

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

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

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## I. INTRODUCTION

2020 was a year like no other. A lethal pandemic that caused widespread human tragedy and financial hardship, especially for people already living in poverty. A rash of violent incidents that highlighted longstanding inequities in our legal system and sparked a nationwide conversation on racial justice. All on top of the persistent presence of addiction, mental illness, homelessness, domestic violence, and other afflictions throughout our city.

Although the legal community stepped up to meet this year's unprecedented challenges, there can be little doubt that the need for pro bono legal services in the District of Columbia is as great as it has ever been. Even before the pandemic hit, more than 16 percent<sup>1</sup> of D.C. residents were living at or below the federal poverty level<sup>2</sup> and over a quarter – 171,000 people – were living below 200 percent of the federal poverty level,<sup>3</sup> a measure that many legal services providers use to determine eligibility. The economic dislocation caused by the pandemic can only have increased the number of our fellow citizens who cannot afford to hire counsel to assist them with pressing civil legal matters.

Despite increased funding in recent years from the D.C. government, the District's dedicated providers of legal services to low-income residents lack the resources to meet the ever-growing demand. Pro bono work by D.C. attorneys therefore remains critically necessary to fill the gap. Reaffirming the importance of pro bono work as a supplement to that of direct legal services

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<sup>1</sup> U.S. Census Bureau, QuickFacts: Washington City, District of Columbia, <https://www.census.gov/quickfacts/fact/table/washingtoncitydistrictofcolumbia,DC/IPE120219>.

<sup>2</sup> U.S. Centers for Medicare & Medicaid Service, Federal Poverty Level (FPL), <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/>.

<sup>3</sup> Kaiser Family Foundation, Population by Federal Poverty Level (Above and Below 200% FPL) (2020), <https://www.kff.org/other/state-indicator/population-up-to-200-fpl/?dataView=0&currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

providers, the District of Columbia Circuit Judicial Conference in 2010 adopted a resolution recommending that each attorney admitted to practice in the federal courts of the District of Columbia provide at least 50 hours of pro bono legal service a year, except one court appointment to provide pro bono representation, or contribute the lesser of one percent of earned income or \$750 to legal services organizations serving economically disadvantaged in the D.C. community.<sup>4</sup>

The D.C. Circuit Standing Committee on Pro Bono Legal Services is dedicated to promoting and implementing the Judicial Conference's resolution and to working with other organizations to increase pro bono work by the attorneys practicing in D.C. The Committee is pleased to present this biennial report, which describes significant pro bono activities undertaken in the last 2 years by private law firms, federal government lawyers, and the organized bar, as well as the work of the Committee itself.

## **II. PRO BONO LEGAL WORK IN PRIVATE LAW FIRMS**

In January 2020, the Standing Committee sent its annual survey to the managing partners and pro bono managers of 130 law firms with more than 25 attorneys in their District of Columbia offices 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 met that standard in 2019. In addition, the Committee sought information about the structure of firms' pro bono

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<sup>4</sup> Judicial Conference of the District of Columbia Circuit, Resolution on Pro Bono Legal Services by Members of the Bar of the Federal Courts of the District of Columbia (June 9, 2010), [https://www.cadc.uscourts.gov/internet/home.nsf/Content/VL%20-%20RPP%20-%202010%20Resolution%20on%20Pro%20Bono%20Legal%20Services/\\$FILE/Pro%20Bono%20Resolution%20-%202010.pdf](https://www.cadc.uscourts.gov/internet/home.nsf/Content/VL%20-%20RPP%20-%202010%20Resolution%20on%20Pro%20Bono%20Legal%20Services/$FILE/Pro%20Bono%20Resolution%20-%202010.pdf). The 2010 resolution reaffirmed a 1998 resolution regarding pro bono service and increased the recommended alternative financial contribution from \$400 to \$750.

programs and the manner in which law firm lawyers are encouraged to meet the Judicial Conference pro bono standard so that the Committee might better understand the elements of successful law firm programs. (The survey is attached at Appendix B.) The Committee received responses from 64 firms, for a response rate of 50 percent.

The Circuit Resolution is unequivocal in its focus on the ethical obligation of each member of the Bar. It is addressed to individual lawyers, not to law firms. For this reason, the Standing Committee's annual survey asks how many individual attorneys at each firm have met the Conference's 50 pro bono hours standard during the prior year. With the results of this year's survey, the Committee now has information spanning 18 years on individual attorney pro bono hours in the District of Columbia. Many of the respondents to the 2020 survey (reporting 2019 results) also participated in the 2002 through 2018 surveys, providing a useful benchmark for observing trends in D.C. pro bono programs.

#### **A. Results of the Law Firms Survey**

The current survey results reflect only a segment of the several hundred law firms in the District of Columbia: Sixty-two of the 64 firms that provided responses to the most recent survey had at least 25 lawyers in their District of Columbia office (one firm did not provide its headcount and another had 24 lawyers as of the date it responded to the survey); most (47 firms) had 70 attorneys or more, with 15 firms reporting that they employed 200 or more attorneys in their District of Columbia office.<sup>5</sup> Thus, as in prior years, the results reflect the state of pro bono programs at larger firms that, in general, have already expressed some formal commitment to pro bono.

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<sup>5</sup> The Committee sent surveys to all firms listed on the National Association of Law Placement (NALP) directory and categorized as having 25 lawyers or more in the D.C. office. See NALP Directory of Legal Employers, <http://www.nalpdirectory.com>.

All but 4 of the 62 firms responding adequately to the 2020 survey have a written policy covering pro bono legal work. Well in excess of two-thirds of the firms (47) include a specific pro bono hours goal for associates in their policy. Likewise, 47 of the firms also have a specific pro-bono-hours target for counsel, and 48 of them have a specific pro-bono-hours goal for partners. Of the firms with a written pro bono goal, 29 reported having goals that matched or exceeded the Judicial Conference standard of 50 annual pro bono hours. The non-responding firms would likely not have reported markedly stronger or more active pro bono programs than those existing at the responding law firms.

There are many ways to measure the strength and depth of a firm's pro bono program. The Standing Committee uses the Judicial Conference standard of 50 annual hours of pro bono as a touchstone for its inquiry. The trend over the past 18 years demonstrates that pro bono work has increased and that pro bono programs are firmly entrenched in more firms. When first surveyed in 2002, most firms reported that only 25 percent or fewer of their attorneys met the 50-hour goal.<sup>6</sup> Twenty-seven firms were on the low end of the scale, reporting that less than 20 percent of their lawyers met the 50-hour mark. Only 6 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. Using the same rough metrics, the 2004 survey saw an improvement in 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

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<sup>6</sup> 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). All of the Standing Committee's Reports can be found at <http://www.cadc.uscourts.gov/internet/home.nsf/Content/Pro+Bono>.

decreased, and the number of higher performers increased – 10 low performers and 23 high performers. The 2010 survey nearly reversed the 2002 numbers, with 8 firms reporting pro bono service rates on the lower end of the scale (*i.e.*, less than 20% at 50 hours or more), while a record 34 law firms reported rates of higher than 35 percent. In 2012, 32 firms were at the high end of the scale, and 13 firms reported numbers at the lower end. In the survey covering 2013, a new record of 35 law firms out of 68 respondents were at the higher end of the scale, with more than 35 percent of their attorneys at or above the 50-hour mark, while just 9 firms reported that less than 20 percent of their attorneys hit that mark. Twenty-three of the 62 firms responding to the survey covering the calendar year 2014 reported that at least 40 percent of their lawyers had performed at least 50 hours of pro bono work. Four firms reported that at least 50 percent of their lawyers had performed 50 hours of pro bono work in 2014, and at least 60 percent of the lawyers in 5 other firms devoted 50 hours or more to pro bono service. Four firms also reported that 40 percent of their partners devoted 50 or more hours to pro bono. By 2016, 33 of the 73 firms responding to the survey met the 40% at 50 hours standard—a new high-water mark. Eleven firms reported that at least 50% of their lawyers performed 50 hours or more of pro bono work; 3 firms met the “60 at 50” threshold, and 7 firms had 40% or more of their partners meet or surpass 50 pro bono hours. In 2017, 41 firms reported that more than 35 percent of their attorneys reached to 50-hour mark, while only 9 firms were at the lower end of the scale.

In the 2020 survey, the Standing Committee again asked firms to report the percentage of lawyers in their D.C. office who had performed at least 50 hours of pro bono in the past year. Sixty-one of the 64 responding firms provided this information. With a somewhat smaller respondent pool for 2020 than in most recent prior years, 36 firms had 35 percent or more of their attorneys meet or exceed the 50-hour threshold, while 8 firms’ lawyers included only 20

percent who were at or above the 50-hour mark. Although the Committee's annual surveys have identified a generally positive trend in pro bono service over the past 14 years, this year's survey highlighted a continuing area of inaction among law firms. Only 13 of the 64 responding firms indicated that they expressly encourage their attorneys to donate at least \$750/year to legal services organizations to the extent that they cannot meet the 50 hours of pro bono work standard, and apparently none of the firms actively monitor their attorneys' compliance with the monetary-contribution alternative in the District of Columbia Circuit Judicial Conference's 2010 resolution.

The Standing Committee's most recent survey also inquired about law firms' pro bono policies and practices. Here is a summary of what the survey revealed:<sup>7</sup>

*Written pro bono policies.* Fifty-eight of the 62 firms responding to this specific inquiry have written policies covering pro bono legal work, and most of these firms include a specific pro bono goal in terms of an "expected" number of pro bono hours for one or more categories of their attorneys. Many firms setting an hourly goal set it at or above 50 hours per year (29 firms), and most of those firms report that they apply their policy regarding "expected" hours equally to partners, associates, and counsel. Three firms set a much higher bar, one prescribing 200 hours for all lawyers, another with 100 hours of pro bono expected from partners, associates, and counsel, and the third seeking 100 hours from associates. Two firms, rather than setting a specific target, have instead established a policy that 3 percent of their attorneys' billable hours be devoted to pro bono; one other firm, in lieu of specific targets, has determined that 15 percent of its total annual attorney hours should be devoted to pro bono work.

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<sup>7</sup> 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.



*Associate, counsel, and partner pro bono hours credit.* More than two-thirds of the 64 responding firms report crediting associate pro bono hours the same as hours spent on paying cases, subject to specific caps or limitations in some instances (see below). Fewer firms provide equal credit for pro bono and commercial hours for partners (33 firms) or counsel (440 firms).

*Compensation and pro bono.* Of the 64 responding firms, 51 report that pro bono work is compensated through the firm's bonus policy, though 13 of these firms place limits on the number of pro bono hours that can be taken into account in determining associate bonuses.

*Managing pro bono programs.* As further evidence of the "professionalization" of law firm pro bono programs, 53 of the 64 responding firms report that they have a fulltime manager of their program; the 6 others have a part-time manager. Of those with a full-time pro bono manager, all but 3 firms use an attorney to manage their programs. Forty-six of the 53 full-time pro bono managers are partners or counsel in their firms.

## **B. Recognizing Top Law Firm Pro Bono Performers**

To recognize the law firms ranking highest in pro bono performance, each year since 2003, the Chief Judges of the Circuit and of the District Court have hosted the "40 at 50" Judicial Pro Bono Recognition Breakfast. The Chief Judges invite the managing partners of those firms in which at least 40 percent of the lawyers have met the 50-hour mark for pro bono performance in the prior calendar year. From 2003 through 2019, the number of firms qualifying for the event in each year was 7 (2003), 12 (2004), 8 (2005), 14 (2006), 17 (2007), 21 (2008), 26 (2009), 30 (2010), 29 (2011), 29 (2012), 28 (2013), 30 (2014), 23 (2015), 33 (2016), 37 (2017), 33 (2018), and 31 (2019). These figures reflect a trend of increasing participation over the years, although

recent years have seen a plateau in the number of qualifying firms. A list of the firms that qualified for the 2019 event is included in Appendix D.

In addition, in 2010, the Committee began to give special recognition to the qualifying firms with at least 40 percent of their *partners* contributing 50 or more pro bono hours. In 2010, 5 such firms were recognized at the 40 at 50 breakfast; in 2011, 4 firms were recognized; in 2012, 1 firm was honored for hitting this mark; in 2013, 2 firms were honored; in 2014, a then-record 7 firms met this goal; in 2015, there were 4 firms; in 2016, 6 firms were honored; in 2017, 4 firms were recognized; in 2018, there was a new high of 9 firms; and in 2019, 8 firms again surpassed the “40 at 50” standard for partners.

In 2011, the Committee also began recognizing those firms in which at least *50 percent* of their lawyers met the 50-hour mark for pro bono service. Thirteen firms qualified for this honor in 2011; in 2012, 7 firms qualified; in 2013, 9 firms qualified; in 2014, 12 firms qualified; in 2015, 10 firms qualified; and in 2016, 14 firms hit this mark—a record soon to be broken, as 16 firms qualified in 2017. In 2018, a new high of 17 firms met the “50 at 50” standard, a mark repeated in 2019. The Committee hopes that providing this recognition will spur more firms to reach “50 at 50.” Indeed, because of the increased number of firms qualifying for the “50 at 50” mark, the Committee in 2013 also began recognizing those firms at which *60 percent* or more of lawyers met the 50-hour mark for pro bono services. Four firms qualified for this honor in both 2013 and 2014, 5 firms qualified in 2015 and 2016, and 4 firms hit this impressive mark in 2017. Five firms surpassed the “60 at 50” standard in 2018; 3 firms did so in 2019.

“40 at 50” breakfasts over the last several years have been well-attended, with all of the firms honored sending at least one representative. Because of the significant increase in pro bono work among firms in the District of Columbia, what was once a relatively intimate event has

grown into large celebration of pro bono service. Attendees at the breakfasts have told Committee members that the attention 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, and that many firms are now aspiring to join the ranks of those few firms surpassing the “40 at 50” standard and achieving “50 at 50” and “60 at 50” honors. Unfortunately, due to the COVID-19 crisis, the 2020 “40 at 50” breakfast was postponed; the Court intends to convene a combined virtual celebration in 2021.

### **C. Notable Trends and Correlations in Law Firm Pro Bono Data**

Several trends in the survey data merit mention. Since 2001, there has been a steady increase in the number of law firm attorneys performing pro bono service at the level contemplated by the Judicial Conference’s standard of 50 hours annually. While the Committee’s efforts to inform law firms of the Conference’s standard may have contributed to the increase in pro bono awareness and performance, other factors likely have contributed as well – such as the “A-List” ranking of U.S. law firms published by American Lawyer. The A-List, initiated in September 2003, places significant weight on pro bono work and has encouraged law firms to reenergize their pro bono programs. Another factor likely contributing to the increase is the D.C. Bar’s Pro Bono Initiative, which, in 2001, saw 41 of the District’s largest law firms commit to providing pro bono legal services at specified levels (either 3 percent or 5 percent of total billable hours, or 60 or 100 hours for every lawyer in the firm), and to report their progress annually to the D.C. Bar Pro Bono Program. As of 2020, a total of 69 firms signed on to the D.C. Bar Pro Bono Initiative, now known as the Pro Bono Partnership (“PART”). And the Pro Bono Institute’s national activities, including its Law Firm Pro Bono Challenge®, may well have a positive effect in the District of Columbia. Another significant development came in

2011, when the Chief Judges of the District of Columbia Superior Court and Court of Appeals began inviting attorneys to self-report their pro bono contributions over the course of a calendar year as part of the Capital Pro Bono Honor Roll, described in Section IV.B below.

Responses to the Committee’s annual survey suggest that certain organizational and management factors within the reporting firms may have a role in increasing pro bono performance. The 36 firms responding to the 2020 survey at which more than 35 percent of the lawyers met the Judicial Conference 50-hour standard tended to have policies that promote pro bono work. Most (32) have written policies that express an “expected” number of pro bono hours to be contributed annually by one or more categories of their attorneys. Twenty-nine of the 36 also credited all pro bono hours toward minimum billable hours requirements for associates, if not for all attorneys, and treat pro bono hours the same as hours billed for work on behalf of paying clients. Thirty-four of the 36 top-performing firms have pro bono managers who handle pro bono matters full-time.

Firm policies are not always determinative of performance, however, as some firms that appear to have strong policies showed relatively low rates of pro bono performance, while several firms that lack core pro bono policies—such as written goals, billable hour credit for pro bono, or dispensing with creditable pro bono caps—nonetheless report significant numbers of lawyers performing a substantial amount of pro bono work.

#### **D. Identifying and Promoting Best Practices**

To further identify best practices in law firm pro bono programs, Judge Amy Berman Jackson, former judicial liaison to the Committee, convened breakfast meetings of the managing partners of law firms that the Committee’s surveys have shown to have high pro bono participation among their lawyers in 2018 and 2019. These meetings revealed that the

participating firms promote pro bono work by using a variety of methods that are tied to firm culture. Although each firm is different, common practices include internal recognition programs for individual lawyers with high pro bono hours; friendly competition for highest pro bono hours among practice groups and offices; a wide variety of pro bono opportunities for lawyers, including opportunities for transactional lawyers; and strong, visible, and persistent leadership by firm management and partners. The Committee plans to share what it has learned from these sessions at future meetings with representatives of other firms.

### **III. PRO BONO WORK IN FEDERAL GOVERNMENT AGENCIES**

#### **A. Overview**

The Federal Government Pro Bono Program continues to thrive and to involve more agencies and attorneys in the provision of legal assistance to low-income Americans. Even with the unique limitations imposed by the pandemic, during the reporting period, federal agencies have used new tools to encourage pro bono work and to facilitate their attorneys' involvement. Federal government attorneys are an important resource for the legal services community in D.C.

As early as the 1970's, efforts have been made to encourage federal government attorneys to engage in *pro bono* work. Perceived conflicts of interest and other obstacles have been slowly removed or refined by each Administration to facilitate attorneys' involvement in this professional duty. In 1996, this process culminated in the issuance of Executive Order 12988, which directed federal agencies to develop policies to encourage their employees to perform volunteer work, noting pro bono legal work by federal government attorneys specifically. The Order designated the Department of Justice to coordinate the government-wide effort. Over the next 25 years, the Program has grown to include a wide network of volunteers

around D.C. and branches in 6 additional cities: Chicago, New York City, Denver, Dallas, San Francisco, and Los Angeles.

The Standing Committee has made supporting federal agencies' efforts a priority. The biennial survey reminds agencies that the federal judiciary values their pro bono efforts and that reminder has a reliable impact. One agency, which had not had a pro bono coordinator since 2018, reacted to this year's survey by appointing a new coordinator who is actively promoting pro bono there again. The survey prompted another agency to improve its pro bono program by updating its pro bono policy and establishing a regional committee for its offices outside D.C. Survey responses from a number of agencies include aspirational goals to expand their programs by developing recognition programs and intranet sites. While gathering the important data discussed below, the Standing Committee's survey also serves to inspire agencies to do more.

In addition to conducting the biennial survey to track agency progress, the Standing Committee organizes a Federal Government Pro Bono Recognition Reception at the United States Courthouse every other year. Hosted by the Chief Judges of the D.C. Circuit and the U.S. District Court, the event brings together members of the federal judiciary, agency leadership, and representatives of the Interagency Pro Bono Working Group to encourage agency leaders to promote and support pro bono service among their attorneys and to recognize the government attorneys who are contributing their time and skills to help those in need.

The most recent reception, in 2019, featured remarks by Chief Judge Merrick Garland, Chief Judge Beryl Howell, and Judge Christopher Cooper. A highlight of the reception is the presentation of the John C. Cruden Federal Agency Pro Bono Leadership Award. In 2007, the Interagency Pro Bono Working Group, the steering committee of the Federal Government Pro Bono Program, created this award to recognize the federal agency that has demonstrated the

most significant growth in and commitment to encouraging and facilitating pro bono work among its employees over a 2-year period. In 2019, with a record number of nominations, the award was presented to the Federal Deposit Insurance Corporation (“FDIC”) by Chief Judge Howell. In her remarks, she noted that the FDIC had earned the honor for several reasons. First, as a founding member of the Interagency Pro Bono Working Group, the FDIC has consistently provided opportunities to its attorneys, including staffing the D.C. Bar Pro Bono Center Advice & Referral Clinic 4 times each year for over a decade, second only to the Department of Justice in its commitment. Second, the FDIC recently increased its pro bono programming by holding numerous in-house events and organizing opportunities for its attorneys to volunteer together. The agency hosted an agency-wide legal conference featuring pro bono work in a panel presentation, added a pro bono information session to its Honors Attorney Orientation, hosts a Pro Bono Open House during Government Pro Bono Week each year, and has created regional pro bono coordinators, making pro bono more available and accessible to FDIC attorneys around the country. In a cutting-edge policy change, the FDIC approved the use of training funds for pro bono training. No other agency has taken this step, putting the FDIC at the forefront of innovation. Finally, the FDIC’s leadership plays an active role in promoting pro bono, including authorizing the new policy changes, recognizing volunteers through agency communications, and becoming a signatory on a Department of Veterans Affairs pro bono initiative. The FDIC provides an ideal example for how agencies can promote and support pro bono work among their attorneys.

Over the last 2 years, federal government pro bono efforts in the District of Columbia have progressed well. New agencies have joined the Interagency Pro Bono Working Group and the Chair of the Federal Government Pro Bono Program has been approved to participate in

numerous community collaborations, including the D.C. Access to Justice Commission COVID-19 Task Force's subcommittee addressing a pro bono community response to the pandemic. Through the Federal Government Pro Bono Program, agencies offer more pro bono activities than ever before. For example, 31 federal agencies staffed the D.C. Bar Pro Bono Center's Advice & Referral Clinic in 2019, and 35 agencies were scheduled for 2020 (which was cut short when the clinic closed due to the pandemic). These are increases from the 29 agencies which staffed the clinic in 2018. Federal government attorneys staff the Clinic in both of its locations each month, maintaining the distinction that they are the largest source of the Clinic's volunteers. When the Advice & Referral Clinic reopened as a virtual program in October 2020, federal government attorneys filled many of the volunteer slots.

Federal government attorneys also accept more cases referred by the D.C. Bar Pro Bono Center's Advocacy & Justice Clinic than any single law firm, averaging approximately 50 cases over 5 clinic sessions each year. To meet the growing need during the pandemic, the Federal Government Pro Bono Program expanded its commitment to the Advocacy & Justice Clinic, staffing 6 sessions in 2020 and scheduling 6 sessions for 2021 as well. Federal government attorneys continued to staff the Whitman-Walker Future Planning Clinic in 2019 and 2020, assisting clients who need wills and powers of attorneys. They also take cases from many other legal services organizations, including the Legal Aid Society, the Children's Law Center, the D.C. Volunteer Lawyers Project, and the Neighborhood Legal Services Program, among others.

The Departments of Justice and Labor have also organized groups of attorneys and paralegals to staff the Washington Legal Clinic for the Homeless each month and each hosted the Street Law Pipeline Diversity Program in 2019 and 2020, teaching groups of students at Wakefield High School in Arlington, Virginia, and Rockville High School in Rockville,



Maryland, about legal issues and strategies, and bringing the students to the agencies for a day-long field trip in 2019. All of these programs transitioned into virtual opportunities in 2020, and federal government attorneys met these new challenges without hesitation.

## **B. Survey Response Summary**

In 2020, the Standing Committee surveyed federal agencies about their participation in and support for pro bono work. The Committee received responses from 79 percent of the agencies surveyed, with 44 agencies responding (56 agencies received the survey this year). The total number of responding agencies is higher than any previous year (for example, 33 agencies in 2012, 30 agencies in 2014, 36 agencies in 2016, and 41 agencies in 2019). A complete list of responding agencies is attached at Appendix B.

In a demonstration of the institutionalization of agency pro bono programs, all of the responding agencies reported that they have pro bono coordinators, are active members of the Interagency Pro Bono Working Group, chaired by the Department of Justice, and are aware of D.C. Court of Appeals Rule 49, which permits federal government attorneys who are not D.C. Bar members to provide legal services in D.C. Furthermore, all responding agencies report that they electronically share information about pro bono opportunities with their attorneys. These basic tools for encouraging pro bono activity show a solid foundation which has been developed over many years.

Ninety-one percent of responding agencies have written pro bono policies (40 agencies). This number is encouraging because, although the percentage of reporting agencies remains about the same, it shows an increase in the total number of agencies which have policies from 2018, when 38 agencies reported having written pro bono policies, and 2016, when 33 agencies reported having written policies. Only 25 percent of those policies make a specific numerical

recommendation about pro bono hours to their attorneys (11 agencies), which is a slightly higher percentage than in previous years (23 percent, 9 agencies, in 2018). The number remains low, which indicates that agencies are not emphasizing that issue in recently-developed policies.

Since 2018, the number of agencies that allow for administrative leave for pro bono activity has remained generally consistent. Administrative leave, or excused absence, allows employees to be out of the office without using vacation or sick leave. Thirty-one agencies or components of those agencies report allowing for administrative leave for pro bono work, plus one agency that allows for credit hours for pro bono work (73% of those agencies responding to the survey). Of those 31 agencies allowing for administrative leave, 21 agencies reported having formal written policies describing the circumstances under which administrative leave will be granted for volunteer or pro bono work specifically.<sup>8</sup>

Agency activity to promote pro bono work on a regular basis continues to increase. Twenty-five agencies reported that they have information about pro bono available on a website (80 percent) compared with 28 agencies in 2018. As noted earlier, 100 percent stated that they disseminate information about pro bono opportunities electronically (44 agencies), which is an increase in the number of agencies doing so (38 agencies in 2018). While only 23 percent of reporting agencies hold a recognition event for pro bono volunteers, 64 percent (28 agencies) organized or supported specific pro bono opportunities, such as the D.C. Bar Pro Bono Center's Advice & Referral Clinic or an onsite training with a legal services organization.<sup>9</sup>

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<sup>8</sup> Twenty-one agencies responding to this year's survey reported specific written policies. However, at least 25 agencies have written formal policies allowing for administrative leave for pro bono work. Because some agencies respond to the survey in one year but not another, the data collected each year can vary.

<sup>9</sup> Again, although only 28 agencies responding to the survey noted that they organize or support specific opportunities, 35 agencies were scheduled to staff the Advice & Referral Clinic in 2020, which represents a higher percentage of activity than the responding agencies reported. This

Federal agencies have begun expanding their pro bono programs beyond the District of Columbia as well. While the Federal Government Pro Bono Program has developed branches of the Program in other cities for many years, some agencies have independently set up internal regional committees and networks to promote pro bono work nationwide. Thirteen agencies reported creating committees and programming in regional offices. While this number seems low, many agencies do not have regional legal offices and that number represents a higher percentage of involvement than it would initially appear. Additionally, the pandemic has forced the Federal Government Pro Bono Program to shift to all-virtual programming this year. An unintended benefit of this change has been the ability to offer programming nationwide, drawing in attorneys from around the country who had never before had access to these events or information about pro bono opportunities.

Sixteen federal agencies have taken special steps to promote pro bono work in response to the pandemic. While most agencies responding to the survey indicated that they have publicized events and opportunities provided by the Federal Government Pro Bono Program to alert their attorneys to the rising need, these 16 agencies have taken additional action, such as hosting information sessions, appointing additional pro bono coordinators, asking attorneys to pledge more pro bono hours, or publicly signing on to the D.C. Access to Justice Commission's D.C. Represents campaign or internally setting goals recommended by D.C. Represents.

### **C. Examples of Agency Pro Bono Work in 2019 and 2020**

- **Agency leaders have actively participated in pro bono activities.** For example, the General Counsel of the Department of Energy co-counseled a family law case referred by the

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difference may be due to the fact that many agencies could not follow through on their commitment to the clinic when it closed from March through September due to the pandemic.

D.C. Bar Pro Bono Center with one of his attorneys; the Solicitor of Labor volunteered at the Washington Legal Clinic for the Homeless; 2 Principal Deputy General Counsels of the Department of Veterans Affairs and a Commissioner of the Federal Mine Safety and Health Review Commission volunteered at the Veterans Pro Bono Consortium Clinic; the Director, General Counsel and Legal Division Chief of Staff of the Consumer Financial Protection Bureau and the Director and Deputy Director of the Department of Justice Professional Responsibility Advisory Office volunteered at the D.C. Bar Pro Bono Center Advice & Referral Clinic; a Deputy General Counsel at the Office of the Comptroller of the Currency accepted a pro bono housing case and another Deputy General Counsel serves as a litigation mentor to OCC volunteers by offering moot courts for their pro bono cases; and the General Counsel of the Postal Regulatory Commission serves as the agency's pro bono representative on the Interagency Pro Bono Working Group.

- **The following agencies staffed the D.C. Bar Pro Bono Center's Advice & Referral Clinic in 2019 and/or were scheduled to volunteer in 2020:** the Consumer Financial Protection Bureau, the Board of Veterans' Appeals, the Central Intelligence Agency, the Commodity Futures Trading Commission, the Corporation for National and Community Service, the Department of Health and Human Services, the Department of Homeland Security, the Department of Housing and Urban Development, the Department of the Interior, Department of Justice, the Department of Labor, the Department of State, the Department of Transportation, the Department of the Treasury, the Department of Veterans Affairs, the Environmental Protection Agency, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Reserve Board, the Federal Trade Commission, the Food and Drug Administration, the

Internal Revenue Service, the National Labor Relations Board, the Office of the Director of National Intelligence, the Office of Special Counsel, the Pension Benefit Guaranty Corporation, the Office of the Comptroller of the Currency, the Postal Regulatory Commission, the Securities and Exchange Commission, the Small Business Administration, the Social Security Administration, the U.S. Agency for International Development, the U.S. Air Force, the U.S. Immigration and Customs Enforcement, the U.S. Postal Service, and the U.S. Secret Service.

- **Agencies held more information sessions than ever before in an effort to boost pro bono participation in response to the pandemic.** Agencies that held pro bono information sessions or trainings during the past 2 years include (with an asterisk noting those which have held virtual presentations during the pandemic): the Commodity Futures Trading Commission, the Central Intelligence Agency, Consumer Financial Protection Bureau,\* the Department of Commerce, the Department of Energy,\* the Department of Justice,\* the Department of Labor,\* the Department of Health and Human Services,\* the Department of Homeland Security, the Department of State, the Department of the Treasury,\* the Department of Veterans Affairs Office of the General Counsel,\* the Department of Veterans Affairs Office of the Inspector General,\* the Environmental Protection Agency,\* the Federal Deposit Insurance Corporation,\* the Federal Mine Safety and Health Review Commission,\* the Federal Reserve Board,\* the Federal Trade Commission,\* the Food and Drug Administration,\* the Internal Revenue Service,\* the National Labor Relations Board, the Office of Comptroller of the Currency,\* the Office of Special Counsel,\* the Small Business

Administration, the U.S. Customs and Border Patrol, the U.S. Immigration and Customs Enforcement,\* and the U.S. Patent and Trademark Office.<sup>10</sup>

- **Each year, the Federal Government Pro Bono Program hosts Government Pro Bono Week in October.** In 2019, events included an information session by the Department of Justice Pro Bono Program Manager at the Consumer Financial Protection Bureau, a pro bono wills training with the Neighborhood Legal Services Program at the U.S. Customs and Border Patrol, a Pro Bono Fair at the Department of Treasury, and the Federal Government Pro Bono Recognition Reception hosted by the D.C. Circuit Judicial Conference Standing Committee on Pro Bono Legal Services. In 2020, Government Pro Bono Week held virtual events, including 2 events available to any federal government attorney nationwide. The events included a Keynote Address by James Sandman, the Chair of the ABA COVID-19 Task Force, with opening remarks by the Director of the Consumer Financial Protection Bureau, which hosted the event; 2 panel presentations about remote volunteer opportunities, featuring legal services organizations in D.C. and a second session for organizations in Chicago; a pro bono wills training with the Neighborhood Legal Services Program; and an information session about taking pro bono cases presented by the Department of Justice Pro Bono Program Manager. The virtual setting produced record attendance for these events. As part of Government Pro Bono Week, representatives of government agencies also attend the D.C. Bar Pro Bono Center's PART Luncheon each year.
- **Notable efforts by individual agencies:**
  - The Department of Labor challenged its attorneys nationwide to pledge to do 10 more hours of pro bono work to meet the rising need from the pandemic. DOL's robust pro

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<sup>10</sup> Although they did not submit a survey response, the Library of Congress and the U.S. Secret Service also held information sessions for their attorneys.

bono program organized numerous activities and opportunities for involvement throughout 2019 and 2020.

- The Navy created an award to honor an attorney who has done extraordinary pro bono work.
- The Department of Transportation created a pro bono award, named after a recently-deceased employee who generously volunteered [his/her] time to pro bono work.
- The Social Security Administration has developed a monthly newsletter to spotlight pro bono activity by its attorneys.
- The Office of Comptroller of the Currency created a book club to discuss the book, Evicted, in conjunction with the Federal Government Pro Bono Program's organized tour of the exhibit about the book at the National Building Museum. The OCC also hosted a Source of Income Discrimination in Housing case training with the Neighborhood Legal Services Program of D.C.
- The Central Intelligence Agency hosted a pro bono wills training for its attorneys.
- The Department of Veterans Affairs initiated a pledge for federal agencies to commit to supporting pro bono efforts to aid veterans in 2018 (after the submission of that year's survey).
- The Internal Revenue Service launched a monthly newsletter to promote pro bono work in February 2020. To date, more than 120 attorneys and legal staff nationwide have signed up to receive it.

#### **D. Summary**

Under the leadership of the Department of Justice, the federal government continues to develop and support pro bono legal work by its attorneys. Each year, more agencies join the

Interagency Pro Bono Working Group, commit to staffing programs like the D.C. Bar Pro Bono Center's Advice & Referral Clinic, and hold events to promote pro bono work. These indicators show that number of federal government attorneys performing pro bono legal work in the District of Columbia is likely to continue to grow. In particular, with the firm foundation established at federal agencies, the Committee expects to see federal government attorneys rise to the challenge of the surging need created by the pandemic.

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

The District of Columbia's legal community has a long-standing culture of supporting pro bono service. Our legal services providers, voluntary bar associations, courts, law schools, and other institutions work in close collaboration to expand and encourage pro bono service. In this section, the Standing Committee highlights a few of the significant developments of the past 2 years.

##### **A. D.C. Access to Justice Commission**

The District of Columbia Access to Justice Commission ("the ATJ Commission") was created by the D.C. Court of Appeals in 2005 to help improve the ability of low- and moderate-income residents to access the civil justice system. The Commission has articulated 4 major goals, each relevant to the delivery of legal services in D.C.: to increase resources for civil legal services, to reduce barriers that prevent equal access to justice for D.C. residents, to advocate for increased pro bono work by local attorneys, and to improve the planning and coordination of legal services delivery for D.C. residents with lower incomes.

The Commission is chaired by noted anti-poverty advocate Professor Peter Edelman of the Georgetown University Law Center, the Vice-Chair is former Legal Services Corporation



President and former Chair of this Committee James Sandman, and it also includes over 20 leaders from the judiciary, legal services, academia, and the private bar. The Commission has achieved a wide range of successes in each of these areas. Regarding funding, the Commission has successfully sought increased local public funding for civil legal services. In the past decade, local public funding has risen from \$3.2 million in fiscal year 2007 to more than \$12 million in total D.C. Access to Justice Initiative funding in Fiscal Year 2021, including \$7.1 million to support the Access to Justice Grants Program (funding a broad range of civil justice projects), \$4.6 million to support the Civil Legal Counsel Projects Program (CLCPP), and \$300,000 to support the D.C. Poverty Lawyer Loan Repayment Assistance Program (or LRAP).

Notwithstanding this critically-important public funding, the legal needs of the D.C. client community still far exceed available resources, with a startlingly high percentage of unrepresented litigants in some of D.C. Superior Court's most high-volume courts. To meet the urgent need for increased funding for legal services, the Commission since 2010 has administered the *Raising the Bar in D.C. Campaign*, with the endorsement of the D.C. Bar Foundation and the D.C. Bar. The Campaign's goal is to substantially increase financial support for the District's legal services community by establishing benchmarks for law firm contributions. Those law firms that have donated at benchmark levels are celebrated annually. Benchmark levels are based on a percentage of revenue generated by firms' D.C. offices, thus making participation accessible to firms of any size. When the campaign was launched in 2010, 23 firms joined. Since then, the list of participants had more than doubled to 44 firms, which in 2019 together donated more than \$6.3 million to local legal services organizations, an aggregate increase of approximately \$3.2 million by all participating firms since joining the Campaign.

The Commission has also made significant progress on its substantive access-to-justice goals. For example, it has worked with the local courts on a wide range of improvements, with a particular emphasis on the high-volume courts. Through these efforts, there has been an expansion of the use of limited scope representation, a new housing conditions calendar at the D.C. Superior Court, and improvements in the Superior Court’s housing, debt collection, and foreclosure calendars.

In 2019, the Commission released *Delivering Justice*, a comprehensive report reviewing access to justice developments over the past decade.<sup>11</sup> For the future horizon, the Commission is pursuing a D.C. Justice For All effort – an initiative promoted by the National Center for State Courts. D.C. Justice for All builds on the extensive qualitative and quantitative research already compiled by the District’s access to justice stakeholders, including the 2019 *Delivering Justice* report, and will use existing research as a launching point for synthesized analysis. Informed by Commission and stakeholder input, the Justice For All study is ultimately designed to be used to prioritize activities for improving the ecosystem within which civil legal needs arise and are addressed, including solutions that leverage D.C.’s pro bono community.

In response to the immediate public health crisis and resulting financial hardship that followed the arrival of the COVID-19 pandemic in March 2020, the Commission, in concert with local civil justice leaders, created a COVID-19 Civil Justice Task Force to promote coordination, communication, and centralization among District stakeholders, including the courts, private bar, legal services providers, pro bono community, law schools, philanthropies, and other community organizations. The Task Force has 3 primary committees.

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<sup>11</sup> D.C. Access to Justice Commission, *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia* (2019), <https://dcaccesstojustice.org/reports>.

The first is tracking and identifying emerging legal needs arising out of COVID-19 and in turn, mobilizing pro bono, law school and other resources to meet those needs. The committee has launched a campaign called “D.C. Represents – Civil Justice for our Neighbors” that is designed to expand pro bono resources on behalf of District residents coping with COVID-19 and its consequences. To support this campaign, the committee has worked with stakeholders to improve the availability of information about pro bono training and opportunities on ProBono.net/DC, facilitated outreach to legal services providers to identify prevailing areas of need, developed a fact sheet capturing the increased need being experienced by the community in light of COVID, and designed a menu of options that law firms and other institutions can pursue to demonstrate their expanded commitment to pro bono.

A second committee has focused on information, materials, and communication. The goal of the committee is to ensure that the wide array of legal information being created and circulated concerning COVID-19 is both centralized and effectively distributed both within and outside the D.C. pro bono legal community. The committee has populated a central website to host client-directed information (LawHelp.org/DC) and a separate site targeted at pro bono attorneys (ProBono.net/DC). Both sites are managed by the D.C. Bar Pro Bono Center, in conjunction with other legal-services providers. The site has had multiple thousands of hits. Physical flyers in multiple languages (Spanish, French, Chinese and Amharic) were created and printed and are being placed in locations recommended by community participants.

The third committee is focused on courts and tribunal-related issues. In the ongoing conversations, the committee has been identifying ways the courts and legal services organizations can work together to best serve litigants, to address questions, and share information on both sides. The committee has provided feedback and recommendations to the

D.C. Courts and D.C. Office of Administrative Hearings in areas such as remote hearing best practices, the use of technology, more robust availability of interactive court forms, and the development of a series of remote court sites.

## **B. Capital Pro Bono Honor Roll**

As part of the 2011 National Celebration of Pro Bono, the D.C. Bar Pro Bono Center and the D.C. Access to Justice Commission helped the D.C. Courts establish the Capital Pro Bono Honor Roll, which annually recognizes the pro bono contributions of members of the D.C. Bar and others authorized to perform pro bono work in the District of Columbia. The Honor Roll, which is jointly sponsored by the District of Columbia Court of Appeals and the Superior Court of the District of Columbia, recognizes attorneys who provide 50 or more hours of pro bono services (or 100 or more hours of service for a higher recognition category termed the “High Honor Roll”) per year.<sup>12</sup> To be included in the Honor Roll, D.C. Bar members and others who are authorized to perform pro bono work in the District of Columbia submit online application forms on the Capital Pro Bono Honor Roll website. The applications include an attestation that the applicant has provided the requisite number of hours of pro bono work in the corresponding calendar year. A complete list of Capital Pro Bono Honor Roll honorees is featured on the District of Columbia Courts’ website.<sup>13</sup>

In its inaugural year (2011), over 3,000 D.C. Bar members and others authorized to perform pro bono work in the District reported providing over 50 or more hours of pro bono service; over 2,000 of those attorneys reported providing over 100 hours or more of service,

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<sup>12</sup> Rule 6.1 of the D.C. Rules of Professional Conduct calls on members of the D.C. Bar to provide 50 hours or more of pro bono service per year.

<sup>13</sup> District of Columbia Courts, Pro Bono Honor Roll, <https://www.dccourts.gov/about/pro-bono-honor-roll>.

thereby qualifying for the High Honor Roll. The 2011 Honor Roll included attorneys from over 80 D.C. law firms as well as other lawyers from all segments of the Bar. Since then, the participation rates have steadily risen. For the most recent year for which data is available, 2019, the Honor Roll of lawyers providing more than 50 hours included 4,977 D.C. Bar members, including 2,943 of these registrants on the High Honor Roll. This represents, in the aggregate for 2019, over 396,000 hours of pro bono service from attorneys representing 176 law firms and individual practices, as well as federal and local government agencies, corporations, associations, law schools and public interest organizations.<sup>14</sup>

### **C. The D.C. Bar Pro Bono Initiative**

In 2001, the D.C. Bar established its Pro Bono Initiative with the assistance of the Chief Judges of the District of Columbia Court of Appeals, the Superior Court of the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit, and the United States District Court for the District of Columbia. The Initiative, administered by the D.C. Bar Pro Bono Center, called on the largest law offices in the District to increase their pro bono legal services. In joining the Initiative, a firm agrees to: (1) set a minimum pro bono goal of either 3 percent or 5 percent of billable hours (approximately 60 hours or 100 hours per attorney, respectively); (2) use management techniques to attain or exceed its pro bono goals; (3) undertake new or increased pro bono activities; and (4) report its progress annually to the D.C. Bar Pro Bono Center. These standards were created by and are used with permission from the Pro Bono Institute and modeled on the Institute's Law Firm Pro Bono Challenge.<sup>®15</sup> In response,

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<sup>14</sup> D.C. Access to Justice Commission, Capital Pro Bono Honor Roll (2019), <https://dcaccesstojustice.org/pro-bono-honor-roll/>.

<sup>15</sup> Pro Bono Institute, What Counts? <http://www.probonoinst.org/resources/what-counts/>.

41 law firms made those commitments and agreed to report annually to the D.C. Bar Pro Bono Center on their progress toward these goals.

As of 2020, 69 firms are members of the D.C. Bar Pro Bono Initiative and 61 of those firms responded, at least in part, to a survey regarding their 2019 pro bono activities.<sup>16</sup> Combined, the 61 reporting firms' D.C. offices contributed 979,280 hours of pro bono service in 2019, the highest number of hours in the history of the survey. The 61 firms<sup>17</sup> that responded in 2019 reported a 1 percent increase in the number of total pro bono hours between 2018 and 2019 – from 967,626 to 979,280 hours – even though 2 fewer firms reported in 2019. Approximately 83 percent of attorneys in the 61 reporting firms (or 9,091 attorneys) participated in pro bono work in 2019, an increase of 2 percentage points from attorney participation in 2018. The firms also collectively reported a slight increase in the number of attorneys in their D.C. offices, from 10,891 attorneys in 2018 to 10,933 attorneys in 2019. The average number of pro bono hours per attorney at the 61 firms also increased slightly – from 89 in 2018 to 90 in 2019, matching 2017 for the highest average number of hours reported.

#### **D. Limited-Scope Working Group**

The ATJ Commission and the D.C. Bar Pro Bono Committee formed the Limited-Scope Working Group in May 2012 to develop recommendations to institutionalize the practice of limited-scope representation in the local District of Columbia courts. The recommendations aimed to provide low, limited, and moderate means individuals with greater access to counsel

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<sup>16</sup> Some firms have policies against providing information on their number of billable hours. Not all firms responded to all questions.

<sup>17</sup> To compare year-to-year data accurately, only firms that responded in both the current and the previous year are included.

when they need it most. A report including the recommendations was then submitted to the Chief Judges of the D.C. Court of Appeals and D.C. Superior Court.

As an interim measure in June 2014, the D.C. Superior Court issued an administrative order permitting attorneys to enter a limited appearance when representing paid or pro bono clients in the Civil Division, Probate Division, Tax Division, Family Court, and Domestic Violence Unit of Superior Court. The order did not allow limited-scope representation in jury trials.

In November 2018, the D.C. Court of Appeals issued an order amending Rule 1.2 of the D.C. Rules of Professional Conduct governing scope of representation, effective January 1, 2019. Under revised Rule 1.2(c), a lawyer may limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent. The Court also adopted a new Comment 6 to the revised rule, which states in part that “in all matters involving limited scope representation, it is generally prudent for a lawyer to state in writing any limitation on representation, provide the client with a written summary of considerations discussed, and to receive a written informed consent from the client to the lawyer’s limited representation.”

#### **E. Amendments to D.C. Court of Appeals Rule 49**

District of Columbia Court of Appeals Rule 49 governs the unauthorized practice of law in the District. The Court of Appeals has recently enacted several amendments to the rule that were designed to increase the number of attorneys practicing in D.C. who are permitted to do pro bono work. The following is a summary of these amendments.

In 2014, the Court issued an order amending Rule 49 to allow in-house counsel in Washington who are not members of the D.C. Bar to perform pro bono work under the supervision of an active member of the D.C. Bar. In its commentary, the Court recognized “the

increased need for attorneys to serve as pro bono counsel.” The rule mirrored a similar pro bono exception for attorneys working for the federal government who are not D.C. Bar members. The amended rule became effective on September 1, 2014.

In early 2016, the D.C. Bar Pro Bono Committee and the Access to Justice Commission submitted recommendations to the D.C. Court of Appeals’ Committee on the Unauthorized Practice of Law to further amend Rule 49 to expand the pool of lawyers allowed to perform pro bono work in the District. Both proposals urged amending the rule to permit members of the bars of other states but not members of the D.C. Bar to do pro bono work in the District under the same conditions that federal government lawyers and internal counsel are permitted. The Pro Bono Committee and the Access to Justice Commission proposed slightly different rules for attorneys employed by the Public Defender Service (PDS) or D.C. nonprofit legal services organizations who are not yet admitted to the D.C. Bar, recommending that they should apply to the D.C. Bar within 90 days of commencing practice in the District.

On November 1, 2018, the District of Columbia Court of Appeals issued an order amending Rule 49(c)(9), by and large following the recommendations of the Commission and the Committee. These amendments, which became effective January 1, 2019, expanded the pool of attorneys eligible to perform pro bono work by allowing active, inactive or retired out-of-state attorneys, or retired D.C. Bar members attorneys to do pro bono work in the District (mirroring current provisions for inactive D.C. Bar members). Importantly, retired Federal government attorneys barred in other jurisdictions (of whom there are many in the D.C. area) can thus provide pro bono service in the District as long as they are affiliated with a local pro bono legal services provider.



The amended rule also applies to employees of the Public Defender Service for the District of Columbia or D.C. legal services nonprofits who are members of the bars of other states. If these employees apply to the D.C. Bar within 90 days after starting practice in D.C., they may continue to practice (under certain conditions) until their D.C. Bar application has been either approved or denied. The amended Rule 49 also allows law school graduates employed by or affiliated with the Public Defender Service or a non-profit, who are not barred in any jurisdiction, to practice under certain conditions while their D.C. Bar application is pending. “Subsection (c)(9) is intended to increase access to justice in the District of Columbia for those unable to afford an attorney by providing an exception to the requirement of admission to the D.C. Bar for lawyers licensed in other jurisdictions (or law school graduates who are awaiting their bar results) to provide pro bono representation, where the requirements of the exception are met,” the Court said in its order.

Most recently, in response to the COVID-19 pandemic and its effects on applicants for admission to the Bar, on September 25, 2020, the D.C. Court of Appeals issued an order amending D.C. App. Rule 49 allowing 2019 and 2020 law graduates to practice law in the District of Columbia on a temporary basis upon satisfying a number of conditions, including completing an application for the bar exam.<sup>18</sup> The authorization ends when the graduate no longer meets all of the conditions, is admitted to the D.C. Bar, or after the application deadline for the next in-person bar exam (unless the person has submitted an application for that exam).

The second part of the September 2020 order amends D.C. App. Rule 46 by waiving the bar exam and allowing admission to the Bar of 2019 or 2020 graduates of an ABA-approved law school upon a showing of extraordinary circumstances related to the pandemic and upon

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<sup>18</sup> Order, No. M269-20 (D.C. Sept. 24, 2020), [https://www.dccourts.gov/sites/default/files/2020-09/ORD\\_269-20.pdf](https://www.dccourts.gov/sites/default/files/2020-09/ORD_269-20.pdf).

satisfaction of several other requirements, including practicing under the direct supervision of an active member of the D.C. Bar for 3 years. The supervisor may work “for a non-profit organization in the District of Columbia that provides legal services to people of limited means at no charge or for a limited processing fee.”

While the Court’s order may allow recent graduates to begin their practice with legal services providers sooner than they otherwise would, given the conditions they must meet to engage in practice under either the temporary practice or waiver provision, the Committee is not optimistic that the emergency order will increase the level of legal services available to D.C.’s low-income population.

#### **V. THE DANIEL M. GRIBBON PRO BONO ADVOCACY AWARD**

The Daniel M. Gribbon Pro Bono Advocacy Award 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 manages the nomination process for the award on behalf of the District Court.

Mr. Gribbon, who died in 2005, practiced law for more than 50 years with Covington & Burling LLP, where he was instrumental in establishing many pro bono initiatives. The family and friends of Mr. Gribbon 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, now made biennially and presented at the Circuit Judicial Conference, 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.

The Standing Committee uses many methods each year to publicize the award and to solicit nominations from the pro bono community. The qualifying nominations are assembled by the Standing Committee and presented to the Chief Judge of the District Court, who selects and notifies the winner.

The Daniel M. Gribbon Pro Bono Advocacy Award was last presented at the 2019 Judicial Conference. The recipients were a team of lawyers from Miller & Chevalier, including Homer E. Moyer, Jr., Brian, A. Hill, Ann Sultan, and Aiysha S. Hussain, for their longtime representation of U.S. Army veteran George Melvin Jenkins. The U.S. Army court-martialed Jenkins in 1982 for stealing government property, but Jenkins had consistently maintained his innocence. Jenkins's conviction was set aside 5 years later, but Jenkins was ineligible for benefits because of his dishonorable discharge. The Miller & Chevalier lawyers filed 3 applications for relief at the Army Board for Correction of Military Records and a complaint in the United States District Court on behalf of Jenkins. As a result of their advocacy, the Army amended Jenkins's status to reflect an honorable discharge, restoring Jenkins's eligibility to the veterans' benefits he had earned. The Miller & Chevalier lawyers showed exceptional dedication in pursuit of a just result for their client, in the finest traditions of the Gribbon Award.

## **VI. CONCLUSION**

The Standing Committee is particularly grateful to Chief Judges Sri Srinivasan and Beryl Howell for their support, enthusiasm, and dedication to increasing pro bono work among our Bar members. In 2019, we bade farewell to Judge Amy Berman Jackson as the judicial liaison for the Standing Committee after five outstanding years of service. The Committee is indebted to Judge Jackson for her encouragement, diplomacy, and wise counsel. Judge Christopher R. Cooper has now assumed the liaison role. The Committee is thankful for

Judge Cooper’s leadership, wise counsel, thoughtfulness, energy, and avid participation in our work. We thank Judge Cooper and the other Judges of the Court of Appeals and the District Court for their sincere encouragement of pro bono service and commitment to access to justice – a commitment that sets the Bar in the District of Columbia apart from those across the country.

The Standing Committee intends to continue its efforts in each of the areas described in this report, and to pursue new ways of increasing and improving the effectiveness of pro bono legal services in the District of Columbia.

We welcome comments on this report, as well as suggestions for areas to which the Committee could turn its attention.

Respectfully submitted,

The Standing Committee on  
Pro Bono Legal Services

Brigida Benitez  
Tianna Gibbs  
Theodore A. Howard  
Laura Friedman Klein  
Ariel B. Levinson-Waldman  
Eve Runyon  
Michael F. Williams

Ex Officio:  
Michelle L. Coleman  
Carolyn Lerner  
Rebecca Troth

Chair:  
Eric Angel

# **Appendix A**

RESOLUTION ADOPTED JUNE  
9, 2010, BY THE JUDICIAL  
CONFERENCE  
OF THE DISTRICT OF COLUMBIA  
CIRCUIT

ON

PRO BONO LEGAL  
SERVICES  
BY MEMBERS OF THE BAR OF THE FEDERAL  
COURTS OF THE DISTRICT OF COLUMBIA

Whereas this Judicial Conference and the Judicial Conference of the District of Columbia have traditionally and consistently encouraged members of the bar to provide *pro bono* legal services to the economically disadvantaged, as reflected in this Conference's 1981 Resolution setting a recommended standard for *pro bono* service that was updated in 1998; and

Whereas Rule 6.1 of the District of Columbia Rules of Professional Conduct, including the official comments thereto referencing the 1998 Resolution of this. Judicial Conference, and Rule 6.1 of the American Bar Association's Model Rules of Professional Conduct, both have recognized the professional duty of lawyers to devote their own time to providing *pro bono* legal representation for the disadvantaged; and

Whereas a persistent crisis exists in the delivery of legal services to the economically disadvantaged, as demonstrated by studies of communities throughout the United States showing that less than 20 percent of the legal needs of such persons are being met; and

Whereas the District of Columbia had nearly 20 percent of its population with incomes below the federal poverty line in 2006 and the highest percentage of children under 18 living below the poverty level of any state in the country, with recent reports indicating no decrease in that poverty rate; and

Whereas the inability of economically disadvantaged persons to obtain counsel impedes access to the federal courts and leads to increases in pro se filings, with attendant burdens on the courts and on the administration of justice; and

Whereas the number of prose filings in the United States District Court for the District of Columbia is substantial, exceeding 850 cases per year in every year since 2005 and constituting 35 percent of the civil docket filings in 2009; and

Whereas government and private funding for legal services provided in the District of Columbia, including Legal Service Corporation grants, IOLTA funds, local appropriations, foundation grant and corporate contributions are necessary but not sufficient to meet the needs of these programs; and

Whereas a 2008 Report of the District of Columbia Access to Justice Commission, *Justice for All? An Examination of the Civil Legal Needs of the District of Columbia's Low-*

*income Community*, recommends that funding for civil legal services be substantially increased and that use of *pro bono* lawyers be expanded; and

Whereas on June 19, 2007, the Chief Judges of the United States Court of Appeals for the District of Columbia Circuit and the United States District Court for the District of Columbia, together with the Chief Judges of the District of Columbia Court of Appeals and the District of Columbia Superior Court, the District of Columbia Bar, and the District of Columbia Access to Justice Commission convened a breakfast meeting of managing partners of the District's largest law firms to enlist their firms' participation in the D.C. Bar Pro Bono Initiative, in which participating firms agree to devote either 3% or 5% of client hours to *pro bono* work and to take on specific new *pro bono* projects; and

Whereas government attorneys have been encouraged to expand their *pro bono* participation through the leadership of the Interagency Pro Bono Working Group and facilitated by Executive Orders 12988 and 13401 with more than 20 departments and agencies having adopted *pro bono* policy statements and established *pro bono* programs; and

Whereas on June 19, 2009, the Judicial Conference of the District of Columbia adopted a resolution reaffirming and updating the recommended standard for *pro bono* service by lawyers admitted to practice in the District of Columbia so as to increase the recommended financial contribution to legal services providers by lawyers for whom personal *pro bono* representation is not feasible; and

Whereas attorneys who are members of the Judicial Conference of the District of Columbia Circuit have traditionally been among the leaders of the bar in supporting the efforts of legal service provider organizations to meet the legal needs of the economically disadvantaged members of our community who are otherwise unable to afford legal representation;

THEREFORE, BE IT RESOLVED, that the Judicial Conference of the District of Columbia Circuit:

1. Commends the Judges of the federal and local courts in the District of Columbia for their efforts to promote *pro bono* work among the private bar and federal government attorneys to address the need for legal services for the economically disadvantaged; and

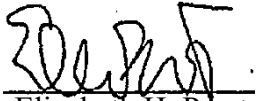
2. Commends the Attorney General of the United States, the Interagency Pro Bono Working Group led by the Department of Justice, and all of the many departments and agencies that have issued policies encouraging and facilitating *pro bono* service by all attorneys and that are providing such service on a regular basis; and

3. Reaffirms and updates the recommended standard for *pro bono* service adopted by this Conference in 1981 and updated in 1998, so as to now provide as follows:

Every lawyer admitted to practice in the Federal Courts of the District of Columbia should each year, at a minimum, undertake to fulfill his or her responsibility under Rule 6.1 of the District of Columbia Rules of Professional Conduct, by:

- (1) accepting one court appointment to provide *pro bono* representation for an indigent or disadvantaged client; or
- (2) providing 50 hours of *pro bono* legal service in his or her field of practice or through other *pro bono* cases or programs; or
- (3) contributing the lesser of 1% of earned income or \$750 to the funding of one or more legal service provider organizations which serve the economically disadvantaged members of the District of Columbia community.

ATTEST:



Elizabeth H. Paret, Secretary

Judicial Conference of the District of Columbia Circuit



# **Appendix B**

**Federal Agency Survey Responses\***

Central Intelligence Agency  
Commodity Futures Trading Commission  
Consumer Financial Protection Bureau  
Department of Commerce  
Department of Defense  
Department of Education  
Department of Energy  
Department of Health and Human Services  
Department of Homeland Security  
Department of Housing and Urban Development  
Department of the Interior  
Department of Justice  
Department of Labor  
Department of State  
Department of Transportation  
Department of the Treasury  
Department of Veterans Affairs Office of the General Counsel  
Department of Veterans Affairs Office of the Inspector General  
Environmental Protection Agency  
Export-Import Bank of the United States  
Federal Communications Commission  
Federal Deposit Insurance Corporation  
Federal Election Commission  
Federal Emergency Management Agency  
Federal Energy Regulatory Commission  
Federal Mine Safety and Health Review Commission  
Federal Reserve Board  
Federal Trade Commission  
General Services Administration  
Internal Revenue Service  
Merit Systems Protection Board  
National Aeronautics and Space Administration  
National Labor Relations Board  
Office of Comptroller of the Currency  
Office of Government Ethics  
Office of Special Counsel  
Pension Benefit Guaranty Corporation  
Postal Regulatory Commission  
Securities and Exchange Commission  
Small Business Administration  
Social Security Administration  
U.S Citizenship and Immigration Services  
U.S. Customs and Board Patrol  
U.S. Navy

\* Some agencies responded more than once because different offices or components of the agency have their own pro bono policies and pro bono coordinators which are independent of each other.

# **Appendix C**

## Pro Bono at Your Law Firm

**For purposes of this survey, “pro bono legal work” is defined in accordance with the generally accepted definition established by the Pro Bono Institute. Please include data for “senior counsel,” “special counsel,” etc. within the “counsel” category for all responses. Please include data for staff attorneys within the “associates” category for all responses.**

### 1. Firm Information

Contact's name

Firm name

Contact's e-mail address

Contact's phone number

### 2. Size of D.C. Office as of December 31, 2018 (based on headcount, *not* FTE):

Number of partners:

Number of counsel:

Number of associates:

### 3. Does your firm have a written pro bono policy?

Yes

No

**4. If your firm has a written or stated policy concerning provision of pro bono legal services, does that policy mandate or suggest the number of pro bono hours to be contributed annually by each attorney?**

	Yes	No
For associates?	<input type="radio"/>	<input type="radio"/>
For counsel	<input type="radio"/>	<input type="radio"/>
For partners?	<input type="radio"/>	<input type="radio"/>

If you wish, you can explain your pro bono hours policy here:

**5. If yes for the question above, how many hours is the stated goal?**

For associates:

For counsel:

For partners:

**6. Does your firm provide billable hour credit or the equivalent for pro bono work?**

	Yes	No
For associates?	<input type="radio"/>	<input type="radio"/>
For counsel?	<input type="radio"/>	<input type="radio"/>
For partners?	<input type="radio"/>	<input type="radio"/>

If no to any of the above, please explain:

**7. If so, are all pro bono hours credited the same as hours for commercial clients?**

	Yes	No
For associates:	<input type="radio"/>	<input type="radio"/>
For counsel:	<input type="radio"/>	<input type="radio"/>
For partners:	<input type="radio"/>	<input type="radio"/>

If no to any of the above, please explain:

**8. Does your firm have a maximum number of pro bono hours for which associates can receive billable hours credit per year?**

- Yes
- No
- If yes, number of hours per year?

**9. Does your firm have a maximum number of pro bono hours for which counsel can receive billable hours credit per year?**

- Yes
- No
- If yes, number of hours per year?

10. Does your firm have a maximum number of pro bono hours for which partners can receive billable hours credit per year?

- Yes
- No
- If yes, number of hours per year?

11. Are the hours an associate spends on pro bono work compensated through the firm's bonus policy?

- Yes
- No
- Not applicable

12. If so, is there a limit on the number of pro bono hours that count toward a bonus?

Yes

No

Not applicable

13. Looking at each individual attorney (partner, counsel, associate, etc.) in **the D.C. office** of your firm, and not aggregating or averaging hours across the firm, how many attorneys in your **D.C. office** individually performed 50 or more hours of **pro bono legal work** during 2018?

Number of **D.C.-based partners** who performed 50 or more hours of pro bono legal work in 2018:

Number of **D.C.-based counsel** who performed 50 or more hours of pro bono legal work in 2018:

Number of **D.C.-based associates** who performed 50 or more hours of pro bono legal work in 2018:



## Pro Bono at Your Law Firm

Please check the appropriate items (14-19 below), that best describe the coordination and management of your pro bono program.

14. Our pro bono program is coordinated and managed by a:

- full-time person
- part-time person

15. Who is an:

- attorney
- non-attorney

16. Who is a:

- partner
- counsel
- other (please specify)

17. Who handles:

- Other legal/administrative responsibilities
- Only pro bono program duties

18. If none of the categories in Questions 14-17 applies to the pro bono staffing at your firm, please describe your staffing below:

19. Has the number of individuals or the category of professional coordinating your program changed during the past two years?

- Yes
- No

If so, please describe the change in pro bono staffing:

20. Does your firm publicize internally the Capital Pro Bono Honor Roll sponsored by the District of Columbia Court of Appeals and the Superior Court of the District of Columbia, which recognizes attorneys who provide 50 or more hours of pro bono service (or 100 or more for a higher recognition category)?

Yes

No

21. Does your firm publicize internally the 50 pro bono hour standard incorporated in D.C. Rule of Professional Responsibility §6.1 and the recommendation that those who do not meet this standard contribute at least \$750 to legal service providers or accept an appointed case for an indigent or disadvantaged client?

Yes

No

22. Does your firm encourage attorneys who do not meet the 50 hour standard to contribute at least \$750 to legal service providers?

Yes

No

23. Does your firm monitor the number of attorneys who accept a court-appointed case for an indigent or disadvantaged client?

Yes

No

If yes, how many individual attorneys in your D.C. office took a court-appointed case in 2018 for an indigent or disadvantaged client?

Thank You

**Thanks for taking the survey of Law Firm Policies and Activities Implementing the  
D.C. Circuit Judicial Conference Pro Bono Service Standard.**

**If you have any questions, please contact: Brigida Benitez at [bbenitez@step toe.com](mailto:bbenitez@step toe.com)**

# **Appendix D**

**D.C. CIRCUIT JUDICIAL CONFERENCE  
STANDING COMMITTEE ON PRO BONO LEGAL SERVICES  
40 @ 50 SURVEY**

Firms Meeting 40 @ 50 in 2018 (recognized in 2019)

**Akin Gump Strauss Hauer & Feld LLP\***  
Alston & Bird  
**Arnold & Porter\***  
Buckley LLP  
**Covington & Burling LLP\***  
Crowell & Moring LLP\*  
Debevoise & Plimpton LLP\*  
DLA Piper  
Foley & Lardner\*  
**Foley Hoag LLP\***  
Fried, Frank, Harris, Shriver & Jacobson LLP  
Gibson, Dunn & Crutcher LLP  
Hogan Lovells US LLP  
Hughes Hubbard & Reed LLP  
**Jenner & Block LLP\*\*+**  
Jones Day\*  
Kirkland & Ellis  
McDermott Will & Emery LLP  
**Miller & Chevalier Chartered\*\*+**  
O'Melveny & Myers LLP\*  
**Orrick, Herrington & Sutcliffe LLP**  
Paul Hastings  
Paul Weiss Rifkind Wharton & Garrison  
**Perkins Coie LLP\*\*+**  
Ropes & Gray LLP\*\*+  
Shearman & Sterling\*  
Sidley Austin LLP  
Skadden Arps Slate Meagher & Flom LLP\*\*+  
Steptoe & Johnson LLP  
Sullivan & Cromwell LLP  
Williams & Connolly LLP  
Wilmer Cutler Pickering Hale and Dorr LLP\*  
Winston & Strawn\*

\*– Signifies 50% at 50 hours

+ – Signifies 60% at 50 hours

**Bold** – Signifies 40% of Partners at 50 hours