low rates dropped, and the number of high performers rose -- 10 low performers and 23 high performers.

In this year's survey, the Standing Committee again asked firms to report the percentage of lawyers in their office who had personally performed at least 50 hours of *pro bono* in the past year. All 53 of the participating firms provided this information. The results of the 2010 survey are cautiously encouraging: over the eight years of survey data, the number of top *pro bono* performers has been increasing, while the number of low performers has been decreasing. The 2010 survey data sees no change in this subtle yet notable trend: the number of low performers has again decreased and the number of top performers, increased. In response to the 2010 survey, 8 firms reported *pro bono* service rates on the lower end of the scale, while a record 34 law firms reported rates of higher than 35 percent.

⁷ Each of the Standing Committee's survey has sought information regarding law firms' *pro bono* performance for the previous year.

From the graphic illustration included here, one can appreciate that the curve representing *pro bono* participation from the 2010 survey is nearly the mirror of that of the 2002 survey.⁸ Now, there are relatively few law firms at the bottom ranks of *pro bono* participation, and there is a substantial group of law firms engaging in *pro bono* service at higher levels.



⁸ Data from which this chart was prepared are found in tables in Appendix D.

If the Committee's surveys have identified a positive trend in *pro bono* service over the past eight years, this year's survey also identified an area of inaction amongst law firms. Remarkably, none of the responding law firms monitor their attorneys' compliance with the monetary contribution alternative urged by the D.C. Court of Appeals Judicial Conference. The 2010 survey included a new inquiry: "Does your firm monitor whether its attorneys who do not meet the 50 hour standard are contributing at least \$750 for *pro bono* legal services as urged by the D.C. Court of Appeals Judicial Conference?" All responding firms answered no.

The Standing Committee also inquired about law firms' *pro bono* policies and practices. Here, in summary, is a statistical portrait of aspects of law firm *pro bono* policies and programs, drawn from responses to the survey:⁹

- *Written pro bono policies.* Nearly all of the responding firms (51) have written policies covering *pro bono* legal work, and 32 of these firms include a written *pro bono* goal in terms of an "expected" number of *pro bono* service hours. Thirty of these 32 firms express their *pro bono* goals in terms of annual hours, and two firms in terms of a percentage of billable hours. Most firms setting an hourly goal set it at or above 50 hours per year (25 firms), and all but one of these 25 firms had hourly *pro bono* goals that applied to both partners, counsel and associates (one firm's *pro bono* goal applied only to associates and counsel).
- *Associate, Counsel and Partner Pro bono credit.* Over half of the responding firms (28 firms) report crediting associate *pro bono* hours the same as hours spent on commercial cases; 13 treat them differently. Fewer firms provide equal credit for *pro*

⁹ Not all firms responded to all survey questions. Thus, the totals presented in each summary may not necessarily equal the total number of responding firms.

bono and commercial hours for partners (16 firms) or counsel (21 firms). Six firms report crediting *pro bono* and commercial hours differently for partners and five report crediting such hours differently for counsel.

- *Advancement, Compensation and pro bono.* All but two of the responding firms (51 firms) reported that associates' *pro bono* work is considered in their evaluations, and 50 firms reported that associates' *pro bono* work is taken into account in decisions regarding partnership. Thirty-nine firms reported having an hours-based *pro bono* policy. All but three of these firms (36 firms) report that *pro bono* work is compensated through the firm's bonus policy, and 14 of these firms place limits on the number of *pro bono* hours that can be taken into account in determining associate bonuses.
- *Billable hours and pro bono caps.* 40 of the responding firms have a minimum billable target for associates, 31 of which apply a billable target to counsel and 23 of which apply a billable target to partners. Twelve firms reported having a cap with respect to the number of *pro bono* hours for which attorneys can receive billable hours credit.¹⁰ Five firms set a cap between 100 and 200; five firms set a cap between 50 and 100 hours annually; one firm measured the cap as a percentage of billable hours and one firm had a cap below 50 hours annually.
- *Coordinating Pro bono Service.* A majority of the responding firms (46) have designated an individual or individuals to manage or coordinate their *pro bono*

¹⁰ In response to the 2002 survey, 20 firms reported having caps on creditable *pro bono* work. Similarly, in response to the 2004 survey, 23 firms reported having caps. In 2006, 17 firms reported having caps on creditable *pro bono* work. In 2008, 15 firms reported having caps.

programs; eight have entrusted this task exclusively to one or more committees.¹¹

The majority of these firms (40) have individual *pro bono* coordinators who are full-time attorneys; four have *pro bono* coordinators who are part-time attorneys; and three have full-time, non-attorney coordinators. Of the 46 firms that have appointed individuals as *pro bono* coordinators, 23 report having coordinators who handle only *pro bono* matters, and 11 report having coordinators with other legal or administrative duties.¹² 2006 marked the first year that the Committee requested information regarding *pro bono* coordination, and the figures from this year's survey are still similar to those of 2006, except in the area of the percentage of time the coordinators spend on *pro bono*.¹³

B. Recognizing Top Law Firm Pro Bono Performers

Each year since 2003, in order to recognize the law firms ranking highest in *pro bono* performance the Chief Judges of the Circuit and District Courts have hosted the “40 at 50” *Judicial Pro bono Recognition Breakfast*. The Chief Judges invite to this breakfast those firms at which a substantial percentage of lawyers (at least 40 percent) have met the 50-hour mark for *pro bono* performance. From 2003 through 2009, the number of firms qualifying for the event were, respectively, seven (2003), twelve (2004), eight (2005), fourteen (2006), seventeen (2007), twenty-one (2008), twenty-six (2009) and thirty-two (2010).

¹¹ Some firms with *pro bono* coordinators also report having *pro bono* committees.

¹² Twelve of the firms reporting individuals as *pro bono* coordinators did not respond with respect to whether these coordinators worked solely on *pro bono* related duties or if they also had other legal or administrative duties.

¹³ In 2006, 58 firms reported having designated an individual or individuals to manage their *pro bono* programs, and four firms had coordination committees. Forty-four firms had full-time, attorney pro-bono coordinators; 6 had part-time, attorney *pro bono* coordinators, and 4 had full-time, non-attorney coordinators. The 58 firms with individual *pro bono* coordinators were nearly evenly split between coordinators who handled only *pro bono* matters (27) and those who had other legal or administrative duties (29).

In addition, in 2009, the Committee began to give special recognition to the qualifying firms with at least 40% of their partners contributing 50 or more *pro bono* hours. In 2009, five firms were given this special recognition at the 40 at 50 Breakfast, and in 2010, four firms were given this recognition.

On March 30, 2010, the number of attendees at the “40 at 50” *Breakfast* continued to climb – a record 32 firms qualified to attend. It is encouraging to note that what was once a relatively intimate event has transformed into a larger celebration of *pro bono* service in the District of Columbia. Informal conversations at each of these breakfasts indicate that the profile given to the 50-hour standard by the “40 at 50” *Breakfast* has contributed to the increase in the number of law firms reaching this mark. Attached at Appendix E are the lists of the law firms that have qualified for this distinguishing recognition for the past two years.

These yearly events not only allow judges and the Standing Committee to recognize the law firms that have reached notable levels of *pro bono* work, but they also allow the Committee to survey firms every year (not simply the years of its biannual survey) on the number of individual law firm attorneys reaching the Judicial Conference Standard. In this manner, the Committee feels that the “40 at 50” *Judicial Pro bono Recognition Breakfasts* provide a yearly snapshot of law firms’ *pro bono* performance and act as an indicator of the direction in which law firms’ *pro bono* efforts have been and may be headed.

C. Notable Trends and Associations in Law Firm Pro Bono Data

The Standing Committee observed some trends in the survey data that merit mention. As noted above, since 2001, there appears to be a steady shift towards more law firm attorneys performing *pro bono* service at the level contemplated by the Judicial Conference Standard.

While the Committee’s efforts to inform law firms of the Judicial Conference 50 annual *pro bono* hour standard may have contributed to this apparent increase in *pro bono* awareness and performance, other factors likely have contributed as well. The uptick in *pro bono* performance in most recent years may be attributed partially to the economic recession—reportedly beginning in late 2007—as it is typically speculated that economic downturns result in firms’ focusing increased resources on *pro bono* services. Other influential factors may include the “A-List” ranking of US law firms published by American Lawyer – a ranking that was initiated in September 2003 and which places significant weight on *pro bono* work – which has compelled law firms to revisit and energize their *pro bono* programs. Another possible motivational force contributing to the upward trajectory in *pro bono* service at law firms includes the Corporate Pro Bono Challenge, which was instituted by the Pro Bono Institute of Georgetown University Law Center in 2006. This challenge requires chief legal officers of US corporations to sign a voluntary statement to commit to the promotion of *pro bono* service by their legal department staff. Notably, signatories to the Corporate Pro Bono Challenge also commit to encourage the law firms with whom they work to become signatories to the Pro Bono Institute’s Law Firm Pro Bono Challenge, thereby committing to perform *pro bono* service amounting to either (a) five percent of the firm's total billable hours or 100 hours per attorney to *pro bono* work or (b) three percent of the firm's total billable hours or 60 hours per attorney to *pro bono* work.¹⁴

Yet another possible contributing factor to the increase in law firms’ *pro bono* performance is the DC Bar’s Pro Bono Initiative, which, in 2001, saw forty-one of the District's

¹⁴ See *Corporate Pro Bono*, <http://www.cpbo.org/challenge/>; *Pro Bono Institute at Georgetown University Law Center, Law Firm Pro Bono Challenge*, <http://www.probonoinst.org/challenge.text.php>.

largest law firms committing to provide *pro bono* legal services at specified levels (either 3% or 5% of total billable hours, or 60 or 100 hours for every lawyer in the firm), and to report annually to the D.C. Bar Pro Bono Program on their progress. Due to the Bar's outreach efforts in 2007 and 2008, an additional 26 law firms have joined the Initiative.

Irrespective of the possible incentives behind the increase in law firm *pro bono* performance in the District of Columbia, responses to the survey suggest that certain organizational or management factors may have a hand in this trend. First, firms with articulated *pro bono* goals tended to report that more lawyers met the Judicial Conference Standard of 50 hours. Among the group of 53 firms that reported on lawyers' progress in meeting the 50-hour standard, 32 had a written goal of the number of *pro bono* hours they expect from their lawyers. Of these 32 firms, the average percentage of lawyers meeting the 50-hour standard at firms with a written *pro bono* goal was 40 percent. The 21 firms with no articulated *pro bono* goal was 37 percent. This difference may not be of particular statistical significance, but data from years past have shown more disparity between law firms having a *pro bono* hours goal and those that do not.¹⁵

Also of note is the distinction in *pro bono* performance between law firms at which *pro bono* programs are managed by full-time *pro bono* coordinators who exclusively handle *pro bono* matters ("*exclusive pro bono coordinators*") and law firms that have *pro bono* coordinators who work full-time but handle duties other than *pro bono* matters. Of the 23 law firms having exclusive *pro bono* coordinators, the average percentage of attorneys meeting the

¹⁵ There was a similar disparity in *pro bono* performance when comparing law firm results from the 2008 survey. For firms with an articulated *pro bono* hours goal, the average percentage of attorneys meeting the Circuit's standard was 35 percent, compared with an average of 27 percent for the firms with no articulated *pro bono* hours goal. The 2006 survey showed the average percentage of attorneys meeting the 50-hour standard at firms with an articulated *pro bono* goal at 32 percent, and firms lacking an articulated *pro bono* goal at 24 percent.

Judicial Conference Standard was 46.2 percent. In addition, 18 of the 34 top *pro bono* performers (with more than 35 percent of attorneys meeting the Judicial Conference Standard) from this survey were firms with exclusive *pro bono* coordinators and **none** of these law firms were among the bottom performers (with fewer than 20 percent of attorneys meeting the Judicial Conference Standard). The 11 law firms having *pro bono* coordinators who address other legal or administrative matters averaged a lower percentage of attorneys meeting the Judicial Conference Standard (37 percent).

There appears to be a relation between higher rates of *pro bono* performance in law firms and *pro bono* management practices that generally favor *pro bono* service. As in past survey reports, not all of the top performers have adopted all such practices. Nonetheless, this year's survey shows a majority of firms adopting a majority of the practices thought to encourage *pro bono* efforts. Looking solely at the 34 firms where greater numbers of lawyers (greater than 35 percent) met the Judicial Conference 50-hour standard, the Committee observed that they tended, overall, to have policies that favored *pro bono*. Twenty-three have written policies that express an "expected" number of *pro bono* hours to be contributed annually by each attorney. Twenty-five of the top performing firms have minimum billable requirements, with all crediting *pro bono* hours towards this minimum, and all but eight treating *pro bono* hours the same as hours billed to paying clients. Eighteen of the 34 top performing firms have *pro bono* coordinators who only handle *pro bono* matters. Finally, only four of the 34 top performing firms reported setting a cap on creditable *pro bono* hours; three of the firms' caps were on the higher end (100-200 hours per year), and one was set at 50 hours per year.

These number strongly suggest that a firms' *pro bono* policies can support a firm's *pro bono* performance. These policies are not always determinative of performance,

however, as some firms that appeared to have strong policies showed relatively low rates of *pro bono* performance, while several firms that lacked core *pro bono* policies—such as written goals, billable hour credit for *pro bono*, or dispensing with creditable *pro bono* caps—nonetheless had significant numbers of lawyers performing *pro bono* work.

The Standing Committee believes that the efforts described above have been constructive, informative and motivational, which provides a broad and multifaceted picture as to larger private law firms' *pro bono* programs. The Committee will continue to identify ways to build upon the information developed in its survey, to ensure lawyers practicing in the D.C. Circuit are aware of the Judicial Conference Resolution standards, and to facilitate access to *pro bono* opportunities.

III. PRO BONO WORK IN FEDERAL GOVERNMENT AGENCIES

A. Overview

We are pleased to report a steady increase in federal lawyers participating in *pro bono* work as reflected in both the responses to our questionnaires and the significant increase in activities. Twenty-three agencies responded to the Standing Committee's questionnaire this year, a 58% return rate. We received responses from agencies ranging from U.S. Housing and Urban Development to the General Services Administration. A list of all responding agencies is set forth in Appendix F.

Executive Order 12988 directs agencies to “develop appropriate programs to encourage and facilitate *pro bono* legal service by government employees,” and the Standing Committee has made this a high priority. In coordination with the efforts of the D.C. Bar, and the outstanding work of the Interagency Pro Bono Working Group, there has been significant growth in virtually all areas of the government *pro bono* effort.

Highlighting one of its recent successes, the Federal Government Pro Bono Program received the American Bar Association's Pro Bono Publico Award on August 3, 2009. For the past few years, the Federal Government Pro Bono Program has worked hard to develop *pro bono* programs outside Washington, D.C., first in Chicago, and now in New York City and San Francisco. The ABA's honor was awarded based on the success of its programs in Washington, D.C. and Chicago. The Federal Government Pro Bono Program was nominated by the Public Interest Law Initiative in Chicago, and letters of support were sent by two legal services providers in that city and three providers in Washington, D.C. As part of the award presentation, the ABA created a video about the Federal Government Pro Bono Program, which featured Attorney General Eric Holder, D.C. Bar Pro Bono Program Director Maureen Syracuse, Department of Justice Pro Bono Program Manager Laura Klein, and volunteers from Washington and Chicago.

The exemplary work done by government agencies in the District has motivated the spread of similar efforts in other cities. In July 2008, the Federal Government Pro Bono Program officially launched a program in Chicago, Illinois. The success of that program led to efforts to develop a program in New York City, which is scheduled to launch in June 2010. Additionally, a program is being developed in San Francisco, which is likely to launch by the end of the year. Each of these new programs aims to connect federal lawyers with *pro bono* opportunities by creating relationships with the legal services organizations in those cities and providing lawyers with information and points of contact about the issues facing government lawyers engaged in *pro bono* work.

In a major development since 2008, several agencies have adopted *pro bono* policies granting administrative leave to federal government lawyers performing *pro bono* legal

work. Fifteen agencies (or components of those agencies) now grant administrative leave under defined circumstances, from one day per year to as many as one day per month. These policies typically provide for administrative leave where a court appearance or some other *pro bono* related activity can only be performed within working hours and where the experience will enhance the professional development and skills of the government lawyer. In his remarks to volunteer federal government attorneys and their general counsels at last year's judicial reception honoring the *pro bono* service of these lawyers, Judge Paul Friedman emphasized the importance of agencies granting administrative leave to federal lawyers to facilitate *pro bono* legal work and encouraged all agencies to consider adopting policies providing some reasonable level of administrative leave to encourage and support *pro bono* legal work by federal lawyers.

In other developments, on June 15, 2009, the Department of Education hosted a CLE program titled "Pro Bono Activity: A Legal and Procedural Guide for Federal Government Attorneys", which was held in Washington and also broadcast to Chicago. The presentation was so successful that the Department of Justice Office of Legal Education asked Laura Klein to make it into a DVD for use on the Justice Television Network and for inclusion in its video library. It is now available to all federal agencies.

In 2008, Government Pro Bono Week featured a training by Women Empowered Against Violence at the Securities and Exchange Commission, a Pro Bono Fair at the Treasury Department, and a keynote address by U.S. District Court Chief Judge Royce Lamberth at the Department of Justice. Government Pro Bono Week 2009, which corresponded with the ABA's Celebrate Pro Bono effort, featured a panel presentation titled "Closing the Justice Gap: The Increased Need for Expanded Access to Justice in Tough Economic Times" at the Justice Department. Assistant Attorney General Tony West moderated the high profile panel, which

included Peter Edelman, Maureen Syracuse, and Eric Jackson. Also that week, representatives of the Federal Government Pro Bono Program held a Pro Bono Road Show at the Department of Energy and attended the Federal Government Pro Bono Recognition Reception at the courthouse, hosted by the DC Circuit Judicial Conference Standing Committee on Pro Bono and the Judges of the Circuit.

In 2007, the Interagency Pro Bono Working Group, the steering committee for the Federal Government Pro Bono Program, created the Federal Agency Pro Bono Leadership Award to recognize the federal agency that has demonstrated the most significant growth and commitment to encouraging and facilitating *pro bono* work among its employees during the last two years. The award, which is given biannually, is given to an agency that has made notable progress during this period of time and that exemplifies a successful *pro bono* program. The first recipient of the award in 2007 was the Securities and Exchange Commission. In 2009, the Department of Labor was selected for this recognition. On behalf of the Federal Government Pro Bono Program, members of the federal judiciary present the award to agency officials at the Federal Government Pro Bono Recognition Reception.

Over the last two years, federal government *pro bono* efforts in DC have continued to expand. The Interagency Pro Bono Working Group now has 37 agencies officially participating and a handful of others which participate in an observational capacity. Nine federal agencies are scheduled to staff the D.C. Bar Advice & Referral Clinic in 2010. Federal lawyers staff the clinic every month of the year, often at both of its locations, making them the most significant source of volunteers for that clinic. In addition, federal lawyers accept more cases from the D.C. Bar Advocacy & Justice Clinic than any law firm. Federal lawyers have already accepted approximately 30 cases from the Advocacy & Justice Clinic in 2010 alone. Federal

lawyers also staff the Neighborhood Legal Services Program's Free Wills Clinic more than any law firm or other group. Since 2008, almost 200 federal lawyers have been trained to draft wills for that clinic. Federal lawyers also work with the Legal Aid Society, accepting child support cases which could not be placed elsewhere and reducing the organization's backlog of those cases.

B. Survey Response Summary

This is the second time that the Committee has used the revised questionnaire to survey federal participation in *pro bono* work. With a 58% return rate of the agencies surveyed, we now can draw some trends from the data presented. One hundred percent of those agencies responding report that they are active members of the Interagency Pro Bono Working Group and that they are aware that D.C. Court of Appeals Rule 49 permits non-D.C. Bar members to provide *pro bono* legal services in the District. 91% stated that they electronically disseminated information about *pro bono* opportunities in the past year, and 61% reported that they have *pro bono* information available on a web site. 87% indicated that they have a written *pro bono* policy and that most (74%) of their policies do not state a recommended number of *pro bono* hours for their employees. 78% had a designated *pro bono* coordinator. Significantly, 65% reported that they (or a component) grant administrative leave for *pro bono* legal work. 57% organized or supported specific *pro bono* opportunities for their lawyers in the last year, such as staffing the D.C. Bar Pro Bono Advice & Referral Clinic or holding an onsite legal training with a local service provider. Ten agencies indicated that they had active programs in their field offices to promote and facilitate *pro bono* legal work by their lawyers. Finally, 22% stated that they held a recognition program in the past year to acknowledge the *pro bono* work of their lawyers and legal staff.

C. **Examples of Agency Pro Bono Work**

- The State Department staffed the Advice and Referral Clinic twice last year.
- The Federal Deposit and Insurance Corporation (“FDIC”) provides attorneys and paralegals to staff the Advice and Referral Clinic four times per year.
- The Federal Communications Commission (“FCC”), since 2005, has provided volunteers to the Advice and Referral Clinic on three Saturdays during the year.
- The Department of Housing and Urban Development (“HUD”) hosted a wills legal training program.
- The Department of Transportation (“DOT”) participated in four Advice and Referral Clinics.
- The Department of Labor (“DOL”) staffed three D.C. Bar Advice and Referral Clinics, conducted two brown bag presentations, and a presentation slot was provided to the *pro bono* coordinators at the 2009 Labor New Attorney Training Seminar.
- The Federal Trade Commission (“FTC”) hosted the Neighborhood Legal Services Program (“NLSP”) Pro Bono Wills Training in May 2009.
- The Department of Treasury staffed the Advice and Referral Clinic once and volunteered at the Washington Legal Clinic for the Homeless.
- The Federal Elections Commission staffed the Advice and Referral Clinic three times and held an Advocacy and Justice Clinic training in coordination with the DOJ.
- DOJ staffed the Advice and Referral Clinic 8 times and committed to placing at least 15 cases with the D.C. Bar Advocacy and Justice Clinic. DOJ also helped with the Child Support Case Project with the Legal Aid Society of D.C.
- The National Labor Relations Board (“NLRB”) staffed the D.C. Bar Advocacy and Justice Clinic three times, and its lawyers have played a key role in helping establish federal government *pro bono* programs in Chicago and San Francisco.
- The U.S. Agency for International Development (“USAID”) staffed three D.C. Bar Advice and Referral Clinics last year.

IV. ACTIVITIES OF THE ORGANIZED BAR TO SUPPORT AND ENCOURAGE PRO BONO SERVICE BY LAWYERS

In the District of Columbia legal community, there is a long-standing culture supporting *pro bono* service, and many creative efforts by legal services providers, voluntary bar associations, the courts and others to expand and encourage *pro bono* service. In this section, the Standing Committee highlights a few of the significant developments in the past two years.

A. D.C. Access to Justice Commission

In February 2005, the District of Columbia Court of Appeals created the D.C. Access to Justice Commission (“the Commission”) at the request of the D.C. Bar Foundation, the D.C. Consortium of Legal Services Providers, and the D.C. Bar. The Commission, chaired by Professor Peter Edelman of the Georgetown University Law Center, has achieved a number of significant results, most notably securing public funding for civil legal services from the District of Columbia. The first appropriation of \$3.2 million was secured during the 2006-07 fiscal year, and the funds have been renewed each year, although at a somewhat reduced level in the 2009-10 fiscal year. Further reductions were proposed for the 2010-11 fiscal year, and as this Report goes to press the current appropriation for fiscal year 2010 is \$2.86 million.

In late 2008, the Commission released the first comprehensive report of civil legal needs in the District of Columbia. The report found that District residents’ legal needs exceeded the available legal services in every one of the nine problem areas studied, including consumer issues, employment, family, housing and immigration. The report, which is available on the Commission’s website at www.dcaccessjustice.org, includes recommendations for improving civil legal services in the District.

The Commission has pursued a number of other strategies to increase the availability of legal services and to improve access to justice. The Commission has worked

closely with the District's Office of Administrative Hearings and the Superior Court to improve services for unrepresented litigants and improve access for litigants with limited English proficiency.

The weakening economy in 2009 has served to further increase the crisis in unmet civil legal needs in the District. The Commission joined with the D.C. Consortium of Civil Legal Services Providers to assess the impact of the recession on the availability of civil legal services, and released a report entitled *Rationing Justice: the Effect of the Recession on Access to Justice in the District of Columbia*, also available on the Commission's website at www.dcaccessjustice.org.

The recession has had a devastating impact on the areas of the District with high concentrations of poverty, with an unemployment rate of 28.3% in Ward 8, for example. Legal services providers reported sharp increases in requests for services of 20% or more. At the same time, funding for civil legal services was down \$4.5 million or more than 25%. As a result, there are 21 fewer staff lawyers working at civil legal services providers and there are 30 fewer paralegals, policy advocates, social workers and other support workers providing support services for clients.

With shrinking resources and staffing, civil legal services providers have been forced to cut back on intake, limit the types of cases they accept or the services they provide, and serve fewer clients. All indications are that the situation will remain the same or become more dire in 2010, as funding sources are expected to remain flat or decrease, and many providers have used reserves or exhausted their options for coping with further funding cuts.

B. The D.C. Bar Pro Bono Initiative

In 2001, the D.C. Bar and the Chief Judges of the U.S. Court of Appeals for the District of Columbia Circuit, the U.S. District Court for the District of Columbia, the District of

Columbia Court of Appeals, and the Superior Court of the District of Columbia joined forces to undertake the D.C. Bar Pro Bono Initiative. The Initiative called on the 50 largest law offices in the District to renew their commitment to *pro bono* service by setting specific annual goals of either 3% or 5% of billable hours, and by adopting management practices designed to ensure that the goals were met. In response, 42 law firms made those commitments, and agreed to report annually to the D.C. Bar on their progress toward these goals.

While the law firms' individual results are confidential, the D.C. Bar issues an annual report on the collective achievements of the reporting firms. The D.C. Bar reported that in 2008, the law firms reporting their results performed 634,698 hours of *pro bono* service, or an average of 95 hours per attorney, an increase of 10 hours per attorney over the 2007 results. In addition, the law firms exceeded their total *pro bono* hours pledged by over 200,000 hours.

In June 2007, the D.C. Access to Justice Commission joined with the D.C. Bar and the four chief judges to convene a breakfast meeting of law firm managing partners to expand the reach of the D.C. Bar *Pro bono* Initiative to the next 50 large law offices, ranked 50-100 by size. By July 2008, 24 additional law firms had joined, bringing to 66 the total number of firms participating in the Pro Bono Initiative, and agreeing to report their progress to the D.C. Bar beginning with 2009 results. As this report is being prepared, the D.C. Bar is compiling its report on the 2009 results, including a list of reporting law firms, which will be submitted to the four chief judges, distributed to the participating law firms, and available on the D.C. Bar's website.

C. Deferred Associates

In early 2009, as major law firms were dealing with the effects of the slowdown in the economy on their clients and on the demand for their services, a number of firms made the

decision to postpone the start dates for the first year associates scheduled to begin work in fall 2009. Some firms were reported to be planning to offer some or all of their deferred associates a stipend if they spent their deferral period volunteering with a legal services or public interest organization.

In the District, the D.C. Bar Pro Bono Program has for several years offered a Graduate Fellowship Program, in which participating law firms place their in-coming first year associates with public interest or legal services organizations for up to 10 weeks, while the fellows remain on the law firm payroll. With the likelihood that many more incoming associates might be seeking public interest placements, whether with or without the financial support of their firms, the Pro Bono Program expanded the focus of the Fellowship Program to serve as a clearinghouse for D.C.-based opportunities for deferred associates. Many organizations indicated their interest in hosting volunteers, and law firms were notified that information about opportunities for their incoming lawyers would be available through a central clearinghouse.

Estimates are that up to 40 law school graduates have been playing vital roles with local D.C. legal services providers or public interest organizations – doing research, doing intake, and handling cases. In the coming year, a smaller number of incoming associates will have their start dates deferred and several are already seeking volunteer placements with local legal services providers.

D. Expanding Access through Technology

In partnership with the D.C. Consortium of Legal Services Providers, the D.C. Bar Pro Bono Program hosts www.probono.net/dc, a website that is designed to facilitate *pro bono* service by providing substantive information on a volunteer attorney's desktop. In the past

two years, the available content has been greatly expanded, including a practice area for Government Lawyers.

A companion website, www.LawHelp.org/dc, is designed to provide referral and legal information to the general public, so that individuals seeking legal assistance can identify the appropriate resources. The website is available in English and Spanish. In the past two years, with special funding from the D.C. Bar Foundation, using hotdocs technology and software specially designed for this purpose, the D.C. Bar Pro Bono Program has added enhancements to the website that allow the user to go through an on-line interview process and print out pleadings that can be filed in court. Landlord-tenant pleadings were the first completed, and family law pleadings will be available shortly. A new in forma pauperis petition form will be the next pleading added.

V. UPDATE ON THE DANIEL M. GRIBBON PRO BONO ADVOCACY AWARD

In our 2008 report to the Circuit, we reviewed the successful initial implementation and first three years of the annual Daniel M. Gribbon *Pro Bono* Advocacy Award, which was established in 2005 by the United States District Court for the District of Columbia in concert with the family and friends of Daniel M. Gribbon. The Standing Committee on *Pro Bono* Legal Services was asked to manage the nomination and selection process on behalf of the District Court and has been honored to do so since the award was created.

Daniel M. Gribbon, who died in 2005, practiced law for more than 50 years with the law firm of Covington & Burling LLP, where he was instrumental in establishing many strong *pro bono* initiatives. The family and friends of Mr. Gribbon graciously endowed this award in honor of Mr. Gribbon's lifetime commitment to and strong support of *pro bono* legal services. The endowment is managed by the Historical Society of the District of Columbia

Circuit. The award recognizes an individual attorney or law firm that has demonstrated distinguished advocacy in a *pro bono* matter before the United States District Court for the District of Columbia in the 18 months prior to the nomination date.

The Daniel M. Gribbon *Pro Bono* Advocacy Award has continued to increase in prominence within the local *pro bono* community as we approach the fifth anniversary of the award, and the nominations process has yielded inspiring accounts of *pro bono* advocacy occurring within the District Court. The Standing Committee uses many methods from January through March of each year to publicize the award and solicit nominations from the *pro bono* community. The qualifying nominations are assembled by the Standing Committee and presented in April to the Chief Judge, who typically notifies the winner by letter in May.

As noted in our 2008 report, the awards for the 2006 and 2008 winners were presented, to Robert Cox and Jennifer Bagosy of Howrey, LLP and to the law firm of Wilmer Hale, respectively, at the Judicial Conference held during each of those two years. During the off-years when the Judicial Conference does not meet, the Standing Committee has sought to identify other suitable opportunities at which to present the award. In 2007, the award was presented to Donna Francescani of Skadden Arps at a June reception sponsored by the District Court's *Pro Se* Panel at the E. Barrett Prettyman United States Courthouse.

The 2009 award also was presented at a Courthouse reception on the first floor of the William B. Bryant Annex immediately following the District Court's June Executive Session. The two runners-up for the 2009 award also were invited to the reception, attended, and were recognized. Jason Wallach, an Associate at Dickstein Shapiro LLP, was honored with the fourth annual award for his work in *Sellmon v. Reilly*, 551 F. Supp. 66 (D.D.C. 2008), a case

involving several plaintiffs who brought claims against the United States Parole Commission. Mr. Wallach was nominated by the Public Defender Service for the District of Columbia.

In keeping with tradition, the Fifth Annual Daniel M. Gribbon *Pro Bono* Advocacy Award will be presented at the 2010 Judicial Conference. Fittingly, this year's award recipient is the law firm of Covington & Burling LLP, which is being honored for its extraordinary *pro bono* service in *Beale v. District of Columbia et al.*, a four-year litigation involving conditions of confinement and an inmate wrongful death at the District of Columbia Jail. Covington & Burling was nominated for the award by the Washington Lawyers' Committee for Civil Rights & Urban Affairs.

VI. CONCLUSION

The Standing Committee thanks Chief Judges David Sentelle and Royce Lamberth for their genuine support and dedication to increasing *pro bono* work among our Bar members as well as their engaging senses of humor. We thank Court Liaison U.S. District Judge Rosemary M. Collyer for her advice, diplomacy, wise counsel and sense of humor through the course of the efforts described herein; and the law firm and federal government survey respondents for providing information about their *pro bono* programs.

The Standing Committee intends to continue its efforts in each of the areas described in this report, with the goal of increasing and improving the effectiveness of *pro bono* legal services in the District of Columbia. We welcome comments on any of the subjects addressed herein, as well as suggestions for areas to which the Committee could turn its attention.

Respectfully submitted

for the Standing Committee on
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