

Pro Bono:

Looking Back, Moving Forward



**Prepared for the Florida Supreme Court/The Florida Bar's
Standing Committee on Pro Bono Legal Service**

by

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September 2008

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PREFACE

In 1993, when the Florida Supreme Court adopted Florida's pro bono plan as provided in rules 4-6.1 and 4-6.5, Rules Regulating the Florida Bar, the Court created the Standing Committee on Pro Bono Legal Service. In Re Amendments to Rules Regulating the Florida Bar – 1.3.1(a) and Rules of Judicial Administration – 2.065 (Legal Aid), 630 So. 2d 501 (Fla. 1993). The Court gave the Standing Committee the responsibility, among other things, to report annually to the Court, the Bar and the Florida Bar Foundation “as to the activities and results of the pro bono plans,” and to present any suggested changes or modifications to the pro bono rules. Rule 4-6.5(b)(2)(C) and (D), Rules Regulating the Florida Bar.

As part of its responsibility, the Standing Committee reviews, analyzes and reports on data concerning pro bono legal services provided by pro bono committees in each judicial circuit, by legal aid and volunteer bar associations that sponsor pro bono programs, and by the pro bono reports submitted by members of the Florida Bar pursuant to rule 4-6.1(d). Through the 1990s, the Bar focused attention on the new pro bono plan, and local legal aid organizations and volunteer bar associations established or expanded existing pro bono programs. The Florida Bar received national recognition for the pro bono plan and Florida lawyers responded. During this time, the reported data showed an increase in the number of Florida lawyers providing pro bono legal services and in the hours of service provided.

Beginning in approximately 2001, however, the data began to indicate that the percentage of Florida lawyers who provided pro bono legal services was, at best, stagnant. At the same time, most legal aid and voluntary bar association pro bono programs began to report declines in the number of lawyers providing pro bono legal service through those programs and in the hours of services provided.

While the Standing Committee recognized the great contribution made by the 52 percent of Florida lawyers who provide pro bono legal services and the lawyers who make monetary contributions to legal services programs, the committee discussed the stagnating pro bono participation with Bar leaders and the declining participation with the pro bono coordinators of the various pro bono programs. Although many theories were expressed to explain the stagnation and decline in pro bono legal services, no consensus was reached as to the causes of the decline. Case-by-case attempts to revitalize pro bono programs have been generally unsuccessful.

After concluding that the causes for the stagnation and decline were likely complex, the Standing Committee determined that a systematic study of the entire pro bono system in Florida was necessary. Accordingly, a special subcommittee was formed to examine the issue and make recommendations. As a result of its meetings and deliberations, this subcommittee recommended commissioning a comprehensive professional study of the various components of the Florida pro bono system to discover the reasons for the decline in pro bono legal services and to develop strategies to increase pro bono legal services.

Based on the subcommittee's recommendation, and utilizing a grant from the Florida Bar Foundation, the Standing Committee retained Kelly Carmody & Associates to undertake such a study. Conducted over a period of several months, the Carmody study includes surveys and interviews of Florida lawyers and the various partners involved in Florida's pro bono programs. Upon completion of the study, the special subcommittee reviewed the Carmody Report and

submitted it to the Standing Committee. The Standing Committee approved the Carmody Report at its meeting on September 22, 2008.

While the Standing Committee will submit the Carmody Report to the Court, the Bar and the Foundation, its work will continue. Based upon its analysis of the Report's detailed findings and recommendations directed to all partners in Florida's legal community, the Standing Committee will develop specific strategies and priorities to implement the Report's recommendations. Finally, using the Report as its foundation for action, the Committee will work with the Bench, Bar and local pro bono programs to take appropriate action to generate increased enthusiasm for pro bono legal service and to move Florida closer to achieving the goal of equal justice for all. We are confident that Florida's legal community will join together to meet this challenge.

We would like to give special thanks to the Florida Bar Foundation for its grant and continuing support of pro bono legal services, to Kelly Carmody for her vision and diligence, and to James A. Baxter, the immediate past chair of the Standing Committee, for his effective leadership in this effort.

Judge James M. Barton, II,
Chair, Standing Committee on
Pro Bono Legal Services

Judge William A. Van Nortwick, Jr.
Chair, Special Subcommittee to Study
Pro Bono Legal Services

***Carmody and Associates** is led by Kelly Carmody, a national consultant to civil legal aid funders and providers who has more than 27 years of experience working with the civil justice system. Ms. Carmody has a M.S.W. from the University of Kentucky and a J.D. from Georgetown University Law Center. Robert Gross, the supporting author and editor of this Report, received his J.D. from Case Western Reserve University and has worked with the civil justice system for 36 years.*

While the Legal Services Director of the Arizona Bar Foundation, Ms. Carmody was instrumental in facilitating and funding significant expansion of the civil legal aid pro bono organizations in Arizona. Her national activities to increase pro bono legal services include twice co-chairing the Equal Justice Conference, the premier pro bono conference, sponsored by the American Bar Association and the National Legal Aid and Defender Association.

*Carmody and Associates has also been a leader in efforts across the country to improve the recruitment and retention of civil legal aid attorneys. A recent report by the firm—*Quest for the Best: Attorney Recruitment and Retention Challenges for Florida Civil Legal Aid*—resulted in significant improvements to the Florida civil legal aid delivery system.*

Carmody and Associates' other areas of experience and expertise include organizational assessment, delivery system improvements, strategic planning, and IOLTA revenue enhancement.

Pro Bono Legal Services at a Crossroads

A Challenge for Florida's Legal Community to Assure Equal Justice for the Poor

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Many thanks to the staff of the pro bono programs in the Study, and the thousands of attorneys who completed the Study's survey and the dozens who were interviewed. This Report would not have been possible without their participation.

The Standing Committee's Subcommittee on Pro Bono Participation Study

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EXECUTIVE SUMMARY

“Once you do one of these cases, you never have to be convinced to take another.”

That is how one Florida attorney feels about pro bono legal services for the poor. ***“I’m pulling my hair out trying to keep up with my family and practice.”*** That’s another Florida attorney’s reaction to the thought of adding pro bono legal services to her plate. These two different statements represent the views of many of Florida’s attorneys revealed during this Study conducted to understand why pro bono legal services for the poor in Florida has stagnated generally and declined in pro bono programs. They reflect, in the first instance, the passion many attorneys who provide pro bono legal services feel and, in the second, insight into one of the primary reasons others do not provide pro bono legal services—too many commitments with too little time.

Many Attorneys Are Passionate about Providing Pro Bono Legal Services

The first attorney quoted above is one of thousands who provide pro bono legal services every day in Florida. When asked why they do it, attorneys give three primary reasons: personal satisfaction, professional responsibility and recognition of the legal needs of the poor. They describe the clients they help—those escaping an abusive relationship or those who have been defrauded of their money or those who are at risk of losing their home—and they describe the feeling they get when they make a difference in their clients’ lives. The often-repeated phrase

used by these attorneys is, *“I get more out of it than I give.”*

Primary reasons Florida attorneys provide pro bono legal services

- *Personal satisfaction*
- *Professional responsibility*
- *Recognize legal needs of the poor*

They understand that the poor have great unmet legal needs. A recent national study found that for every poor individual who received legal assistance, another was turned away because of

lack of resources.¹ Florida’s legal needs are likely no different.²

Yet, only half of Florida’s attorneys report that they are providing pro bono legal services.

Pro Bono Legal Services Has Stagnated Overall and Declined in Pro Bono Programs

Florida’s *Rules of Professional Conduct* for attorneys have an aspirational goal that each attorney annually provide 20 hours of pro bono legal services for the poor or contribute \$350 to a legal aid organization in lieu of service. Attorneys are to report their pro bono legal services to The Florida Bar. Of the in-state attorneys who completed the report in 2000 and 2006, the percentage reporting pro bono legal services was stagnant at 52 percent. During the same time period, the Florida pro bono programs for the poor reported a 30 percent decline in the number of attorneys who provided pro bono legal services through the programs.

¹ *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, Legal Services Corporation, June 2007.

² Nearly every state or local legal needs study conducted in the past ten years shows similar large gaps. Florida’s large unmet need for legal service to the poor has been noted by the Florida Supreme Court. *Amendments to Rules Regulating The Florida Bar-1-3(a) and Rules of Judicial Administration* 2.065 (Legal Aid), 630 So. 2d 501, 504 (Fla. 1993)

Factors that have contributed to the overall stagnation of pro bono legal services in Florida were explored in surveys and interviews of attorneys who do and do not provide pro bono legal services. Lack of time is the number one factor. This lack of time is associated with work commitments—including billing requirements—or family commitments, or both. Another primary factor is that many attorneys feel they lack the skills and/or experience necessary to competently represent poor individuals in the legal areas needed.

Some of these factors reflect societal trends, such as an increasing number of working women who are mothers or caretakers of aging parents, and males participating more in child-rearing. Other factors reflect changes in the profession of law such as an increase in specialization, a move away from law as a profession to law as a business, and an increased emphasis on billable hours.

Primary reasons Florida attorneys do not provide pro bono legal services

- *Lack of time*
- *Family obligations*
- *Lack of skills/experience in the needed areas*
- *Perform other community service*
- *Billable hour requirements*
- *Not clear government attorneys can do so*

Many attorneys prefer to volunteer their time to various civic and charitable organizations in a non-legal capacity. Some government attorneys believe they are not allowed or encouraged to provide pro bono legal services or do not feel it is necessary because they already work for the “public” at a comparable lower salary than other attorneys.

The factors contributing to the decline in pro bono through organized programs include those described above, but also include such things as attorneys not being asked for their service, a lack of pro bono opportunities that interest them, and a lack of commitment to pro bono legal services by the management or staff of the programs, in some cases.

Recommendations for the Florida Legal Community to Meet the Challenge

Many institutions and individuals in Florida’s legal community play important roles in Florida’s pro bono system and make significant contributions to the effort to provide access to justice for all. These include the institutions of and the individuals within the Florida Judiciary (the Florida Supreme Court and all lower courts), The Florida Bar, the Standing Committee on Pro Bono Legal Service of the Florida Supreme Court/The Florida Bar, The Florida Bar Foundation, the voluntary bar associations, law firms, pro bono programs, and Florida Legal Services.

Florida’s legal community did significant work in the 1990s to ensure that a framework was in place to promote and support pro bono legal services for the poor. Included in this work was adoption of the pro bono rules and funding and development of pro bono programs. Since then, a change in the culture of attorneys and a weakened commitment by many individuals and institutions has reduced the ability of pro bono legal services to be an exciting opportunity that gives attorneys rewarding experiences.

Strengthening the pro bono framework can only be achieved if a *renewed passion* for pro bono legal services takes hold and is sustained. Leaders of Florida’s legal and pro bono communities must broadcast enthusiasm about pro bono and find ways to make pro bono legal services more attractive and rewarding—ways that rekindle and generate greater interest and excitement throughout the bar.

The current Florida pro bono framework is also in great need of *integration*. The present system is a patchwork of several pieces, many of which do not work together. The system needs coordinated leadership and action around informed strategies to increase pro bono legal services. These strategies must be supported by all the legal institutions and their leaders with strong partnerships where appropriate. The leaders who develop the strategies will need to be mindful of both the reasons current pro bono attorneys provide the service and what may influence others to do so. These influencing factors must be at the center of future activities to increase pro bono legal services.

Recommendations for increasing pro bono service are grouped by institution to give specific direction to each group about the leadership role it should play in each area. Many of the recommendations involve the organized programs because pro bono legal services can be better targeted to the legal needs of the poor if it is provided through a pro bono program. It is critical, however, that these recommendations be developed and implemented in partnership, whenever possible, in order to most effectively achieve the goal of increasing the amount of pro bono legal services provided to the poor in Florida.

One recommendation is separated out because it involves a number of the institutions taking a leadership role together to assure activities undertaken to encourage and support pro bono legal services are carried out in a sustained, enthusiastic, and coordinated way. To achieve this will take the leadership of the Florida Supreme Court, The Florida Bar, the Standing Committee, and The Florida Bar Foundation. It is recommended that these groups bring together all of the institutions to develop long- and short-term goals for the state's pro bono system—and shared commitments to take action to achieve them.

The Florida Supreme Court, The Florida Bar, the Standing Committee, and The Florida Bar Foundation should convene Florida's legal institutions to develop pro bono legal services goals and commitment to action that furthers the overarching goal of increasing pro bono legal services to the poor.

The Florida Judiciary

- Deliver a message regularly to the Florida judiciary from the Florida Supreme Court that promotion of pro bono legal services is expected of all judges.
- Revitalize local participation in promoting pro bono legal services at the circuit and county level, including a renewed expectation that promotion of pro bono legal services must involve each Circuit Chief Judge or his/her designee, leaving the specific mechanisms used to the discretion at the circuit level.
- Deliver a message regularly to the leadership of the bar associations in Florida that pro bono legal services and its promotion is expected of them.
- Deliver a message to large firms (as defined by the local communities) that promotion of pro bono legal services to their firms' attorneys is expected of them.
- Encourage individuals being admitted to the Bar to attend one of the induction ceremonies to increase the number of attorneys who hear about the importance of pro bono legal services at the beginning of their legal career.

The Florida Bar

- Deliver a message regularly from the Bar President to the membership that pro bono legal services is expected of them. Make the promotion of pro bono legal services a priority of the Board of Governors and the Bar staff.

- Encourage and support development of pro bono projects for members of the Bar's committees, sections and the Young Lawyers Division.
- Strengthen the Practicing with Professional Seminars by having a presentation about pro bono legal services at every seminar, and personalize it by having a pro bono attorney talk about his or her experience.
- Incorporate pro bono legal services into the Mentoring Program when it is developed.
- Recommend change to emeritus attorney rule to include attorneys on in-active status.
- Implement on-line reporting for the pro bono report. Send follow-up notices to attorneys who do not complete the pro bono report and implement a consequence for non-compliance.

The Standing Committee

- Take a leadership role in revitalizing the pro bono legal services system.
- Coordinate a statewide campaign for pro bono legal services.
- Develop pro bono plans and projects with The Florida Bar's sections, committees and the Young Lawyers Division.
- Draft a rule change with The Florida Bar to expand the emeritus attorney rule. Develop a recruitment process and streamlined certification process for retired and inactive attorneys to provide pro bono legal services. Collaborate with the pro bono programs to maximize the use of retired and inactive attorneys for pro bono legal services.
- Recommend change to Pro Bono Rule 4-6.1 to increase the alternative contribution amount to \$500.
- Recommend revisions to the pro bono reporting section of The Florida Bar's annual membership form to simplify it, make the category descriptions more accurate, and include an easy way for attorneys to obtain information about pro bono legal services opportunities.

Voluntary Bar Associations

- Take a leadership role in revitalizing pro bono legal services. Maximize interaction between voluntary bar associations and pro bono programs to benefit from the associations members' propensity to volunteer.

Law Firms

- In firms that are generally supportive of pro bono legal services, mentor associates about the importance of pro bono legal services and ensure the time to do it. Change policies to count pro bono hours as billable hours.
- Deliver a message of the professional and economic benefits of pro bono legal services from managing partners of supportive firms to firms that do not support pro bono legal services yet, and from solo practitioners who provide pro bono legal services to those who do not.
- When promoting pro bono legal services to other firms and attorneys, have active pro bono attorneys talk personally and passionately about the satisfaction they derive from it.

Pro Bono Programs

- Create a recruitment campaign that utilizes pro bono attorneys, maximizes one-on-one interactions, and uses exciting marketing materials.
- Have pro bono attorneys give presentations at law schools about why they provide pro bono legal services and the types of cases they do on behalf of the poor.

- Recruit Florida law school graduates who have performed pro bono legal services or interned with legal aid organizations.
- Recruit new attorneys soon after their admittance to the Bar.
- Coordinate a message from government attorneys who provide pro bono legal services to government attorneys who do not, that pro bono legal services can be personally satisfying and rewarding for them.
- Develop pro bono legal services policies with government agencies that do not have them and publicize the authorization for pro bono legal services for those agencies that permit such service.
- Develop a full range of pro bono opportunities with all levels of representation, a variety of areas of the law, and convenient times.
- Develop a wide range of supports and incentives to make pro bono legal services as easy and rewarding as possible.
- Review recognition efforts to ensure that as many attorneys receive recognition in as many ways as possible. Give increased recognition to the firms of the attorneys who provide pro bono legal services.
- Collaborate, through the Florida Pro Bono Coordinators Association, on projects that improve local pro bono programs and the statewide system of pro bono legal services.
- Increase the commitment and passion of staff and management of pro bono programs to revitalize programs' quality and quantity of pro bono legal services.

Florida Legal Services

- Continue leadership roles with the Florida Supreme Court, The Florida Bar, and the Standing Committee.
- Continue development of the statewide pro bono legal services website and encourage its use.
- Continue and expand development and support of pro bono projects with large firms and with sections, committees and the Young Lawyers Division of The Florida Bar.
- Expand staff for coordinating the implementation of the Report's recommendations, particularly for the Standing Committee.

The Florida Bar Foundation

- Expand staff to focus on pro bono legal services development.
- Hold all pro bono programs to higher standards. Review ABA Standards with the programs and develop written expectations.
- Fund pilot projects of the pro bono programs to test the effects of a variety of efforts on increasing pro bono legal assistance.
- Fund increased staffing at Florida Legal Services for coordination of implementation of the Report's recommendations, and fund a statewide campaign for pro bono legal services.

INTRODUCTION

This Study, conducted for the Florida Supreme Court/The Florida Bar's Standing Committee on Pro Bono Legal Service (Standing Committee), looks at why the percentage of attorneys providing voluntary pro bono legal services in Florida has stagnated and why pro bono legal services through pro bono programs has declined. Recommendations are then made for actions the Florida legal community can take to increase the amount of voluntary pro bono legal services provided to meet the legal needs of Florida's poor.

Though interviews and surveys revealed a number of Florida attorneys believe this Study was undertaken to promote mandatory pro bono legal services, this is not the case. The Florida Supreme Court has twice rejected mandatory pro bono legal services³ and the Standing Committee did not ask for mandatory service to be part of the Study. This Study focuses exclusively on *voluntary* pro bono legal services and ways in which it may be increased.

STUDY DESIGN AND METHODOLOGY

The Study's research, conducted January to May 2008, was concentrated primarily in eight of Florida's 67 counties. The counties were chosen by the Standing Committee to ensure an urban/rural/large/small mix, geographic representation, and a variety of types of pro bono programs located in them. The eight Study counties are Brevard, Broward, Duval, Hillsborough, Lee, Leon, Miami-Dade and Orange.

Sixty-five percent (38,824) of The Florida Bar's nearly 60,000 in-state members in good standing reside in the Study counties. Nine pro bono programs of the twenty-one pro bono programs or organizations with pro bono programs funded by The Florida Bar Foundation were reviewed in the eight counties.⁴

Information was gathered through a variety of methods, including:

- web-based survey of the attorneys in the Study counties (2,715 respondents);
- web-based survey of the nine pro bono programs in the Study counties;
- interviews of a mix of individuals, including attorneys who provide pro bono legal services and those who do not, pro bono staff and others associated with the programs, local Bar officials, chairs of the Circuit Pro Bono Committees, and law school public interest staff; and
- a review of state and national data and materials.

The two primary sources of information for pro bono legal services numbers in Florida are the pro bono reporting data from the annual membership statements of The Florida Bar and the grant reports of the pro bono organization grantees of The Florida Bar Foundation. For more details about the Study's design and methodology, please see Appendix 1.

³ *In Re Emergency Delivery of Legal Services to the Poor (Mandatory Pro Bono)*, 432 So. 2d 39 (Fla. 1983); *In Re Amendments to Rules Regulating The Florida Bar – 1-3.1(a) and Rules of Judicial Administration – 2.065 (Legal Aid)*, 573 So.2d 800, 801 (Fla. 1990).

⁴ Brevard County Legal Aid, Broward Lawyers Care, Bay Area Legal Services Volunteer Lawyers Program, Florida Rural Legal Services, Jacksonville Area Legal Aid, Legal Aid Foundation of the Tallahassee Bar Association, Legal Aid Society of the Dade County Bar Association (Put Something Back), Legal Aid Society of the Orange County Bar Association, Legal Services of North Florida.

FLORIDA'S PRO BONO RULE

In 1993, in response to the recommendations of the Joint Commission on the Delivery of Legal Services to the Indigent in Florida, the Florida Supreme Court adopted rules creating what is now referred to as the pro bono rule and the pro bono plan.⁵ The rules include (1) an aspirational goal of 20 hours of voluntary pro bono legal services for almost all attorneys, which may be met collectively by law firms; (2) a financial alternative to pro bono legal services of a contribution of at least \$350 to a legal aid organization; (3) reporting by attorneys about pro bono legal services; (4) a Standing Committee on Pro Bono Legal Service appointed by the president-elect of The Florida Bar; and (5) appointment of Circuit Pro Bono Committees.⁶

Authority for Pro Bono Rule. The Court based the voluntary pro bono rules on its constitutional responsibility to ensure access to the justice system. The Court noted its authority extends only to meeting the legal needs of the poor, and not to whether attorneys provide other free legal services:

“Clearly, this Court has the constitutional responsibility to ensure access to the justice system. Although other public service by the legal profession is important, no authority exists for this Court to address, through the Rules Regulating The Florida Bar, uncompensated public service activities not directly related to services for the courts and the legal needs of the poor.”⁷

This limitation is commonly misunderstood, with many attorneys in the Study questioning why the Court only “counts” pro bono legal services hours of service for the poor when they provide other uncompensated legal services or community service in addition to or instead of pro bono legal services for the poor.

Definition of Pro Bono Legal Services. The specific language in Florida’s pro bono rule⁸ that speaks to the responsibility of providing pro bono legal services *to the poor* reads as follows:

(a) Professional Responsibility. Each member of The Florida Bar in good standing, as part of that member's professional responsibility, *should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor.* This professional responsibility does not apply to members of the judiciary or their staffs or to government lawyers who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions. Neither does this professional responsibility apply to those members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline. (emphasis added)

The commentary to Rule 4-6.1 explains that pro bono legal service is not confined to direct service to individuals. Pro bono legal services may be provided to assist charitable, religious, or educational organizations with projects that address the problems of the poor.

⁵ *In Re Amendments to Rules Regulating The Florida Bar – 1-3.1(a) and Rules of Judicial Administration – 2.065 (Legal Aid)*, 630 So. 2d 501 (Fla. 1993).

⁶ Rule 4-6.1 Pro Bono Public Service and Rule 4-6.5 Voluntary Pro Bono Plan, *Rules of Professional Conduct*, The Florida Bar.

⁷ *In Re Amendments to Rules Regulating The Florida Bar – 1-3.1(a) and Rules of Judicial Administration – 2.065 (Legal Aid)*, 630 So. 2d 501 (Fla. 1993).

⁸ See Appendix 2 for the full text of Rules 4-6.1 and 4-6.5.

Pro bono legal service to the poor need not be provided only through legal services to individuals; it can also be provided through legal services to charitable, religious, or educational organizations whose overall mission and activities are designed predominately to address the needs of the poor. For example, legal service to organizations such as a church, civic, or community service organizations relating to a project seeking to address the problems of the poor would qualify. (emphasis added)

Not all attorneys understand that for pro bono legal services to an organization to be counted, the service must be (1) for an organization with a mission to serve the needs of the poor; or (2) for other charitable, religious or educational organizations in furtherance of activities or projects that address the problems of the poor. Providing legal services generally to a church, civic, or community service organization, no matter how worthy, is not within the definition of pro bono legal service under the Rule.

Voluntary Pro Bono Legal Services with Mandatory Reporting. Another common misunderstanding is the belief that attorneys are *required to provide* pro bono legal services. In fact, the pro bono rule only requires attorneys to *report* their pro bono legal services. Failure to fulfill the *aspirational* pro bono legal services responsibility “will not subject a lawyer to discipline.”⁹

As will be discussed later in this Report, there is also some misunderstanding and widely divergent practice involving that portion of the Rule that defers pro bono legal services by government lawyers “who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions.”¹⁰ Some government agencies, for example, prohibit their attorneys from providing pro bono legal services, while others encourage it.

⁹ Rule 4.6.1 (d). *Rules of Professional Conduct*, The Florida Bar.

¹⁰ While the Court deferred these lawyers from providing pro bono legal service, it also encouraged government agencies, where permitted, to promote participation by developing policies and programs that address challenges faced by government attorneys, e.g., lack of malpractice insurance, or office space, *Amendments to Rules Regulating The Florida Bar-1-3(a) and Rules of Judicial Administration 2.065 (Legal Aid)*, 630 So. 2d 501, 504 (Fla. 1993).

HOW MUCH PRO BONO LEGAL SERVICES DO IN-STATE FLORIDA ATTORNEYS PROVIDE?

Approximately one-half of Florida's attorneys report providing pro bono legal services, a level that has remained stagnant for the past seven years. Each year Florida attorneys are required to report their pro bono legal services activities on a form incorporated in the annual dues billing for The Florida Bar. In 2006, slightly more than half (52 percent) of the in-state attorneys completing the form reported providing pro bono legal services. This is the same percentage as in 2000, reflecting a stagnant level of pro bono legal services over the past seven years.¹¹

Table 1. Florida In-state Attorneys Reporting Pro Bono Legal Services

Bar Year	Number of In-state Attorneys	Number of Attorneys Completing Pro Bono Report	Number of Attorneys Reporting Pro Bono Legal Services	Percent of Attorneys Reporting Pro Bono Legal Services
2000	49,506	43,018	22,163	52%
2006	59,829	49,856	26,107	52%

Florida participation lower than others. The pro bono service rate of Florida attorneys is lower than the rate found by the American Bar Association in a telephone survey of a national random sample of attorneys (both ABA members and non-ABA members) in 2004. Two-thirds (66 percent) of the respondents reported providing pro bono legal services to people of limited means and/or to organizations serving the poor—the category that is similar to Florida's pro bono rule. However, the reporting through a telephone survey may have less reliability than mandatory reporting to a licensing organization.¹²

Recent reports from states with mandatory pro bono reporting show a range from 31 percent to 62 percent of attorneys reporting pro bono service.

- **Illinois (2006):** Thirty-one percent of the attorneys reported providing pro bono service to persons of limited means and certain organizations.¹³ The lower number may be due to 2006 being the first year of mandatory reporting. Limited education about pro bono reporting was done before the implementation.
- **Maryland (2005):** Fifty-four percent of the attorneys reported providing pro bono service to individuals of limited means and 16 percent provided pro bono legal service to organizations that assist individuals of limited means.¹⁴

¹¹ Bar Years of July 1 – June 30 are used in this Report unless otherwise noted. It appears the amount of pro bono legal services has been stagnant since the implementation of reporting in 1995, but comparable data was unavailable. See Appendix 3 for pro bono service data for Bar Years 2000 – 2006, including data of those who are “deferred” as members of the judiciary, judicial staff, and governmental lawyers, retired or inactive; and those who report not providing pro bono service or making a contribution.

¹² *Supporting Justice: A Report on the Pro Bono Work of America's Lawyers*, American Bar Association Standing Committee on Pro Bono and Public Service, 2005.

¹³ *2006 Annual Report of the Attorney Registration and Disciplinary Commission*, filed with the Supreme Court on April 27, 2007.

¹⁴ *Final Report: Current Status of Pro Bono Service Among Maryland Lawyers, Year 2005*, Prepared by ANASYS, Inc. for Administrative Office of the Courts, November 8, 2006.

- **Mississippi (2007):** Fifty-seven percent of the Mississippi attorneys who completed a pro bono report stated they provided pro bono service to the poor in 2007.¹⁵
- **Nevada (2007):** Sixty-two percent of the attorneys reported providing any pro bono service (under a broader rule).¹⁶

Table 2. Pro Bono Service Rates in States with Mandatory Reporting		
State	Reporting Rate	Pro Bono Service Rate
Nevada	100%	62%
Mississippi	67%	57%
Maryland	99.4%	54%
Florida	83%	52%
Illinois	99.6%	31%

Limited participation through organized programs. Florida attorneys report their pro bono legal services primarily in two different categories with the largest number by far, 46 percent, reporting in 2006 that they provided pro bono legal services “on their own,” that is, through their own practice. Only eight percent reported they provided pro bono service through an organized program.

- 46 percent provided pro bono legal services on their own
- 8 percent provided pro bono legal services through an organized legal aid program
- 3 percent did both
- A total of 52 percent did one or the other or both (differences due to rounding)¹⁷

The percent of attorneys reporting providing service on their own has been growing since 2000 (from 40 to 46 percent), while the percent reporting service through organized programs has decreased from nine percent to eight percent. (See Appendix 3 for more information about attorneys reported pro bono legal services in 2000 – 2006.)

The total percentage of attorneys in the Study counties reporting either pro bono legal services on their own or through an organized program in 2006 varied little from the state results, ranging from 42 percent in Duval County to 57 percent in Miami-Dade County, a range of 10 percent less to 5 percent more from the statewide percentage of 52 percent.

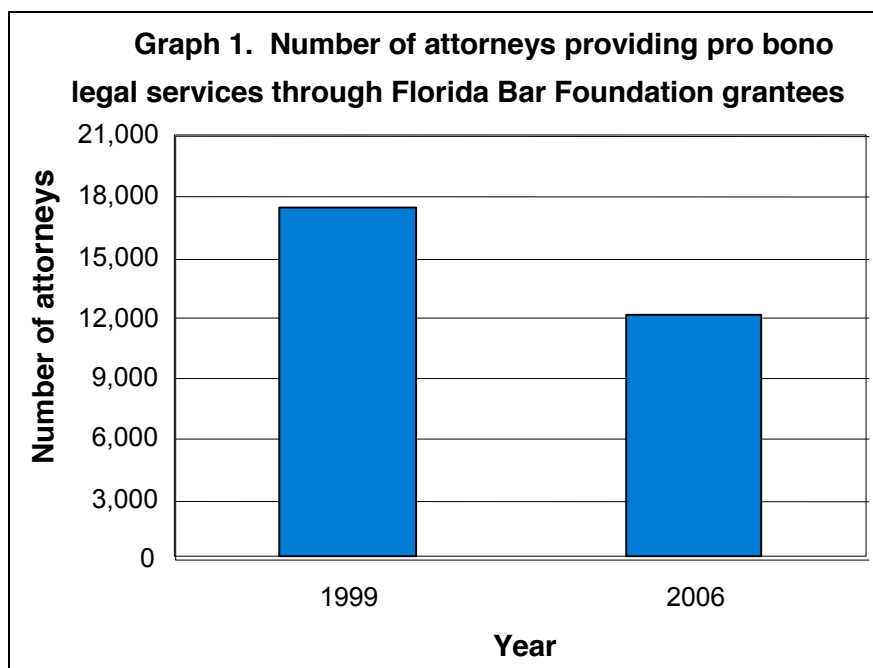
The percentage of attorneys who reported providing pro bono legal services through an organized program in one of the Study counties in 2006 ranged from three percent in Hillsborough County to 15 percent in Orange County, compared to the statewide percentage of eight percent, again far below the percentage of attorneys who provided pro bono legal services on their own. (See Appendices 4 and 5 for extensive data about pro bono legal services in the Study counties.)

¹⁵ E-mail from Larry Houchins, Executive Director of The Mississippi Bar, March 18, 2008.

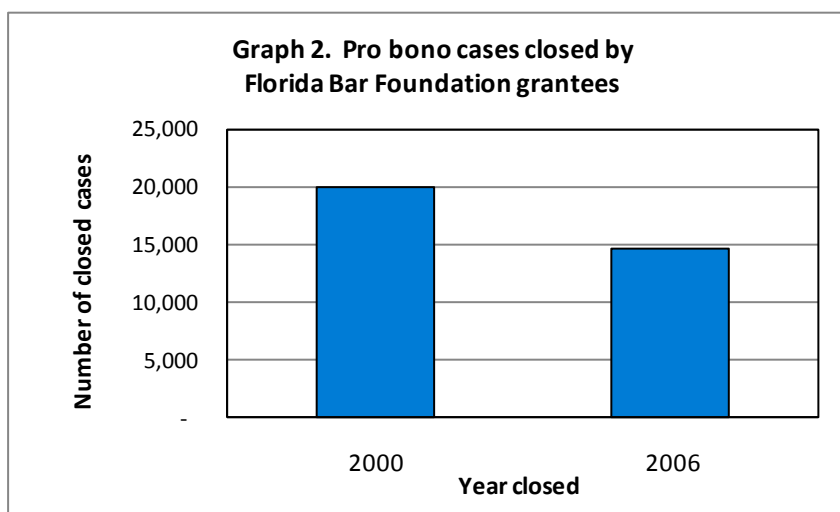
¹⁶ E-mail from Kristina Marzec, Director of Access to Justice Commission, State Bar of Nevada, April 2, 2008.

¹⁷ Two percent of the attorneys reported in 2006 they are a part of a “law firm plan.” The pro bono rule allows attorneys to collectively satisfy the pro bono responsibility under a plan that is filed by their law firm with the circuit committee. Since most of the circuit committees are inactive, they are not receiving these plans. A review of the data of who reported under a law firm plan found that many attorneys are solo practitioners or other attorneys who have likely reported inaccurately. This data is not included in the Report’s tables. There is a space on the Florida reporting form that says “None of the above applies to me, but I have provided legal services to the poor in the following special manner.” This is followed by a space for comments. The number of attorneys who completed this are not counted in any of the data in the Report because individuals who marked other categories often put comments in this category that are not about pro bono in a special manner.

Sharp decline in participation reported by organized programs. The participation of pro bono attorneys reported by the pro bono programs themselves shows a decline statewide of 30 percent between 2006 and 1999. (See Graph 1.) Participation through programs in the study counties also showed significant declines, with only one of the nine programs reporting an increase in participation between 1999 and 2007.



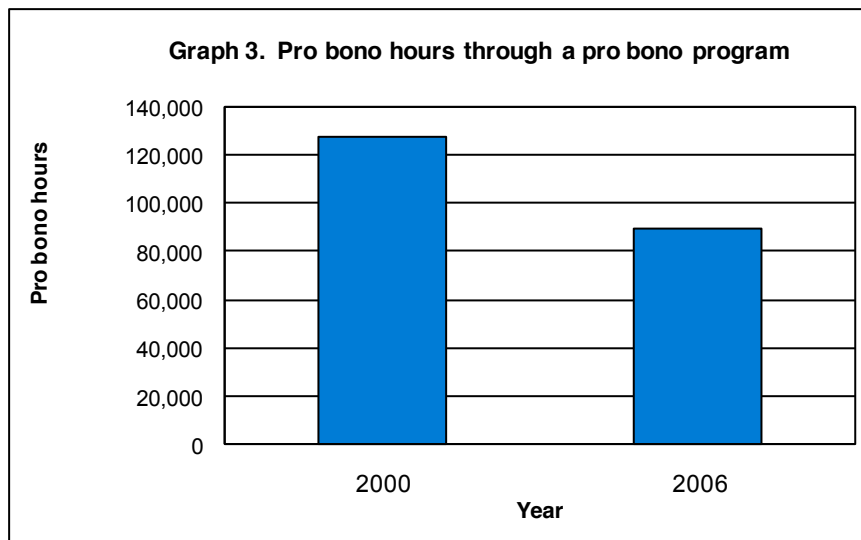
Twenty-seven percent decline in the number of cases closed through organized programs. The number of cases closed by attorneys is as critical as the percentage of attorneys who provide pro bono legal services. The organized programs report a 27 percent decrease between 2000 and 2006 in the number of pro bono cases closed. (See Graph 2.) The Legal Service Corporation, which collects data from its grantee legal aid organizations all over the country, reports that the number of cases closed by pro bono attorneys declined by 12 percent during the same time period,¹⁸ meaning that Florida's decrease in cases is more than twice the national average.



¹⁸ E-mail from John Meyer, Legal Services Corporation, March 18, 2008.

Six of the nine pro bono programs in the Study counties report a decrease in the number of cases closed between 1999¹⁹ and 2007. The decreases range from 15 to 57 percent. One program's number of cases closed was the same, one was one percent more and one was 22 percent more. Again, the decrease nationally (from 2000 to 2006) was 12 percent, so six of the programs in the Study range from slightly more to over 4.5 times the national decrease in cases closed for the poor by pro bono attorneys.

Thirty percent decline in pro bono hours. Pro bono hours have declined dramatically as well. The organized pro bono programs reported that attorneys provided 30 percent less hours of pro bono legal services, on cases and other projects, through their programs in 2006 than in 2000. (See Graph 3.)



¹⁹ Individual program data was unavailable for 2000. 1999 data was used.

WHY DO ATTORNEYS PROVIDE PRO BONO LEGAL SERVICES?

The Standing Committee's most recent report²⁰ provides a sampling of cases recently handled by Florida pro bono attorneys. These cases speak to the critical situations that pro bono attorneys help with and what this assistance means to clients who cannot afford to pay an attorney.

- *A pro bono attorney went to a hospital on short notice to meet with a single mother of two who had been diagnosed with a terminal illness and had only a short time to live. Within one day, the attorney provided the woman with the required documents to meet her and her family's legal needs, including an advanced directive.*
- *A contractor took an elderly woman's money for a roof repair and then disappeared without completing the job. The pro bono attorney found the contractor and obtained a settlement that allowed the client to have her roof repaired properly.*
- *A young nurse had fled Haiti, under the threat of death, with her child. A pro bono attorney was able to obtain political asylum for her so she could work to support herself and her child in the United States.*
- *A woman had her identify stolen and the thief collected wages using her Social Security number. The IRS was trying to collect taxes and resultant interest on the wages, from the woman. A pro bono attorney unraveled the identify theft situation and prevented his client from having to pay the IRS.*
- *A terminally ill man and his wife and three children were facing foreclosure on their home. With less than a week to file documents, the pro bono lawyer kept the family from losing their home during this stressful time.*

The Personal Satisfaction Derived from Providing the Service. Attorneys provide pro bono legal services for these clients for many reasons, but the one most commonly cited in the survey (72 percent of respondents) is "the personal satisfaction derived from providing the service." (See Graph 4.) A volunteer attorney describes it this way, *"It's a time commitment, but the results are far more rewarding. [For some], it's something they would never have been able to accomplish. [You can get] life-altering results."* Another attorney, while talking about providing pro bono assistance in new legal areas said, *"The satisfaction outweighs the fear."* Many pro bono attorneys said, *"I get more out of it than I give."*

A sense of professional responsibility. "A sense of professional responsibility" is cited almost as often, with 70 percent of respondents selecting it as a "very important factor" in influencing them to provide pro bono service. Many attorneys describe acquiring this sense of professional responsibility in law school. Others cite a former or current firm's expectations or culture. Still others describe the oath that individuals take when sworn in to be an attorney in Florida and its inclusion of an obligation to perform pro bono legal services: *I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice.*²¹ One interviewee talked passionately about how she felt privileged to go to law

"I have a talent, a gift. It's not just for me to walk around with."

²⁰ Florida's Voluntary Pro Bono Attorney Plan, The Report of the Standing Committee on Pro Bono Legal Services to the Supreme Court of Florida, The Florida Bar, and The Florida Bar Foundation, 2005 & 2006, May 2008.

²¹ Oath of Attorney, Ceremony for Induction of Candidates for Admission to the Florida Bar.

school and have the knowledge she has and said, humbly, “I have a talent, a gift. It’s not just for me to walk around with.”

Knowledge of the Legal Needs of Poor People. “Knowledge of the legal needs of poor people” is the third highest rated response on the survey—nearly half (48 percent) rate this as “very Important.” Many attorneys talk about knowing that the legal needs of poor people are great and they must assist in meeting them.

Other Factors. The other factors are rated far less often. However, “**employer encouragement**,” rated as very important by 12 percent of the survey respondents, was mentioned numerous times during interviews. Attorneys would say “*It’s the tradition at my firm*,” or “*It’s the culture at this firm*.” These attorneys were not all from large firms, as some might expect, but from a variety of sized firms. Providing pro bono legal services is a part of their practice of law.

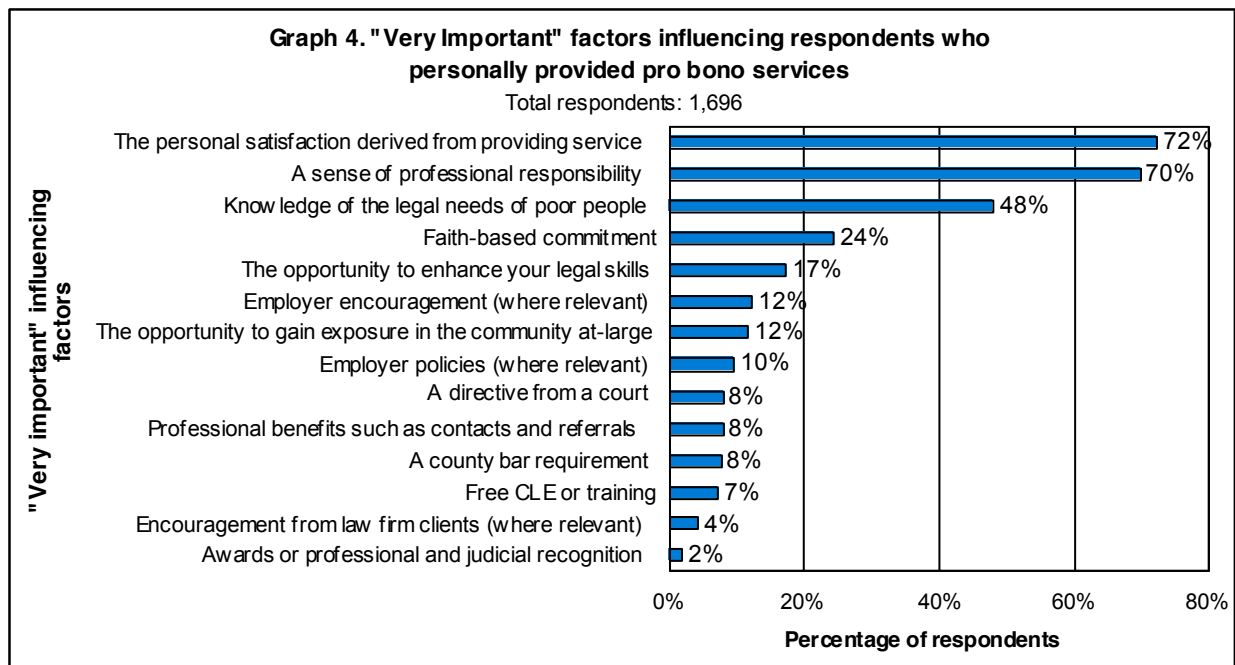
Some attorneys in firms acknowledged that supporting pro bono legal services is now a recruitment tool because some law students and recent graduates ask about the firm’s pro bono policy and want to be assured they can provide pro bono legal services. Others in very large firms say that the law firm rankings in *American Lawyer* are important to them and have been an impetus for promotion of pro bono in their firms. One interviewee summed up his firm’s reasons for providing pro bono legal services as the “three R’s: rankings, recruiting and the right thing to do.”

Firms that may not be large enough to be looking for a ranking from *American Lawyer* still acknowledge the economic benefits that pro bono legal services can bring their firms as more clients are looking for law firms that share their corporate charitable priorities. This has been described previously by some as “doing well by doing good.”²²

The results of the Florida attorney survey are similar to the ABA’s survey. The question was worded differently in the ABA survey, but when asked to name the top two factors encouraging pro bono work, 70 percent of the ABA respondents combined “sense of professional responsibility and the personal satisfaction derived from providing the service.” “Understanding the needs of the poor, combined with “awards or professional and judicial recognition” was listed as the second biggest motivator by 43 percent of the respondents.²³ Recognition was ranked noticeably lower by Florida respondents at 2 percent.

²² Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. Rev. 1, 108-112 (2004).

²³ *Supporting Justice: A Report on the Pro Bono Work of America’s Lawyers*, American Bar Association Standing Committee on Pro Bono and Public Service, 2005.



Comments about the reasons attorneys provide pro bono legal services vary widely. Many focus on the personal satisfaction derived from providing pro bono service and the professional obligation.

- *"I think it is my duty as an attorney and because I have the privilege of practicing law that I give so much time to pro bono service."*
- *"Pro bono rewards us more than we benefit the clients; it is what makes us a profession rather than a group of specialists billing by the hour."*
- *I enjoy giving back to my community, state, and nation for the opportunity that was provided to me to practice law."*
- *"It the right thing to do...I'm fortunate to be a lawyer...We have the keys to the courthouse."*
- *"I donate so much of my time to pro-bono service that I am considering opening a non-profit law firm with donations so that I can hire great lawyers and good salaries to help the incredible amount of people that need legal assistance. I think it is my duty as an attorney and because I have the privilege of practicing law that I give so much time to pro-bono service."*
- *"It's some of the most rewarding work a lawyer can do."*
- *"I love to provide pro bono legal services and am referred to by my family as the lawyer for the poor."*
- *"There is tremendous satisfaction in having helped a person who could not afford representation and knowing that you were able to help them in their dark hour."*
- *"Pro bono has been a very good experience for me. It reminds me of the situations many people face each day and gives a dose of reality."*

"My most rewarding work experiences have been on my pro bono matters."

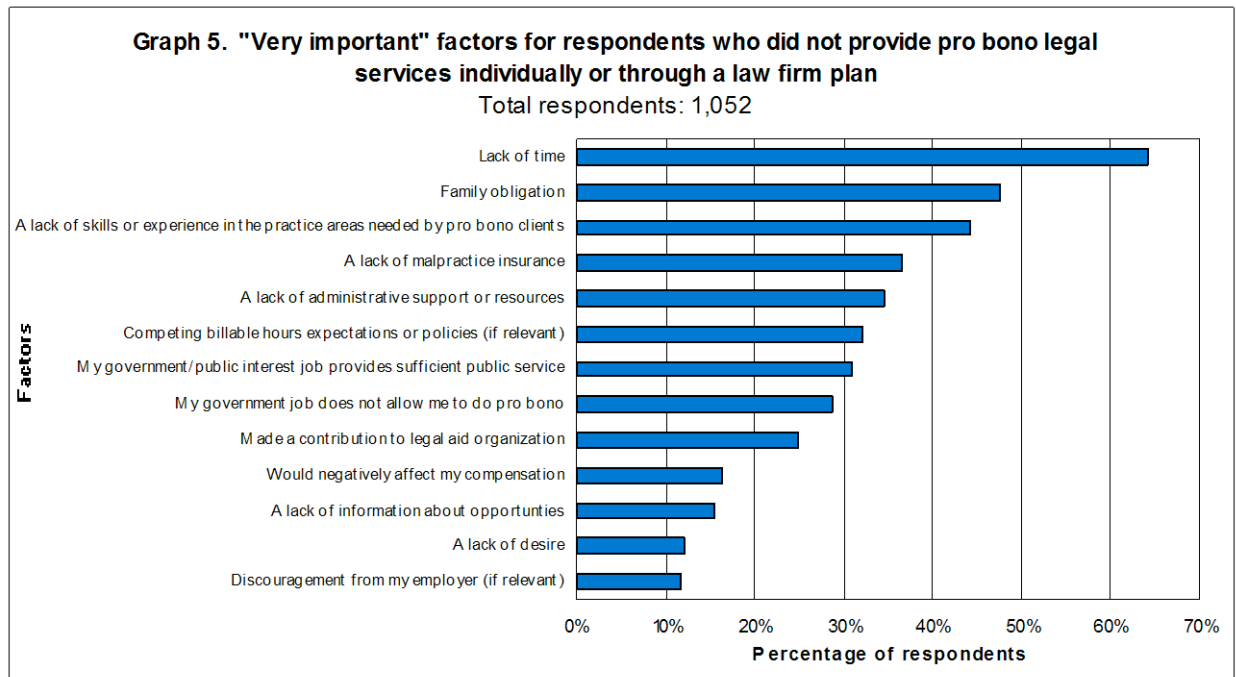
WHY HAS PRO BONO LEGAL SERVICES STAGNATED OVERALL?

Many factors have contributed to the overall stagnation of pro bono legal services in Florida. Some factors reflect societal trends, such as an increasing number of working women who are mothers or caretakers of aging parents, and males participating more in child-rearing. Other factors reflect changes in the profession of law such as increased specialization. Some attorneys also cite a move away from law as a profession to law as a business, and an increased emphasis on billable hours. These and other reasons were explored in surveys and interviews of attorneys who do and do not provide pro bono legal services.

Lack of Time. “I’m pulling my hair out trying to keep up with my family and practice.”

These are some of the first words from a solo practitioner who is a single mother, when asked about pro bono legal services. A lack of time is the number one “very important” factor given by respondents to the Study’s attorney survey (64 percent) when asked why they had not provided pro bono legal services. (See Graph 5.) Female respondents rated lack of time a “very important” factor more often than male respondents—71 percent compared to 59 percent.

This factor was often described in interviews of attorneys as well. Florida attorneys are similar to attorneys nationally in this regard—the ABA survey found “lack of time” as the number one factor also, with 69 percent of the respondents naming it.²⁴



²⁴ *Supporting Justice: A Report on the Pro Bono Work of America’s Lawyers*, American Bar Association Standing Committee on Pro Bono and Public Service, 2005.

Family Obligations. Lack of time is often related to family obligations. Nearly half (48 percent) of the survey respondents rate “family obligations” as a “very important” factor in why they do not provide pro bono legal services, making it the second highest rated factor. With increasing numbers of female attorneys who are mothers or caretakers of aging parents, and male attorneys participating more in child-rearing, the work/family dynamics and times have changed. Less discretionary time is available for many attorneys.

The comments below, about a lack of time for pro bono legal services often due to family obligations, are typical of the comments of many of the Florida attorneys who completed the survey:

Some attorneys say they are just too busy with work to provide pro bono legal services.

- *“I work typically over 65 hours each week, increasing the hours from 75 to 95 hours each week during the so-called ‘tax season’.”*
- *“Don’t have time – am a salaried state government employee who has to work a lot of uncompensated overtime.”*
- *“I am overworked. I have been working Saturdays and Sundays for over 1 year. I would do more pro bono work if I did not have responsibilities to paying clients.”*
- *“Not enough time- work two jobs.”*
- *“Started solo practice this reporting period, which consumed entire time.”*
- *“Overwhelmed by my work as a public defender...Adding additional clients when I already have too much work to handle would be unethical.”*
- *“I provided pro bono services every year while I was in private practice. It was encouraged by my firm. However, since becoming an in-house corporate attorney, there is no time or opportunity to provide pro bono legal services.”*
- *“I used to provide pro bono services when I was in private practice and the firm had a pro bono program and/or encouraged pro bono work without penalty. I am now the sole lawyer in the company's Tampa office and simply do not have time.”*

“It is extremely difficult in a small firm to handle client needs, the administrative and marketing needs of the firm and balance my personal life and volunteer work in the community. Adding pro bono clients to my mix adds additional stress.”

Many emphasize their family obligations.

- *“I have not had time in the last several years... I took care of an elderly parent and was a single parent.”*
- *“I work full time and am a single mom with a ten year old and a nine month old.”*
- *“2007 spent considerable time caring for sick family member.”*
- *“I have 3 children, preach on the weekends, am actively involved in a non-profit that provides affordable housing and community services AND work a full time job!”*
- *“I am a single mother, have a three hour commute, and work a nine hour day. In the three waking hours I have left, I barely have time to complete my daily family and personal responsibilities.”*

“I do not have the time. I work full time; commute 2 hours daily; and have a four year old son to raise myself.”

- *“Three small children, including a six month old baby with a part-time working wife, and I just went into partnership in my own new law firm and I have a hard time finding time for anything other than work and family.”*
- *“Impossible in this day and age where two people have to work sometimes two jobs just to get by and still try to find time for family obligations/responsibilities.”*

Lack of Skills or Expertise. The third highest rated important factor is “a lack of skills or experience in the practice areas needed by pro bono clients.” This is described extensively by survey respondents and interviewees. The general practice attorney is disappearing, especially in urban areas. Most attorneys are now extremely specialized, and many never go to court. This has led to many attorneys not feeling competent to take pro bono cases because the cases are in areas the attorneys do not deal with in their regular practice and/or they may involve going to court.

The survey comments below reveal both a lack of expertise generally in legal areas in which the poor need assistance, and specifically in those areas addressed by pro bono programs:

Many attorneys believe their specialization leaves them unqualified to take pro bono cases.

- *“Our firm limits its practice to Intellectual Property Law. Not qualified in the areas where pro bono is needed or requested.”*
- *“My practice has been strictly administrative law for the past 14 years. Most pro bono seems to involve different areas, such as family law and probate, which I feel I am really no longer qualified to do as I once did years ago in family law.”*
- *“I am a mergers and acquisitions lawyer, and I have no experience in the types of matters that require pro bono.”*
- *“My transactional services are rarely asked for.”*
- *“No pro bono opportunities that fit legal skills of a banking regulatory attorney.”*

“If my specialty were something of value to pro bono clients then representing them or helping them with a matter would be an easy exercise for me. But without the substantive knowledge it’s just too difficult and dangerous.”

A number of attorneys stress their discomfort going out of their usual practice areas.

- *“I get many requests for areas of the law I don’t have experience in and would not feel confident in representing clients, i.e. bankruptcy, divorce, immigration, etc.”*
- *“I find it very difficult to take on representation outside of my core area of expertise...I don’t feel comfortable being solely responsible for, for example, a divorce action when it is not the kind of work I do every day.”*
- *“I am intimidated to do pro bono in areas that I do not practice.”*
- *“As a professional, I feel very uncomfortable in engaging in representation of individuals in practice areas with which I have extremely limited or no knowledge. The fact that the legal aid organization has malpractice insurance which would cover me does not make me any more qualified to be an effective advocate.”*
- *“I have no experience in the areas that typically are required for pro bono services. I don’t want to commit malpractice and I don’t want to learn a new area for pro bono services.”*

“I can’t help people if I don’t know what I am doing.”

Some attorneys cite the learning time involved trying to take cases outside their areas of expertise.

- *“The most difficult aspect of providing pro bono services is the limited legal background and knowledge many of us have in the particular areas clients most often seek help. It takes a considerable amount of time to develop sufficient skills to represent someone in an area of the law you are not familiar. Consequently, it is rare that I accept a case and rather focus my pro bono experience on providing brief legal advice over the phone.”*
- *“I find that it is nearly impossible to get pro bono referrals within my practice area. Consequently, I end up having to take matters that are outside my practice area to meet the local bar requirements, which is inefficient among other things.”*
- *“Getting assigned clients through the [local program] resulted in my having to take cases in areas of law in which I had no expertise. It took an extraordinary amount of time for me to educate myself on the law in those areas, and left me with a feeling that I may have missed something to the detriment of the client. That was not a good use of my time or the best professional service to the pro bono client.”*

Firm Billable Hour Requirements and Non-Supportive Policies. A major factor noted by survey respondents and even to a larger extent by interviewees is that attorneys do not provide pro bono legal services because of competing billable hours expectations or policies, and that many firms are not supportive of pro bono services.

One interviewee summed up her (and many other) firm’s position on pro bono legal services: *“My firm is not community-oriented...They do not see pro bono as a positive...They see things in dollar terms...You have to show it benefits the firm.”*

Another associate related the story of when she asked if she could take a Guardian ad Litem case, the partners said, *“We don’t pay you to do pro bono.”* Then they relented and said, *“If you meet your billable hours, you can do pro bono.”* But then later they said, *“I hope you’re not doing pro bono. That’s a black hole.”*

A partner in a large firm in one of the large cities in Florida said of his and other firms, “Firms live and die by the billable hour.” Others echoed his comment.

Many attorneys say their billable hour requirements leave little or no time for pro bono work.

- *“Too busy with billable hour requirements!!”*
- *“Billable requirement too high. No time.”*
- *“Billing/marketing pressures in current job too intense.”*
- *“Too busy with billable hours and raising two children.”*
- *“Billable hours drain my time.”*

“While my firm recognizes and promotes doing pro bono, the pressures of getting enough billable hours and generating enough business just to keep your job are huge.”

Some say their firms do not do enough to encourage pro bono legal services.

- *“My employer does not discourage pro-bono work but certainly does not encourage it and DOES NOT make it part of the employment philosophy.”*

- *"I really would like to do pro bono work, especially family law pro bono work, but my law firm places too much pressure on me and other associates to exceed our billable hour goals, so I just don't have the time to volunteer."*
- *"The large firm I worked for prior to becoming a mother certainly did nothing to encourage pro bono. I was already there 60 to 80 hours a week just trying to meet my billable goal."*
- *"I've found that many smaller law firms view pro bono as something that DETRACTS from your work. In one situation, I was punitively treated because a simple matter I undertook became somewhat complicated and required more time than I could have foreseen."*
- *"My firm discourages pro bono work and I have to sneak it."*
- *"It's already hard enough meeting billable requirements for big firms. To add non-credited pro bono work on top of that simply takes away from family/personal time. It'll never get any better unless the employer is on board."*

"The biggest contributor to pro bono work for those in law firms, especially large firms, is for the employer to give credit toward billable hours."

Financial Difficulties. In addition to firm expectations regarding meeting billable hours, many attorneys say they are having a difficult time making a living and cannot afford to work for free. This seems to be particularly true for those solo practitioners who do not provide pro bono legal services. Nearly twice as many solo practitioners as other private attorneys (37 percent compared with 20 percent) responded to the survey that a very important factor for why they do not provide pro bono legal services is that it "would negatively affect my compensation."

A number of attorneys say they cannot afford to provide pro bono legal services.

- *"We have been struggling financially in the last few years."*
- *"It's just too hard when you have law school loans."*
- *"I am taking other opportunities to work and pay down my enormous student loan debt. It's difficult to work for free while a debt of \$150,000 runs at 9% interest."*
- *"It is very difficult to concentrate on pro bono work when you are beginning your career as an attorney. I don't have the greatest salary and have many expenses, including hefty school loans. I would be very interested in doing pro bono work in the future, but at this stage in my career it is not something that I believe should be priority."*
- *"As a sole practitioner, doing any pro bono would be a hardship. It's tough enough earning a living practicing law, let alone having to practice it for free!"*

"I am a solo practitioner and business has been very slow. I cannot afford financially to offer services pro bono at this time."

Government Attorneys. Attorneys who work for the government give a variety of reasons why they do not provide pro bono legal services, including that they think they already do pro bono work because they work for the public; their salaries are so low; or they work long hours without getting paid more. Others state they are not allowed to provide pro bono legal services because of conflicts or official policies.

Some government attorneys say they are not allowed or encouraged to provide pro bono legal services.

- *"My employer requires me to take annual leave when performing pro bono."*
- *"The County Attorney has issued a written policy actively discouraging pro bono work."*
- *"I am allowed to do adoptions and name changes and nothing else by my federal government employer- I have no experience doing either."*
- *"The state agency I work for discourages pro bono by having a cumbersome pro bono policy and by not providing time or resources to perform pro bono work. One attorney was fired in part for doing unauthorized pro bono work."*
- *"Although government agencies "encourage" pro bono work, you can't use government property, resources, or support services for pro bono work, and all pro bono work must be done on annual leave, which makes pro bono work very difficult."*
- *"[S]ince Legal Aid represents claimants [before my agency], my employer told me [volunteering at legal aid] would be a conflict of interest and told me I could not do it."*

"As a State of Florida employee, I do not have clear guidelines on what I can do and not do. It would be helpful to have guidelines..."

Some government attorneys believe they already provide pro bono legal services because they work for the public or because their salaries are so low.

- *"I am an assistant public defender. I feel I already do plenty of pro bono work on a daily basis."*
- *"Working as an attorney for the federal government is sufficient public service."*
- *"Government position is sufficient contribution to society."*
- *"Full time government lawyer is equivalent to pro bono work."*
- *"I work as a federal public defender.... I feel the services I provide my indigent clients exceeds what is required of me by the appointment and constitutes pro bono legal aid."*
- *"I work numerous unpaid hours of overtime in my public-service legal job, which I consider pro bono legal service."*
- *"As an Assistant State Attorney, I believe that I am performing a public service. The salary for Assistant State Attorneys is pathetic..."*

Others feel there may be conflicts or they are not well enough versed in the needed areas of pro bono legal services.

- *"I frankly do not understand how a government lawyer with no experience in general practice issues can provide pro bono work."*
- *"Unfortunately I have always worked in government law in which conflicts are very likely to occur if I offered pro bono assistance in areas I am qualified."*
- *"Not to mention, I have worked here for 16 years and have little or no knowledge of other types of law, so I would be a menace and liability helping anyone out."*

Other Community Service. Many attorneys say they already provide significant amounts of community service in other ways, and do not want to add to their time commitment. Others prefer to perform non-legal community service when they are not working.

Many attorneys prefer to volunteer time to various civic and charitable organizations in their non-legal capacity.

- *"I spend a great deal of time volunteering with charitable organizations, just not providing pro bono legal services."*
- *"I give tons of my time to lots of people from rich to poor, providing advice, direction, etc. However, I am unable to commit to another organization, as I am heavily involved with non-legal volunteer work."*
- *"I volunteer in a literacy program at the library as a tutor to an adult student for about six hours per month. I feel strongly about helping someone in this way and in my free time, would prefer to volunteer in the community in this way rather than in doing pro bono work."*
- *"I spend a great deal of time and money on volunteer work and charitable activities unrelated to my chosen career. Any time on pro bono work would detract from my ability to focus on volunteer efforts that are much more meaningful to me."*

"Most of my civic service, which is considerable, is unrelated to law. I generally feel I do enough with law in my work and desire to give back in other ways than pro bono."

Some attorneys also feel non-legal service should be counted as pro bono.

- *"I serve MANY hours a year in personal service through religious, charitable and civic organizations, which unfortunately is not considered 'pro bono legal services for the poor'. That, however, is where I choose to spend my personal time when not working for my employer."*
- *"Non-legal volunteer hours for charitable and faith-based organizations should be considered [as pro bono] as many people are involved in the community in non-legal service."*

From a Profession to a Business. A factor that was not an answer option on the survey, but is described extensively by survey respondents and interviewees is that the practice of law used to be a profession, and now it is a business. Many attorneys talk about various firms' cultures now being about "the bottom line" and pro bono legal services not being encouraged or valued.

"Law used to be a profession. Now it's a business."

Some partners describe some of the newer associates (including their own family members) as individuals who are on a track that involves being the best in college and then going on to law school because that is how you can make a large amount of money and it has prestige—the actual practice or profession of law is not why they go to law school.

Other attorneys describe this as the "me" generation that began in the 1980s. They believe that some attorneys in this generation have been

"I became an attorney to make money. I am not interested in giving my services away for free."

raised in affluent households and have not been taught (by parents or society) that assisting individuals and giving back are important for them and for society. They believe many younger generation attorneys do not have a sense of professional responsibility. A comment by one of the survey respondents sums up many of the feelings expressed:

"I fail to understand the pro bono problem. We, as a legal profession, have an obligation to provide pro bono services to fill in "representation gaps" created by our profession. This was taught as a professional duty in 1970's era law school, and somewhere along the way

we have lost sight of that duty, and replaced it with a 'maximize profit at all costs' mentality."

Difficult Clients. Another factor that was not a survey answer option, but is expressed by many survey respondents and interviewees is that clients who do not pay for the attorney's services are more difficult to deal with. Attorneys frequently remarked that pro bono clients, particularly clients with family law cases, call them more often than paying clients because they are not charged for the time. Also, that many pro bono clients are in crisis and have multiple issues in their lives, including mental health problems that the attorney cannot help with. Unreasonable expectations of pro bono clients is also mentioned frequently—that pro bono clients, particularly those with family law cases, do not accept reasonable offers because they think they can keep fighting for everything they want because they are not paying.

Many attorneys find pro bono clients difficult to deal with, especially in family matters. Some fear Bar complaints.

- *"The clients referred from the agency tend to have a sense of entitlement which reaches the point of abuse of the lawyer, the spouse, and the legal system. Several have said in mediation, 'I'll go to court. My attorney is free and yours is expensive.'"*
- *"I understand that cases take a while to finish but some of the pro bono cases take too long to complete and the clients always think they you are not giving them the same service that others who pay are getting when often they are getting more service because they call and talk to you more than the people who have to pay each time they communicate with you."*
- *"My practice is limited to family law. I used to do pro bono. In many cases, the client was unappreciative and did not respect my having given a very valuable service for nothing -- often abusing the process. I had to withdraw in at least 2 cases for lack of cooperation."*
- *"...The attorney who represents a pro bono client is not only concerned about the time requirement but also possible bar complaint because a non-paying client was not called three times in one day."*
- *"Many of the pro bono clients have serious substance abuse problems leading to their legal predicament; they really have mental health issues resulting in legal issues. Maybe the psychiatrists can do some pro bono work."*
- *"We have seen cases in our firm and have heard of other similar cases where attorneys handle pro bono work and then are reported to the Florida Bar because the person represented was unhappy with the result. In all cases seen and heard of, the allegations were baseless and dismissed. However, these types of incidents do not make attorneys want to do pro bono work."*

"It has been my experience that pro bono clients are very difficult. The number of phone calls is excessive..."

Made a Contribution to a Legal Aid Organization: As described previously, Florida's pro bono rule gives attorneys the option to fulfill their pro bono responsibility by contributing at least \$350 to a legal aid organization. Twenty-five percent of the survey respondents who did not provide pro bono legal services individually or through a law firm plan made a contribution to a legal aid organization. The percentage of attorneys who report making contributions has gradually increased over the last seven years, from twelve percent in 2000 to 16 percent in 2006. (See Appendix 6 for more details about contributions made by attorneys to legal aid organizations.)

Attorneys who were interviewed spoke of making contributions to legal aid organizations instead of providing pro bono service for two primary reasons—they are too busy or they do not have the expertise to provide pro bono legal services.

Many attorneys, however, do not contribute *in lieu of* pro bono legal services, but *in addition to* their pro bono service. Pro bono staff talked often of how many attorneys they have as volunteers who also donate to their program or the associated organization. Attorneys who do so, speak about the need for staff legal aid organizations in addition to pro bono assistance. One interviewee put it this way: *“Having a strong staff program is important to having a strong pro bono program because the staff has dedicated their lives to this and are such resources.”*

Do Not Believe in Pro Bono: Many attorneys do not provide pro bono legal services because they do not believe in the concept, taking the position that there is no professional responsibility to provide pro bono legal services. These attorneys will be harder to turn into participants, but that they are a portion of the Bar should be noted.

Many attorneys do not believe in pro bono legal services.

- *“I believe what I do is personal to me and don’t want to be forced to ‘donate’ and hate bureaucratic red tape.”*
- *“Philosophically opposed to mandatory personal service requirements.”*
- *“I am against the whole concept of compelled legal services for the indigent. The same demand is not made upon any other group.”*
- *“I believe the concept amounts to involuntary servitude. Can I call a plumber and get him to fix something at my house for free?”*

WHY HAS PRO BONO LEGAL SERVICES THROUGH ORGANIZED PRO BONO PROGRAMS DECREASED?

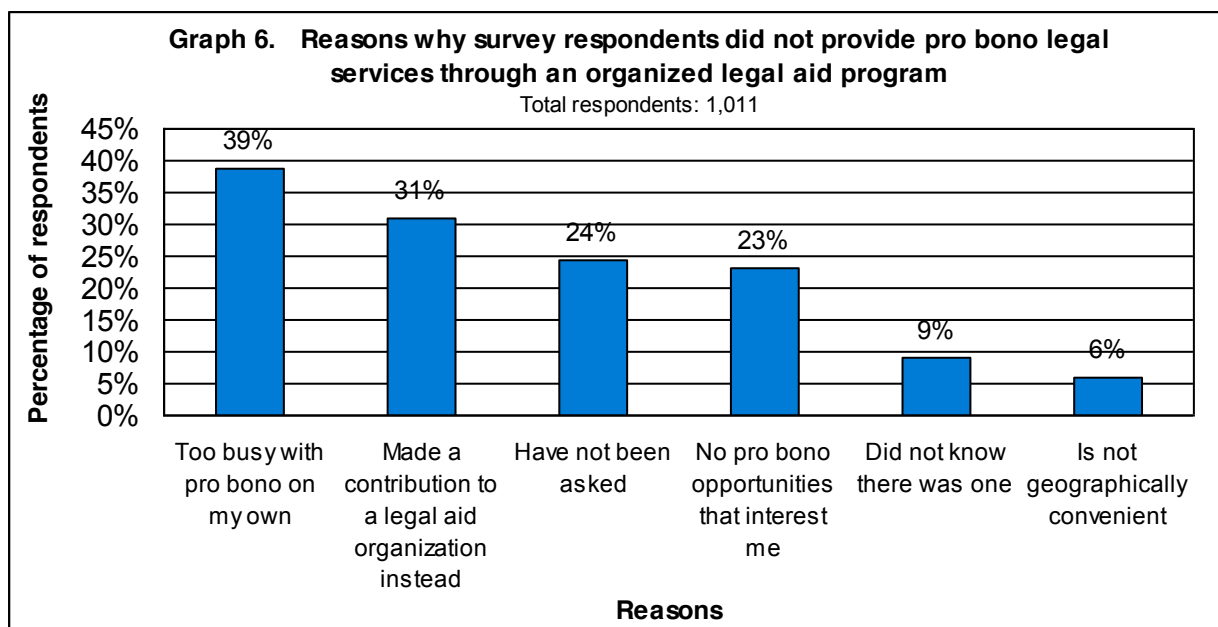
The Florida Bar's reporting data reveals that far more Florida attorneys provide pro bono service on their own than through an organized program—46 percent compared to 8 percent. As discussed earlier, the pro bono programs report that the number of attorneys providing pro bono service through their programs decreased by 30 percent in the eight year period ending in 2006, and the number of cases closed fell by 21 percent.

These facts are important, and troubling, since the organized programs play a critical role in expanding access to justice for the poor—the goal of Florida's pro bono rule. One function the programs can do is screen potential clients for low income eligibility and for critical legal needs, thus reducing a pro bono attorney's time commitment and ensuring that clients with the greatest need receive assistance. The programs also can provide many of the supports attorneys need to do this work as efficiently and effectively as possible. These supports can eliminate many of the potential barriers attorneys have for why they do not provide pro bono legal services, especially if they know that they “are not on their own” if they take a pro bono case.

Attracting to pro bono programs those who do not currently provide pro bono legal services would obviously expand the number of poor who receive legal assistance. But so too would attracting those who say they are “too busy providing pro bono on their own.” Because these programs generally make it easier for lawyers to provide service, attracting this latter group could boost productivity as well as sharpen the legal community's focus upon the critical legal needs of the poor.

The survey and review of the pro bono programs revealed many opportunities for pro bono programs to increase participation both from attorneys who do and do not provide pro bono service. Increasing participation will require them to address the reasons attorneys do not provide pro bono service through organized programs, or do not provide as much as they might. Some key reasons are in Graph 6.

The participation in pro bono programs is also affected by all the factors—lack of time, etc.—discussed in the previous section. Those factors are just as important for the programs to address as the factors specific to organized pro bono programs discussed in this section.



Inadequate Communication with Attorneys: Two of the most revealing findings of the survey are that nearly one-fourth (24 percent) of the survey respondents say they do not provide pro bono legal services through an organized legal aid program because they “have not been asked;” and nine percent say they “did not know there was one.” The communication gap with younger attorneys is even more dramatic. Fifty-four percent of respondents ages 25 to 29 say they have not been asked to provide pro bono legal services through an organized legal aid program and 27 percent say they did not know there was a program.

Many attorneys also note they have contacted a pro bono organization to volunteer, and no one had ever gotten in touch with them. These missed opportunities are likely resulting in the loss of thousands of hours of pro bono legal services.

Many attorneys say they would take pro bono work, but are never asked. Others have contacted programs to volunteer, but never heard back from them.

- *“I have signed up to various organizations and they have never contacted me with cases.”*
- *“Organizations with which I am registered did not contact me in the past year.”*
- *“Have also agreed to take pro bono bankruptcy cases from local organized legal aid program, but none have been referred to date.”*
- *“I called, but they rejected offer of services, only wanted money.”*
- *“I am currently not working in a firm or in the legal profession. I am home, raising my kids. My pro bono work is the only legal work I do each year. I do it when asked, and probably would do more if I were asked more often. (or if I were involved with legal aid.) I thoroughly enjoy it, and have the time for it as well.”*

“When I first moved to (Florida) County, I contacted (the pro bono program) here and offered my services. They never contacted me.”

Want the Choice of Clients. Some attorneys do not provide pro bono legal services through a pro bono program because they want to control who they have as clients. In one pro bono program, attorney volunteers must take the cases of the four clients who are scheduled to talk

to them that day. In others, attorneys are sent a case, without prior consultation, and are expected to take it unless they have a conflict. While these policies may work in some situations, they meet resistance from attorneys who prefer to choose who they will represent.

Some attorneys say they do not take cases from organized programs because they prefer to choose their clients on their own.

- *"I feel I am better qualified to select the cases I work on than any legal aid organization. I only accept cases I would take if I was being paid. Legal aid orgs refer some cases to me I wouldn't take for all the earth's wealth."*
- *"I like to be able to choose the situations and people whom I thought I could help."*
- *"I like to pick cases in my practice area that I believe are worthwhile."*
- *"I prefer to help people with whom I have a personal connection already."*
- *"They only refer their worst cases to private attorneys."*

Inadequate Screening. One of the advantages of providing pro bono legal services through pro bono programs is that the financial eligibility and usually the legal need are determined before an attorney meets with a client. However, many attorneys report that some clients are not financially eligible or that they are referred cases that are normally handled on a contingent fee basis, and thus are inappropriate for pro bono representation. Others complain about cases with no merit.

Many attorneys complain that referred clients are not poor, or that their cases are inappropriate for pro bono assistance or have no merit.

- *"Better screening is probably needed. People seeking help are not entirely truthful about ability to pay and the circumstances of their dispute."*
- *"So far, my experience with [a pro bono program] has been hit or miss. I work at a firm that encourages participation and also consistently offers assistance through 100% of our attorneys donating to [the pro bono program]. However, they do not seem to either have the time or the expertise to reliably screen client eligibility."*
- *"The review process as to what qualifies as pro bono work is poor. I have been referred many cases to be performed on a pro bono basis which are actually fee generating cases."*
- *"I have done pro bono through organized programs and the intake has been questionable regarding the merits of the case. When paying clients are advised that matters may not be meritorious or have a slim chance of success, they make practical decisions, usually related to money, about whether to go forward. Pro bono clients are not in that same position. The intake attorneys with the organizations should not leave it to the volunteer attorney to have to explain that the case is not meritorious or has little chance of success on the facts presented."*

Unappreciative Clients: Another factor interviewees and survey respondents discussed both in reference to pro bono legal services generally and pro bono programs in particular is that they feel pro bono clients are less grateful for their service than clients who pay. Many do or would like to charge a reduced fee because they feel paying clients are more appreciative of their work.

Some attorneys shy away from pro bono cases because they feel pro bono clients are too demanding or not appreciative of their service.

- *"It's tough because the clients are extremely demanding when its "free" You would think they would be grateful, but that is not really the case. Accordingly, you do not necessarily get a good feeling from your efforts. In fact you tend to get a lot of grief."*
- *"I do not like the way we are given credit. I have many clients who are in great need of help but do not qualify. I help them for a low price. They are very grateful. I find that if there is no charge they are ungrateful demanding clients who you often can't please. I get no credit with the Bar for what I do. I don't care. I know I have helped someone who deserves it."*
- *"In my experience, Pro bono clients referred by legal aid are the most demanding, unappreciative clients I have ever dealt with."*
- *"Maybe if they paid a little bit, they would have a more responsible attitude? These programs start with the very best intentions and goals, but maybe something for nothing carries with it the seeds that make the recipient hard to work with."*

"Free work is often not appreciated. Some people are grateful, but some think it's due them."

Limited Pro Bono Opportunities. Nearly one-fourth (23 percent) of the survey respondents say one of the reasons they do not provide pro bono legal services through an organized program is because there are "no pro bono opportunities that interest me." Part of the problem was described in the previous section—that attorneys do not feel they have the expertise to provide service in the areas in which the poor have legal problems.

In addition to the lack of expertise, numerous attorneys are adamant that they do not want to do family law cases, primarily because they do not like the emotional issues involved with them, and the cases can take many hours.

The substantive legal problems are only part of the issue. In addition, some of the programs do not have opportunities for advice and brief services where attorneys can make shorter time commitments, rather than an extended commitment to a case. Finally, many pro bono programs only have opportunities where the attorney must come to the program during work hours, which they are unable to do because of other work commitments.

Many attorneys feel the pro bono cases are too time consuming, especially in family law.

- *"I think the ... program is wonderful. However, in my experience, there is nothing like a 20 hour or 50 hour pro bono case. Pro bono cases take as long as paying cases and that can mean 100s of hours. That is a financial strain as well as (usually) an emotional strain."*
- *"Every pro bono case I have worked on was problematic and consumed far too much time..."*
- *"Frankly, I am reluctant to take on pro bono work without knowing up front the anticipated time commitment due to prior pro bono guardian ad litem experience in a case that took up too much of my time."*
- *"[T]he assignment is never the amount of hours represented or the limit of the task identified. It is always a lot worse and takes too much time."*

"Family law cases – not my area, and they never, ever end."

Some attorneys would like opportunities for time-limited or defined work. Providing those services during the evening or on weekends so it does not conflict with their other work is also appealing.

- *"It would be great if they had something like they had when I practiced in [another state]...a night once a month at the county bar association where lawyers came to volunteer to help whoever walked in the door...the clients were pre-screened over the telephone to determine financial need. Lawyers rotated."*
- *"It was easier on my schedule to do pro bono on my own, as opposed to adjusting my schedule around the legal aid program. Taking small pro bono cases here and there is easier than taking, say, one large involved pro bono case."*
- *"[B]ecause lawyers struggle to manage their time on a daily basis, I believe pro bono must be offered in discrete, small steps that an attorney can work into their day without risking becoming embroiled in a 100-hour commitment in a practice area that is not their forte."*
- *"If there were a place to go to provide consultations for a few hours I would do it. But as it is, I have to see everybody together with my paying clients and cannot afford to carry an entire case."*

"I did intake Saturday mornings at (a pro bono program) for 15 years. I have not been able to participate since (they) discontinued Saturday intake sessions several years ago."

Lack of Support from the Pro Bono Program. A major reason many attorneys say they do not provide pro bono legal services either on their own or through an organized program is because they lack malpractice coverage. In fact, The Florida Bar's most recent member survey found that 37 percent of attorneys do not have malpractice insurance. Many of these are government attorneys as would be expected, but many are private practitioners, including 35 percent of solo practitioners.²⁵ Every pro bono program in the Study counties provides malpractice coverage for pro bono attorneys, but many potential volunteers are unaware of this. Attorneys also describe the need for training, mentoring, free on-line legal research, and payment of litigation expenses.

Attorneys suggest a variety of supports that would help, including, training, mentoring, practice manuals, free on-line research and payment of litigation expenses.

- *"I think it would be wonderful to have mentors to assist in getting other attorneys involved in pro bono work. I would welcome an opportunity to do pro bono work, but I don't feel that I have the expertise in the right legal areas to be of assistance."*
- *"We could encourage more pro bono work by having practice manuals available for various types of pro bono work, e.g., defending lawsuits for financing deficits on auto repossessions."*
- *"...I am very willing to attend seminars or workshops and accept mentorship in relation to areas of law relevant to pro-bono needs. If such a program existed I would be willing to attend or be part of it. Especially if liability insurance would be provided with regard to the pro bono services rendered."*

"If free training and CLE credits, as well as being able to ask senior attorneys for advice were available I would provide pro bono service all of the time. Also, if office space were available for the task it would be so much easier."

²⁵ Results of the 2006 Economics and Law Office Management Survey, The Florida Bar, December 2006.

- *“Occasionally, poor or pro se entities need to retain experts or have depositions taken, which I am not able to provide. A resource for covering these matters would be a good idea.”*

Some attorneys are unaware that malpractice coverage is provided by the pro bono programs.

- *“I work for a corporation that provides malpractice insurance only for work related to the corporation. While I could provide pro bono services on my own time, the lack of malpractice insurance is a concern. I volunteer in excess of 20 hours per year through my church - although the work is not law related.”*
- *“In the past, I have contributed many pro bono hours to the Guardian Ad Litem program but stopped when the lack of malpractice insurance became an issue.”*
- *“I would love to get involved, just need some direction. Also, I am corporate counsel, so the malpractice insurance issue is critical.”*

WHAT IS THE STATE OF THE PRO BONO PROGRAMS?

The numbers reported earlier tell part of the story about the pro bono programs in the Study counties—the number and percentage of attorneys who volunteer with the programs are low and the number of completed cases completed and donated hours have decreased in most programs, some dramatically. The numbers, attorneys’ comments, interviews of pro bono staff and a review of the programs’ policies, practices and materials point out improvements needed in some of the primary elements of pro bono programs. Not all noted weaknesses are present in all the programs, but most programs are in need of improvements in at least one or more of these areas. The programs reviewed were chosen to be representative of all pro bono programs in Florida, so the other programs are likely in a similar state.

Commitment to Pro Bono. First, some of the executive directors and members of boards of directors of several of the programs do not have the commitment to pro bono that is needed for strong, successful programs. Some Board members do not provide pro bono legal services and one who was interviewed was opposed to free legal services from private attorneys. Many Board members reported that the pro bono components of their organizations are rarely discussed at Board meetings. Some see their pro bono projects mainly as a required use of LSC funds²⁶, rather than a vital resource, and do not attempt to maximize its funding or effectiveness.

The Project Director Association (PDA), an organization of executive directors of civil legal aid programs in Florida meets on a regular basis to discuss funding and delivery issues. However, when the executive directors who were interviewed for this Study were asked if the group had ever discussed pro bono legal services, all of them said no or that they did not think so. It was discussed by the PDA while developing Florida’s Delivery Plan in 2000 and 2001. However, it was not until the end of the process that a pro bono committee was added to the plan to develop recommendations. It is unclear whether the recommendations were implemented.

Integration with Staff Programs. A lack of integration of the staff attorneys and paralegals with the pro bono programs is the second critical element lacking in some of the programs. The pro bono program is seen as separate, rather than an integral part of the delivery system. In one organization, the pro bono program has limited referrals from the staff intake system because the staff is not supportive of pro bono legal services. One of the executive directors described the feeling of the staff as “what we do is crucial, and then there’s this adjunct thing.” In the few programs where the pro bono program is integrated with the staff program, there is a measurable and positive difference in the commitment to pro bono service on virtually everyone’s part.

Number and Performance of Staff. A third critical element is the number and performance of the staff of the pro bono programs. Some programs have under-performing staff or not enough staff. Because pro bono is not valued highly by some organizations, staff and staffing are not monitored or assessed. Some programs could do so much more if they had more staff. Others need the existing staff held to higher standards before any staff should be added.

Funding Amounts. The percentage of funding spent on promotion, coordination and support of pro bono legal services is very low in some of the organizations. Six of the nine programs

²⁶ The Legal Services Corporation requires grantee organizations to spend an amount equal to 12.5 percent of their LSC grant on “private attorney involvement”, which can include pro bono and compensated private attorney projects.

spend less than ten percent of their revenue on pro bono activities, with the lowest amount being 2.1 percent in a program that includes one of the major cities in Florida.

Recruitment and Integration with Resource Development. The recruitment efforts of some of the pro bono programs are lackluster and not as effective as possible. Many of the methods involve sending a letter to attorneys or a series of letters to targeted audiences of attorneys, a technique that many attorneys, in this increased technological age, do not respond to well. Some mailings include brochures and other materials that are out-of-date or unprofessional-looking. Only a few of the programs have website mechanisms that allow volunteers to sign up and designate what they would like to do. Most of the programs have a table at bar association functions, and some speak to Bar committees. A few of the programs visit law firms to solicit them.

None of the programs send a welcome letter/e-mail or an orientation letter/e-mail to new volunteers. If an attorney volunteers, the first communication he or she has with the program is “here is a case” or “here is your first assignment.” There is little notion of the need to welcome the attorney into a community of attorneys and generate excitement about being a part of that community.

Some programs have not integrated their attorney recruitment with their financial resource development efforts or if it is integrated, it may not be working as well as needed. It is a delicate balance to recruit pro bono volunteers while also soliciting financial buy-ins from attorneys who are not going to provide service.

RECOMMENDATIONS FOR INCREASING PRO BONO LEGAL SERVICES IN FLORIDA: THE NEED FOR PASSION AND STRATEGY INTEGRATION

Many institutions and individuals in Florida's legal community play important roles in Florida's pro bono system and make significant contributions to the effort to provide access to justice for all. These include the institutions of and the individuals within the Florida Judiciary (the Florida Supreme Court and all lower courts), The Florida Bar, the Standing Committee on Pro Bono Legal Service of the Florida Supreme Court/The Florida Bar, The Florida Bar Foundation, the voluntary bar associations, law firms, pro bono programs, and Florida Legal Services.

Florida's legal community did significant work in the 1990s to ensure that a framework was in place to promote and support pro bono legal services for the poor. Included in this work was adoption of the pro bono rules and funding and development of pro bono programs. This Report recommends that the individuals and institutions in Florida's legal community again work together to make pro bono legal services an opportunity and experience in which attorneys want to participate.

Strengthening the pro bono framework can only be achieved if a renewed passion for pro bono legal services takes hold and is sustained. Leaders of Florida's legal and pro bono communities must broadcast enthusiasm about pro bono and find ways to make pro bono service more attractive and rewarding—ways that rekindle and generate greater interest and excitement throughout the bar.

The current Florida pro bono framework is also in great need of integration. The present system is a patchwork of several pieces, many of which do not work together. The system needs coordinated leadership and action around informed strategies to increase pro bono service. These strategies must be supported by all the legal institutions and their leaders, with strong partnerships where appropriate. Statewide and local strategies need to be implemented and coordinated on an on-going basis, not just for ad hoc projects. The leaders who develop the strategies will need to be mindful of both the reasons current pro bono attorneys provide the service and what may influence others to do so. These influencing factors must be at the center of future activities to increase pro bono legal services.

A critical step involves a number of the institutions taking a leadership role together to assure activities undertaken to encourage and support pro bono legal services are carried out in a sustained, enthusiastic, and coordinated way. To achieve this will take the leadership of the Florida Supreme Court, The Florida Bar, the Standing Committee, and The Florida Bar Foundation. It is recommended that this group bring together all of the institutions to develop long- and short-term goals for the state's pro bono system—and shared commitments to take action to achieve them.

The goals should be developed by all of the partners together and be mutually agreed-upon. They may be as simple as a defined increase in the number of attorneys reporting pro bono legal services on the next bar dues statement or they may be more complex. Either way, they must be measurable, both to hold individuals and groups accountable, but also to enable the participants to recognize success, which can then lead to renewed passion. The Standing Committee's report to the Court can be the vehicle for reporting progress.

Recommendation: *The Florida Supreme Court, The Florida Bar, the Standing Committee, and The Florida Bar Foundation should convene Florida's legal institutions to develop pro bono legal services goals and commitment to action that furthers the overarching goal of increasing pro bono legal services to the poor.*

Recommendations for the Legal Community

Additional recommendations are grouped by institution to give specific direction to each group about the leadership role it should play in each area. Many of the recommendations involve the organized programs because pro bono legal service can be better targeted to the legal needs of the poor if it is provided through a pro bono program. It is critical, however, that these recommendations be developed and implemented in partnership, whenever possible, in order to most effectively achieve the goal of increasing the amount of pro bono legal services provided to the poor in Florida

The Florida Judiciary

The Florida Supreme Court has built a strong foundation for pro bono legal services in Florida by making it a professional responsibility in the oath that attorneys take upon admission to The Florida Bar and in the Florida Rules of Professional Conduct. However, there is much more the Court can do to make sure that pro bono legal services is maximized in Florida.

Promotion of Pro Bono Legal Services to and by the Judiciary. The Court must play a critical role in instilling a renewed passion about pro bono legal services in Florida's judges. This must be done at every level of the judiciary. A key component to education about and motivation for pro bono legal services is lost if judges do not recognize and promote the value of it.

Currently, some judges see this as their responsibility and others do not. Some may be reticent because of concerns about whether promotion of pro bono legal services by judges is allowed ethically. These concerns should have been addressed by an amendment to the Florida Code of Judicial Conduct Canons adopted by the Supreme Court in 2003.²⁷ The Judicial Ethics Advisory Committee asked the Court to (1) clarify that judges' involvement in activities to improve the law and the administration of justice is *not just allowed*, but is *encouraged*; and (2) state explicitly that pro bono legal services can be a part of these activities. The Court responded affirmatively by amending Canon 4B and its commentary. The canon now reads:

*Canon 4. A Judge is Encouraged to Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice.*²⁸

²⁷ Amendments to the Code of Judicial Conduct, 840 So. 2d 1043 (Fla. 2003).

²⁸ Canon 4B, Florida Code of Judicial Conduct.

The relevant commentary reads:

“This canon is clarified in order to encourage judges to engage in activities to improve the law, the legal system, and the administration of justice....Support of pro bono legal services by members of the bench is an activity that relates to improvement of the administration of justice. Accordingly, a judge may engage in activities intended to encourage attorneys to perform pro bono services, including, but not limited to: participating in events to recognize attorneys who do pro bono work, establishing general procedural or scheduling accommodations for pro bono attorneys as feasible, and acting in an advisory capacity to pro bono programs.”²⁹

The Court should communicate to all Florida judges that their promotion of pro bono legal services is crucial to fulfilling the promise of access to the courts for all Floridians, and all judges should be doing such promotion. All judges can give scheduling preference to pro bono attorneys, which will indicate to attorneys that their pro bono service is valued. For example, during pretrial and arraignment calendars in Juvenile Court in one of the Study counties, the judges ask if any private attorneys who are waiting are Guardians ad Litem, and then calls them up first. The Office of the Chief Immigration Judge for the U.S. Department of Justice recently issued guidelines for facilitating pro bono legal services that contain many provisions that could be adopted by the Florida courts.³⁰

In addition, judges can encourage attorneys to provide pro bono legal services whenever they are speaking publicly. Nearly 30 percent of the survey respondents marked that “encouragement by a judge to take a pro bono case” would encourage them to do more pro bono work. Local judges particularly can be effective spokespersons for pro bono legal services to local bar associations and other local legal groups.

Some interviewees said, as well, that firms often see pro bono legal services as a way for associates to become known by judges before they have firm cases in front of them. This added benefit should be communicated as another reason to provide pro bono service.

Recommendation: *Deliver a message regularly to the Florida judiciary from the Florida Supreme Court that promotion of pro bono legal services is expected of all judges.*

Revitalization of Circuit Pro Bono Committees. Rule 4-6.5, the Voluntary Pro Bono Plan of the Florida Rules of Professional Conduct, gives part of the responsibility for the expansion of pro bono legal services to Circuit Pro Bono Committees in each judicial circuit. The chief judge or the chief judge’s designee was to appoint the initial committee in each circuit, using the membership detailed in the rule. Each Circuit Committee was to prepare, implement and monitor the results of a circuit pro bono plan, and submit an annual report to the Standing Committee.

Interviews revealed that Circuit Pro Bono Committees served a valuable purpose when the pro bono rules were first adopted. The committees completed their tasks under the rules. However, over the years, most committees have become dormant or reporting mechanisms only.

²⁹ Commentary, Canon 4B, Florida Code of Judicial Conduct.

³⁰ *Operating Policies and Procedures Memorandum 08-01: Guidelines for Facilitating Pro Bono Legal Services*, to All Immigration Judges, All Court Administrators, All Attorney Advisors and Judicial Law Clerks, and All Immigration Court Staff from David L. Neal, Chief Immigration Judge, U.S. Department of Justice, March 10, 2008.

In the circuits of the eight Study counties:

- three circuits currently do not have committees;
- two circuits have a chair who signs off on the annual report after it is prepared by the pro bono program, but there is no committee;
- two circuits have committees who meet regularly, but primarily to hear reports from the pro bono programs; and
- one circuit has a committee that is active.

The key conclusion reached by many of the individuals interviewed and by this Study is that Circuit Committees will work well in some circuits and not as well in others. In some areas, the counties in the circuit do not make sense geographically or politically. Some larger counties dominate the membership of the committees with multiple counties. These circuits may be better served by more than one committee. And some counties may have existing groups that serve the purposes of a Circuit Committee.

Pro bono staff expressed a concern that a circuit committee can turn into more work for them with little pay-off. It can become a place to make another report, but not a way to develop or improve pro bono legal services. This can be a self-fulfilling prophecy—members view the Circuit Committees as only a reporting mechanism because that is what they have done while they have been on the committee. Many members are likely willing to do more.

The Court should convey its expectation to the Circuit Chief Judges that the judges must be involved in a coordinated strategy for pro bono legal services promotion in each circuit. The details of how best to do this should be left to the institutional actors in each circuit, as long as favorable results are reached.

Recommendation: *Revitalize local participation in promoting pro bono legal services at the circuit and county level, including a renewed expectation that promotion of pro bono legal services must involve each Circuit Chief Judge or his/her designee, leaving the specific mechanisms used to the discretion at the circuit level.*

Partners: *All legal institutions in the judicial circuits*

Promotion of Pro Bono Legal Services to Bar Associations. The Court should regularly deliver a message of encouragement for pro bono legal services to The Florida Bar's Board of Governors and The Florida Bar's Voluntary Bar Liaison Committee. Members of the local judiciary should deliver this message to the leadership of local bar associations. A sense of professional responsibility is one of the top reasons attorneys provide pro bono legal services, and members of the judiciary are some of the best message-bearers to instill this sense.

Recommendation: *Deliver a message regularly to bar associations in Florida that pro bono legal services and its promotion is expected of them.*

Partners: *Leadership of Florida bar associations*

Promotion of Pro Bono Legal Services to Law Firm Leaders. Many interviewed attorneys who work in law firms talked about how pro bono legal services is a part of their law firm's culture. Others said that although a firm's policy may allow pro bono legal services,

encouragement of it is rare. The managing partners in these latter firms may be persuaded to support pro bono legal services both in word and deed if a judge talks to them. Speaking with the managing attorneys of large firms should be a responsibility divided by the justices and judges at all levels of the courts.

Note that the definition of “large” depends on where a firm is located. In some counties, these are firms of ten attorneys, not 100. Pro bono programs can help to identify the potential firms.

Recommendation: *Deliver a message to large firms (as defined by the local communities) that promotion of pro bono service to their firms’ attorneys is expected of them.*

Partners: *Managing Partners of “Large” Firms and Pro Bono Programs*

Induction Ceremonies. Many attorneys are sworn in during induction ceremonies sponsored by the Florida Board of Bar Examiners, which are held at the Florida Supreme Court, the District Courts of Appeal, and the Circuit Courts. During these ceremonies various speakers talk about attorneys’ pro bono legal services’ responsibility. Although this reaches only a portion of the new inductees, it is an excellent way to begin an attorney’s career—with a reminder that pro bono legal services is valued and expected by the Court.

Encourage individuals being admitted to the Bar to attend one of the induction ceremonies to increase the number of attorneys who hear about the importance of pro bono legal services at the beginning of their legal career.

Partners: *The Florida Board of Bar Examiners*

The Florida Bar

Promotion of Pro Bono Legal Services to the Bar Membership. The Florida Bar’s President, Board of Governors and staff also must take a lead role in the promotion of pro bono legal services. The Bar must make and keep this a priority in its work because it has the most direct contact with the most attorneys in Florida—both those who can provide pro bono legal services and those who can take the lead on a variety of pro bono projects.

Recommendation: *Deliver a message regularly from the Bar President to the membership that pro bono legal services is expected of them. Make promotion of pro bono legal services a priority of the Board of Governors and Bar staff.*

Encourage and Support Section, Committee and YLD Pro Bono Projects. A recommendation for the Standing Committee (below) involves developing pro bono projects with The Florida Bar’s sections, committees and Young Lawyers Division (YLD). The Board of Governors, staff and leadership of the sections, committees and YLD must encourage and support these projects. Having pro bono projects at The Florida Bar will demonstrate the Bar’s commitment to pro bono legal services.

Recommendation: *Encourage and support development of pro bono projects for members of the Bar's committees, sections and the Young Lawyers Division.*

Partners: *The Standing Committee, Florida Legal Services, and the Pro Bono Programs*

Strengthen the Pro Bono Component of Practicing with Professionalism Seminars.

Currently, staff members of some of the pro bono programs (or a local bar leader or judge) attend the Practicing with Professionalism seminar in their area and give a presentation about pro bono legal services. This opportunity to talk to new admittees should be maximized by ensuring that every seminar has a presentation given.

Interviewees repeatedly said that having a personal appeal is the most effective recruitment device. Although this forum is not a one-on-one appeal, it can be made more personal by having a pro bono attorney be a major part of the presentation. Having a relatively new attorney talk about the personal satisfaction that he or she derives from pro bono legal services will likely stay in a potential volunteer's mind longer and be more of a draw than a pro bono staff person, who may be viewed as having an agenda.

Recommendation: *Strengthen the Practicing with Professional Seminars by having a presentation about pro bono legal services at every seminar, and personalize it by having a pro bono attorney talk about his or her experience.*

Include Pro Bono Legal Services in the Mentoring Program. The Florida Supreme Court/The Florida Bar's Joint Committee on Mentoring determined that a mentoring program is needed and should be required of new admittees. When it is established, the promotion of pro bono legal services should be made a part of the mentoring. This will, again, reach new admittees early on in their careers, and should give them the opportunity to understand that pro bono legal services is a professional responsibility that can provide deep personal satisfaction.

Recommendation: *Incorporate pro bono legal services into the Mentoring Program when it is developed.*

Partners: *The Florida Supreme Court and Attorney Mentors*

Recommend rule change to expand potential pool of pro bono attorneys. A recommendation for the Standing Committee (below) involves expanding pro bono legal services opportunities for retired and inactive attorneys. The Florida Bar should recommend a change to Rule 12.1 of the Rules Regulating the Florida Bar, to allow attorneys who are on inactive status with The Florida Bar or other state Bars to provide pro bono legal services.

Recommendation: *Recommend change to emeritus attorney rule to include attorneys on in-active status.*

Partners: *The Standing Committee and the Florida Supreme Court*

Improve Pro Bono Reporting. Three recommendations for the Standing Committee (below) involve making changes to the pro bono rules and the reporting form. As a part of making the pro bono reporting more convenient and accurate, The Florida Bar should implement an on-line

process for pro bono reporting to increase the convenience of reporting and the accuracy of the data. Currently, there is no follow-up with attorneys who do not report. A follow-up notice should be sent to the attorneys who do not complete the pro bono report, in case the omission was an oversight. Those attorneys who do not comply after notice, should be given a consequence, such as a fine or a suspension, until they comply.

Recommendation: *Implement on-line reporting for the pro bono report. Send follow-up notices to attorneys who do not complete the pro bono report and implement a consequence for non-compliance.*

Partners: *The Florida Bar and the Florida Supreme Court*

The Standing Committee

Provide More Leadership. The Standing Committee has not been as proactive on a systemic level as is needed. To improve this, Rule 4-6.5 should be modified in two ways. First, the membership of the Standing Committee required under the Rule should be changed to increase the flexibility of appointments to ensure that individuals are appointed, including the committee Chair, who have the clout and motivation to advance the interests of pro bono legal services in a major way.

Second, the rule should be amended to include a provision that gives the Standing Committee the responsibility to take actions on the state level to encourage more attorneys to provide pro bono legal services. The committee's current responsibilities are limited to (1) receiving and evaluating Circuit Court pro bono plans, (2) preparing an annual report based on the Circuit Court reports and the attorneys' pro bono reporting to the Florida Bar, and (3) proposing changes to the pro bono rules. The Standing Committee should be required to take a leadership role and both the Court and the Bar should hold the committee accountable for this responsibility.

In its leadership role, the committee should identify projects it can undertake at a state level to move the pro bono system forward. Some of these projects are identified in these recommendations. The committee will be in a good position, with membership from so many of the institutions, to work on projects that require coordination from many of the partners.

Recommendation: *Take a leadership role in revitalizing the pro bono legal services system. Draft a rule change to the pro bono rules that increases flexibility of appointments to the committee and increases its ability to take a leadership role.*

Partners: *The Florida Supreme Court and the Florida Bar*

Statewide Campaign. A statewide campaign for pro bono legal services is needed. It can provide a focus for some of the statewide collaboration, while also providing support for local efforts. The Standing Committee is a good group to coordinate this campaign since almost all of the partners have members on the committee.

With a goal of attorney recruitment, the campaign should include several elements. First, the campaign should educate attorneys about the definition of pro bono legal services under the Rule. As noted previously, many attorneys do not understand the definition, particularly that pro bono legal services need to be performed on behalf of the poor.

A second element should be to educate attorneys about the legal needs of poor people. Many interviewees discussed how a number of attorneys, particularly younger attorneys, are not familiar with the legal needs of poor people. They may have been raised and continue to live in a sector of society that does not have much interaction with poor people. Many pro bono programs talk about the legal needs of poor people in the aggregate. This can be too general and/or overwhelming. Many interviewees said that stories of an *individual's* legal needs along with how they were met by a pro bono attorney are what are needed for recruitment. They specifically encourage the use of more stories about real clients and their pro bono attorneys in state and local bar newsletters and newspapers.

A third element needs to be to point out to attorneys that they are uniquely qualified to perform this particular volunteer service. Attorneys provide community service in a myriad of ways, so for most, not providing pro bono legal services is not about whether to volunteer. It is about *what* they volunteer to do. Although the message is simple, many attorneys have not seriously considered that they are the *only* ones who can provide legal assistance. No one else can volunteer to do this. Others can build houses or serve meals, but only attorneys can provide pro bono legal services.

There are obviously other messages that would be part of a statewide campaign for pro bono legal services, but these three are critical.

Recommendation: *Coordinate a statewide campaign for pro bono legal services.*

Partners: *All institutions*

Development of Pro Bono Projects with The Florida Bar Committees, Sections and YLD.

The Standing Committee recently contacted the chairpersons of The Florida Bar committees, sections and the Young Lawyers Division to find out if they have pro bono projects. Most did not or if they did, they were not projects that targeted the poor. A major exception is the Real Property, Probate and Trust Law Section. It recently created a project in collaboration with Florida Legal Services, where section members provide pro bono legal services to Floridians who are at risk of losing their homes to foreclosure. Florida Legal Services is also working with the Administrative Law Section to develop a pro bono project for members to represent disabled individuals with administrative appeals. Members of the Young Lawyers Division (YLD) provide free legal assistance after hurricanes hit, and the new YLD president is an active pro bono attorney who wants the division to use the results of this Study to determine possible additional projects for its members.

Each committee, section and the YLD should have a pro bono plan. The Standing Committee, along with Florida Legal Services staff, should assist in the development of specific pro bono plans for these groups, in conjunction with the pro bono programs. The plans should be targeted to the priority legal needs of the poor. All institutions should work collaboratively to ensure projects are interesting, needed, timely and not duplicative of other efforts.

Recommendation: *Develop pro bono plans and projects with The Florida Bar committees, sections and the Young Lawyers Division.*

Partners: *The Florida Bar's committees, sections and YLD, and Pro Bono Programs*

Expansion of Opportunities for Retired and Inactive Attorneys. The Florida Bar has a rule, known as the emeritus attorney rule, which permits retired attorneys to volunteer with legal aid organizations.³¹ Generally, the rule requires that an attorney (1) be retired from the Florida Bar or another state's Bar; (2) not have been disciplined for professional misconduct for the past 15 years; and (3) be supervised by a Florida Bar member in good standing. The emeritus attorney can even go to court as long as written client consent and supervisor approval is given and his or her Bar status is disclosed.

None of the pro bono programs in the Study counties have volunteers who are emeritus attorneys. Some coordinators were unaware of the rule. With nearly 4,500 retired Florida Bar members in the state along with thousands of retired attorneys from other states, this is a missed opportunity to utilize a large pool of attorneys who likely have time to perform pro bono legal services.

The emeritus attorney rule should be expanded, as some other states have done, to include attorneys who are on in-active status. Many attorneys, even if they "retire" to Florida, may put their license on "inactive" rather than "retired" status. This change will increase the pool of potential pro bono attorneys significantly, and will likely include thousands more with time available for pro bono legal services.

Since no program is taking advantage of the Rule now, this may be a good opportunity for the Standing Committee to take the lead on developing a recruitment process and streamlined certification process that will benefit all the pro bono programs. The Standing Committee can also draft the rule change that can then be proposed by The Florida Bar.

Recommendation: *Draft a rule change with The Florida Bar to expand the emeritus attorney rule. Develop a recruitment process and streamlined certification process for retired and inactive attorneys to provide pro bono legal services. Collaborate with the pro bono programs to maximize the use of retired and inactive attorneys for pro bono legal services.*

Partners: *The Florida Bar and the Pro Bono Programs*

Recommend Rule Changes. One of the Standing Committee's responsibilities under Rule 4-6.5 is to recommend changes to the pro bono rules. Rule 4-6.1 (Pro Bono Public Service) has three major provisions about pro bono legal services: (1) an aspirational goal of 20 hours of pro bono legal services; (2) a financial alternative of at least a \$350 contribution to a legal aid organization; and (3) mandatory reporting about pro bono legal service. The Study's recommendations about rules changes are as follow:

20 hours of pro bono legal services. No change is recommended in the amount of pro bono legal services in the rule. Opinions and feelings about the amount of 20 hours were not explored extensively in this Study because the data and the interviews revealed that the issues revolve around encouraging attorneys to *provide* pro bono service to the poor, *not*

³¹ Rule 12.1, *Emeritus Attorneys Pro Bono Participation Program*, Rules Regulating the Florida Bar.

how much to provide. Both the Bar's reporting and the pro bono programs confirm that many attorneys who provide pro bono legal services to the poor actually do much more than twenty hours.

Alternative contribution. As reported earlier, many of the attorneys who give a contribution to a legal aid organization *instead* of providing pro bono legal services say they do so either because they are too busy or they do not have the expertise needed for assisting the poor. The contributions have been an important revenue source for some of the legal aid organizations, but should never be treated as more important than pro bono legal services. The value of an attorney providing pro bono assistance for twenty hours is obviously far greater than \$350 or higher donations, and should be encouraged by meeting the volunteer's challenges of time and expertise. (How to meet these challenges is discussed more in the recommendations for pro bono programs.)

The contribution, often referred to as the pro bono "buy-out" or "buy-in" has been the same amount (\$350) since the rule was implemented in 1994. When asked what effect, if any, an increase in the annual contribution amount would have on their decision to provide pro bono legal services, survey respondents do not vary significantly between those who contribute in lieu of pro bono legal services and those who do not. Approximately 90 percent of both groups say it would have no effect. (See Graph 9 in Appendix 7.)

Six other states and the District of Columbia have pro bono rules which specify an explicit amount of an annual contribution to legal aid organizations to meet the pro bono professional obligation. Only two are as low or lower as Florida. Three of the seven specify \$500; one specifies \$400, and one specifies ("from \$250 to 1% of the lawyer's annual taxable income." (See Table 24 in Appendix 7).

The contribution amount is an aspirational goal, not a mandatory amount. A balance must be reached between having an amount that most attorneys who choose to contribute in lieu of pro bono legal services can meet, having an amount that is meaningful to the legal aid organization's work, and setting an amount that is not so high that attorneys view the contribution negatively, resulting in less contributions or less pro bono legal services.

Five hundred dollars (an increase of \$150) is an amount that takes into account that fourteen years have passed since the \$350 contribution amount was implemented, yet seems to meet the factor of not making the amount so high that contributors discontinue giving. (See Appendix 7 for more information on the Study's findings about the alternative contribution.)

Reporting. Reporting about pro bono legal services on The Florida Bar's membership fees statement is not as valuable as desired because: (1) a high percentage of attorneys (17 percent in 2006) do not complete the pro bono section of the statement and there is no follow-up to nor consequence for non-compliance; (2) many attorneys estimate their pro bono hours, with some of them purposefully underestimating the hours; (3) some attorneys may not understand that the pro bono report should be for pro bono legal services *for the poor* because those words are not on the form in some of the appropriate places; (4) the form is confusing and likely completed incorrectly by some; and (5) some data may be entered incorrectly by the data entry service. (For more information about the Study's findings about pro bono reporting, see Appendix 8.)

It is recommended that mandatory reporting stay in the pro bono rule, but changes be made to policies and procedures to increase reporting convenience and compliance, and data accuracy.

Recommendation: *Recommend change to Pro Bono Rule 4-6.1 to increase the alternative contribution amount to \$500.*

Partners: *The Florida Bar and the Florida Supreme Court*

Recommendation: *Recommend revisions to the pro bono reporting section of The Florida Bar's annual membership form to simplify it, make the category descriptions more accurate, and include an easy way for attorneys to obtain information about pro bono legal services opportunities.*

Partners: *The Florida Bar and the Florida Supreme Court*

Voluntary Bar Associations

Voluntary bar associations are a natural medium for promotion of pro bono legal services. The survey found that respondents who are members of a county bar are more likely to provide pro bono legal services *and* more likely to contribute to a legal aid organization. Two of the bar associations in the Study counties have pro bono legal services requirements for their members, although enforcement differs. Bar association interaction with the pro bono programs in the other Study counties varies.

Bar associations generally encourage their members to attain high standards of professional responsibility and their members are likely individuals who “join” in activities. One interviewee said, “Your professionalism increases as you increase your activities with the Bar.” Pro bono programs can partner with bar associations to sponsor pro bono legal services projects that are tailored to the members’ interests. Trainings can be jointly sponsored to increase the needed expertise.

Thus, bar associations are a good mechanism for promoting pro bono legal services and good partners for pro bono projects. (For more details about the Study’s findings about voluntary bar associations, see Appendix 9.)

Recommendation: *Take a leadership role in revitalizing pro bono legal services. Maximize interaction between voluntary bar associations and pro bono programs to benefit from the associations members’ propensity to volunteer.*

Partners: *Pro Bono Programs*

Law Firms

Encourage Pro Bono Legal Services within Supportive Firms. Many partners in law firms that promote pro bono legal services were interviewed during the Study, and their belief that pro bono legal services is a professional responsibility was clear. They also talked about how many younger associates do not seem to have the same sense of professional responsibility. Other partners and associates said their firms' policies allow pro bono legal services, yet in practice it is not encouraged because the firms maintain billable hour requirements that do not treat time providing pro bono legal services as billable. Partners in both of these types of firms need to mentor their newer attorneys about the importance of pro bono legal services, and make it feasible, both financially and time wise.

Recommendation: *In firms that are generally supportive of pro bono legal services, mentor associates about the importance of pro bono legal services and ensure the time to do it. Change policies to count pro bono hours as billable hours.*

Encourage Other Firms. The culture of many law firms has changed from one of a profession to one of a business. To make pro bono legal services a priority in these firms will take different and possibly multiple strategies. These firms will need to be convinced that providing pro bono legal services is good for their business. Motivations to encourage their attorneys to do so may include (1) new associates obtain experience in court, a good introduction into the legal community, and professional recognition by judges; (2) the firm may receive local and state publicity through recognition about their pro bono legal services in the news and at events; and (3) the firm's name will be associated with community service, which is a plus for many firm clients.

The message must include making the case that part of the economic equation is counting the hours worked pro bono as billable hours so associates have the time and added incentive to do so. This message about the economic benefits of pro bono legal services is probably best delivered by managing partners of firms with active pro bono practices. These managing partners will need to work closely with pro bono programs to identify firms that may be open to discussions.

Solo practitioners may be receptive to this message as well, but an additional component was identified by solo practitioners who were interviewed. They talked about how pro bono cases help their professional development, particularly if they want to get into a new area of the law. The free training and mentoring they can receive through a pro bono program helps them to expand their practices, thus benefiting them economically as well. Solo practitioners who provide pro bono legal services should deliver this message to other solo practitioners.

Recommendation: *Deliver a message of the professional and economic benefits of pro bono legal services from managing partners of supportive firms to firms that do not support pro bono legal services yet, and from solo practitioners who provide pro bono legal services to those who do not.*

Partners: *Pro Bono Programs*

Deliver a Message of Personal Satisfaction. As noted earlier, “the personal satisfaction derived from providing the service” is the top “very important” factor influencing attorneys who provide pro bono legal services. The message about this benefit of pro bono legal services can best be delivered by attorneys who have had that personal satisfaction. Any promotion within a firm or to another firm should be done by attorneys who can talk personally and passionately about the satisfaction they receive. First person stories, as opposed to those told by a pro bono program staff person or a managing attorney who does not provide pro bono legal services, will be the most valuable.

Recommendation: *When promoting pro bono legal services to other firms and attorneys, have active pro bono attorneys talk personally and passionately about the satisfaction they derive from it.*

Partners: *Pro Bono Attorneys and Pro Bono Programs*

Pro Bono Programs

The pro bono programs are a critical partner in Florida’s pro bono legal services system. Their connections with the client community and legal aid can maximize the amount and effect of pro bono legal services. The Study reviewed nine of the programs and many of the recommendations are based on that review, but all the Florida pro bono programs are encouraged to conduct a self-assessment and follow the recommendations below where improvements would help to make the Florida pro bono system as effective and integrated as possible.

Develop and Utilize an Advisory Group. Some of the programs develop projects and practices without as much consultation with practicing attorneys as optimal. Having a group advise them may be helpful. In some cases, a Circuit Pro Bono Committee or a program’s board of directors may be the appropriate group. In others, there may need to be a separate group of pro bono attorneys. A careful balance will need to be maintained to ensure that any advisory group does not become just additional work for pro bono staff, but rather is a group of committed, interested attorneys who can promote the program and be a sounding board for new strategies, projects and policies.

Recruitment of Pro Bono Attorneys. One of the most critical elements of a quality pro bono program is effective and on-going recruitment of pro bono attorneys. In order to have the personal satisfaction that comes from handling pro bono matters, attorneys must first have an experience doing so.

A statewide campaign for pro bono legal services will be a critical component to local recruitment of pro bono attorneys, but many programs need to update and more effectively target their recruitment efforts, as well. Recruitment methods should vary depending on the size and make-up of the legal community. Although different strategies are recommended below for different attorneys, it must be stressed that pro bono programs should talk to representatives of the targeted attorneys to see what would be most effective, and all strategies should reflect a passion for pro bono legal services.

Personal recruitment. Many attorneys interviewed discussed their belief that recruitment must be done on an in-person, one-by-one basis, and that it is best done by attorneys who provide pro bono legal services currently. With the pressures on attorneys' time, a personal interaction—particularly with someone they know—is more likely to be an effective recruitment mechanism than a form letter or e-mail. The pro bono attorney can talk to other attorneys about the legal needs of the individual clients they have assisted and the satisfaction they receive themselves from pro bono legal services.

In smaller legal communities, nearly all attorneys can be contacted personally. The key is to have pro bono attorneys who may have a connection with a potential volunteer do the contacting. Connections may include being in the same firm (i.e. a government agency), being in the same type of practice (i.e. personal injury), are of a similar age, or went to the same college or law school. A telephone bank of two attorneys at the same time making calls to colleagues can be fun and productive.

Group recruitment. Where group recruitment is used, whether at a Bar function or in a law firm, more excitement must be built about volunteering with the pro bono program. This can be accomplished through pro bono attorneys telling their stories, better materials, and video presentations. The pro bono attorneys must be able to speak passionately about the satisfaction they receive from their pro bono legal services.

Use of e-mail and websites. E-mail is not used extensively by some of the programs, either for recruitment or for information about pro bono opportunities. Although in-person or telephone recruitment is optimal, electronic recruitment should also be used in many cases. Most programs are not maximizing the use of their websites by having adequate information about pro bono opportunities and on-line applications. Programs must modernize their recruitment and on-going communication methods if they hope to connect to many attorneys, particularly younger attorneys.

Materials. Attorneys who are being asked to donate their professional time will expect that they can have a professional experience. Many of the current materials do not give that assurance and must be improved.

Prompt responses and welcome letters. Some attorneys reported contacting a pro bono program to volunteer and never hearing back. New volunteers should always receive a prompt, personal (preferably by telephone) response. All new volunteers should receive a welcome letter or e-mail that makes them feel appreciated and part of a larger community of volunteers who are well supported by the program.

Recommendation: *Create a recruitment campaign that utilizes pro bono attorneys, maximizes one-on-one interactions, and uses exciting marketing materials.*

Recruitment of Specific Populations. Recommended recruitment strategies for law firm attorneys and solo practitioners were discussed above. Some other attorney populations deserve special mention because of their potential to volunteer.

Law Students. The best time to begin pro bono service is early—in law school. The ten law schools in Florida have a variety of pro bono policies—some that require pro bono legal services and some that promote voluntary opportunities. Law school pro bono programs

can give law students a sense of professional responsibility about pro bono legal services and educate them about the legal needs of poor people, but most importantly, they give students their first pro bono experience, which may make pro bono legal services after graduation more attractive.

Programs can increase the number of law students experiencing pro bono legal services by coordinating current pro bono attorneys to speak at law schools about the personal satisfaction they derive from pro bono cases. Additionally, legal aid organizations in Florida have the most placements by law school pro bono programs of any public interest organizations. They must make sure that law students have the best pro bono legal services experience possible so they are more likely to volunteer once they become attorneys.

Finally, programs should systematically recruit new attorneys who have provided pro bono service as students. This is a lost opportunity for programs that do not do so. (See Appendix 10 for more information about the Study's findings about law school pro bono programs.)

Recommendation: *Have pro bono attorneys give presentations at law schools about why they provide pro bono legal services and the types of cases they do on behalf of the poor.*

Partners: *Law Schools and Pro Bono Attorneys*

Recommendation: *Recruit Florida law school graduates who have performed pro bono legal services or interned with legal aid organizations.*

Partners: *Law Schools*

New attorneys: Some of the programs do not send information to each new admittee in their area. To increase the chances of their volunteering early, programs should contact new admittees shortly after their induction or their attendance at a Practicing with Professionalism seminar.

Recommendation: *Recruit new attorneys soon after their admittance to the Bar.*

Government Attorneys. Many government attorneys do not want to provide pro bono legal services because they believe their long hours for lower comparable pay amounts to pro bono work. These attorneys need to be targeted with a message about the personal satisfaction and professional development that pro bono legal services for poor people in civil cases can provide. Government attorneys who provide pro bono legal services should be recruited to deliver this message.

Recommendation: *Coordinate a message from government attorneys who provide pro bono legal services to government attorneys who do not, that pro bono legal services can be personally satisfying and rewarding for them.*

Partners: *Government attorneys who provide pro bono legal services*

Pro Bono Policies for Government Attorneys. Many government attorneys say they are not allowed or encouraged to provide pro bono legal services. Government agencies vary widely in whether they think their work prevents them from providing service to legal aid clients of pro bono programs in civil cases because of ethical conflicts.

The Office of the Attorney General published a booklet in March 2005 that contains its pro bono policy and information about pro bono opportunities. The policy allows Assistant Attorneys General to provide pro bono legal services on their own time, and to use office resources, such as their computers and telephones (not clerical staff).³²

Some of the state agencies have similar policies. For example, the Florida Department of Transportation's policy allows Department attorneys to provide pro bono legal services while on personal time, approved annual leave or approved administrative leave. One hour of administrative leave per week, up to five hours per month, may be granted for community services that meet child, elder or human needs.³³

Many local and state government attorneys are volunteering with the pro bono programs in Tallahassee. The City of Tallahassee City Attorney's Office received an award from the Florida Supreme Court in 2008 for its pro bono service. However, the City Attorney in another major Florida city said the attorneys in that city's office cannot provide pro bono legal advice to poor individuals because that is automatically a conflict.

There seems to be a more supportive, accommodating approach to pro bono legal services in Tallahassee where the bulk of the government attorneys are located. These agencies' policies should be shared with other state and local agencies and publicized outside of Tallahassee so more government agencies allow and support pro bono legal service. The Standing Committee may want to coordinate the development of government agencies' policies at the state level, and include the City, County and Local Government Law Section in this work.

Recommendation: *Develop pro bono legal services policies with government agencies that do not have them and publicize the authorization for pro bono legal services for those agencies that permit such service.*

Partners: *Standing Committee, government agencies and government attorneys*

Pro Bono Opportunities. Just as there must be a variety of strategies used to recruit attorneys, there must be a variety of opportunities for their pro bono legal service.

Full range of service, including limited assistance. Pro bono opportunities must include a full range of service from assistance to self-represented litigants to counsel and advice to brief service to extended representation. Some programs offer only extended representation cases to pro bono attorneys, which precludes those attorneys who cannot or will not represent clients in extended cases. Legal aid organizations have expanded their types of assistance to include more brief service and pro se assistance to strive to serve as many poor individuals as possible, and pro bono programs must do the same. Also many transactional attorneys will not go to court, so they need opportunities that allow them to limit their assistance to outside of court.

³² Office of the Attorney General Pro Bono Source Book, March 2005.

³³ Pro bono Legal Services, Policy, Topic No. 001-225-001-f, Florida Department of Transportation, March 16, 2006.

Many attorneys will be more likely to volunteer if they know their annual commitment will be closer to the 20 hour aspirational goal or even 40 hours, but not 100+ hours. Nearly half of the survey respondents (47 percent) said the ability to work on a discrete legal task would encourage them to do more pro bono legal services. (See Graph 12 in Appendix 11.)

Florida's "unbundled legal services" rules should be expanded from the Family Law Rules of Procedure to all civil practice to give attorneys the assurance their limited representation is allowed under the rules.

Expanded areas of the law. Many current and prospective pro bono attorneys will not provide assistance in the area of family law because of the emotional stress that can be involved in these cases. Pro bono and legal aid organizations need to work together to examine the proper balance and mix of family law work between them. Although family law is the largest number of cases that come through most legal aid organizations, it may not be effective to make it the predominate work of a pro bono program. Other major areas of law that are also priorities of legal aid organizations, such as housing and consumer, can become a larger portion of a pro bono program's caseload.

Family law cases should not be abandoned by pro bono programs, because many attorneys will take family law cases without complaint. Other attorneys may be willing to take a family law case if most of the pro bono assistance they are asked to provide is outside of family law. The task is to make sure attorneys are offered a wide range of legal areas that address priority legal needs of the poor.

Opportunities outside of work hours. Some attorneys are not allowed to or would rather not provide pro bono legal services during their work day. Opportunities, such as evening or week-end clinics, should be available to accommodate their time. These will have the added benefit of being more convenient for many clients who work during the day.

Recommendation: *Develop a full range of pro bono legal services opportunities with all levels of representation, a variety of areas of the law, and convenient times.*
Partners: *The Florida Bar and the Florida Supreme Court (rule change)*

Supports for Pro Bono Service. There are a variety of factors that attorneys—both those who provide pro bono legal services and those who do not—say would encourage them to do so, or do more. (See Graph 12 in Appendix 11.) Pro bono programs should develop a wide range of incentives and supports to make the pro bono experience as easy and rewarding as possible for attorneys.

Screening and counseling of clients. A number of interviewees and survey respondents described situations where a client's financial eligibility or legal priority had not been adequately screened. Pro bono programs need to ensure that individuals who are served by pro bono attorneys are within the program's financial and legal parameters so attorneys know they are assisting needy individuals with pressing legal problems. This is one of the benefits of providing pro bono legal services through an organized pro bono program—an attorney knows the individual needs the legal help—and must be a priority practice of the programs.

To meet the challenge of clients' emotional issues associated with many legal problems, particularly in family law, pro bono programs should make appropriate referrals of clients to mental health specialists and give the referral lists to pro bono attorneys for them to make appropriate referrals as well. Pro bono programs should also assure pro bono attorneys that staff will assist with these cases.

Many attorneys also described what they perceive as two major differences between paying clients and pro bono clients—that (1) pro bono clients do not use the same constraint in contacting their attorney because they are not paying for the time, and (2) they do not take reasonable offers, e.g. in visitation cases, because it is not costing them to “go for everything they want.” Pro bono programs must have frank conversations with clients of pro bono attorneys about the difference between reasonable service and unlimited service, and must provide consequences for contacting an attorney too often.

Free malpractice insurance. All of the programs in the Study provide free malpractice insurance for pro bono attorneys. However, many attorneys are unaware of this. The programs must publicize this benefit more often and more broadly.

Free training, CLE credit, manuals and forms. Nearly half (48 percent) of the survey respondents said free training and CLE credit for the service they perform would encourage them to provide more pro bono legal services. A similar percentage (44 percent) said free manuals and forms would encourage them. Although the free aspect is likely important, the comments of respondents and interviewees revealed a widespread feeling that many attorneys do not feel they have the necessary expertise to provide service in the legal areas needed. Written materials, including customized forms, will help attorneys to feel more confident in legal areas in which they have not practiced.

While some of the programs have frequent, timely training, others have infrequent, general training. In this time of legal specialization, the pro bono programs need to provide more specialized training in all of the areas in which they ask attorneys to assist. A regular training program is critical to both recruitment and retention of pro bono attorneys. As one interviewee stated, *“It lets you know you can do it and not be incompetent.”* Seminars could be developed at the state level and given at the local level, through a road show, a DVD or webinar. Brown bag lunches with short courses recently have been instituted by one of the programs and were mentioned regularly by interviewees as very useful to them. On-line training should become a regular offering.

Mentors and co-counsel. Many attorneys would like to have mentors and/or co-counsels for their pro bono legal assistance. In addition to assisting the mentee, this gives an opportunity for a more experienced pro bono attorney to provide a different type of pro bono service. Co-counseling by staff attorneys can give that extra boost of confidence that a pro bono attorney may need when doing their first case in a new area of the law. Many attorneys also talked about the need to have someone walk them through the process of family law, which has become very complicated.

Some of the programs have mentors available, but do not publicize it as well as needed or make it as simple as possible. Both mentoring and co-counseling need to be regular, easily accessible supports provided by pro bono programs.

Free use of office space and administrative support. Many of the government attorneys mention the need for office space and administrative support. Depending on their

agency's policy, they may not be able to use either at their place of employment. Providing a place for a client interview, a computer for completing forms and letters, and an assistant to do clerical and runner tasks may make many more attorneys available to provide pro bono legal services.

Recommendation: *Develop a wide range of supports and incentives to make pro bono legal services as easy and rewarding as possible.*

Recognition. All of the pro bono programs in the Study counties give recognition to their pro bono attorneys through a variety of means, including such things as certificates, awards, honor rolls, articles, and luncheons. They also are part of a statewide recognition project, funded by the Young Lawyers Division of The Florida Bar, which gives different types of lapel pins for different levels of service. The Chief Justice sends letters to the attorneys who receive the highest level of lapel pin. The Court also gives statewide pro bono service awards to firms and individuals.

Although all of the pro bono attorneys who were interviewed said they did not need additional recognition, many of them (and some survey respondents) thought there should be more recognition. Most attorneys who already provide pro bono legal services say they do not do it for the accolades, but feel others may be more inclined to provide service if they are given more recognition.

It is recommended that more recognition be given of the firms of the pro bono attorneys. This may encourage more firms to support pro bono legal services. In addition to doing this through articles about and awards for the firms that have a large number of attorneys providing pro bono legal services, a letter could be sent from the pro bono program or the local bar association or the Circuit Pro Bono Committee or from the Florida Supreme Court (or all of them), thanking the firm for its attorney's participation.

Another suggestion from a couple of interviewees is to have a special publication of The Florida Bar which lists all pro bono attorneys and has stories about pro bono legal services. This may give incentive to those firms that would like this as a part of the publications on their lobby "coffee tables," which clients and potential clients see.

Recommendation: *Review recognition efforts to ensure that as many attorneys receive recognition in as many ways as possible. Give increased recognition to the firms of the attorneys who provide pro bono legal services.*

Partners: *The Florida Supreme Court and The Florida Bar*

Florida Pro Bono Coordinators Association. The coordinators of the pro bono programs in Florida created a group called the Florida Pro Bono Coordinators Association (FPBCA). They meet and share information through this group three or four times a year. They also have a listserv, which members find useful. The lapel pin recognition project is a collaborative project of the FPBCA. Other collaborations could be done through this group, such as development of content for the statewide pro bono website (discussed in the Florida Legal Services recommendations).

Recommendation: Collaborate, through the Florida Pro Bono Coordinators Association, on projects that improve local pro bono programs and the statewide system of pro bono legal services.

Staff and Management. Taking the pro bono programs to a higher level will take a heightened commitment and passion that is lacking in some of the programs' staff and management. Pro bono legal services must be treated as a critical component of the legal services system for meeting the legal needs of the poor. The potential amount of assistance that can be given by pro bono attorneys must be viewed as an under-tapped resource that needs to be recruited and nurtured.

Underperforming programs must be revitalized. The executive directors must hold staff accountable for the quality and quantity of their work. Some programs should have additional staff if the current staff is meeting its potential. It is acknowledged that the recommendations identified above will take a significant commitment of time and, in some cases, more staff. Those programs that have a coordinator who is not an attorney should assure that an attorney works closely with the coordinator.

The Executive Directors and Boards of Directors must ensure that pro bono programs have adequate budgets and that management is dedicated to maximizing these resources in order to have quality programs that produce the greatest results. Board members should be regular volunteers in their organizations' pro bono programs.

The Project Directors Association must help to educate executive directors about the resource of pro bono legal services and strategies to increase it.

Recommendation: Increase the commitment and passion of staff and management of pro bono programs to revitalize programs' quality and quantity of pro bono legal services.

Florida Legal Services

Leadership Role. Florida Legal Services (FLS) is looked to to take a leadership role in the development and support of pro bono legal services in Florida. The Executive Director and staff have worked for years with The Florida Bar (including its sections and committees) and the Florida Supreme Court to improve the rules and policies affecting pro bono legal services. FLS staff provides staffing support to the Standing Committee and administrative support for the Florida Pro Bono Coordinators' Association. FLS is very good at performing all these roles, and it is recommended that this work continue.

Recommendation: Continue leadership roles with the Florida Supreme Court, The Florida Bar, and the Standing Committee.

Partners: Florida Supreme Court, The Florida Bar, and the Standing Committee.

Pro Bono Website. FLS implemented a website for statewide pro bono information and support in 2006 (www.floridaprobono.org). However, the website has not been used widely by the pro bono programs or pro bono attorneys. Much of the information is incomplete or out-of-date. For example, the page where pro bono programs can post descriptions of cases they would like to place with a pro bono attorney contains no cases. In addition, the page for form letters and materials is blank. None of the pro bono programs in the Study reported referring individuals to this website for information about pro bono.

FLS recently hired a Director of Technology to lead statewide technology initiatives. FLS also received a grant to enhance the statewide website by creating webinars and webcasts about substantive law areas that pro bono attorneys assist with, posting written materials, among other changes. The changes are to be completed by the end of 2008. The Pro Bono Developer is going to coordinate content development, and the pro bono programs will need to be active partners in this activity.

The development of the statewide website is another excellent role for FLS and should be continued and supported.

Recommendation: *Continue development of the statewide pro bono legal services website and encourage its use.*

Partners: *Pro bono programs*

Statewide Pro Bono Projects. For the past several years FLS has had a Pro Bono Developer. Currently, one of the responsibilities of this position is to develop relationships with large firms in Florida so that statewide and large local pro bono projects can be placed with them. This project is being re-evaluated due to a lack of appropriate pro bono cases or projects from the local programs. The project would be strengthened if carried out in partnership with revitalized local pro bono programs that are integrated with the staff components of organizations that can refer possible impact cases. Currently, the project is best suited to work in conjunction with FLS staff that works on statewide litigation.

A recent responsibility undertaken by FLS is to develop and coordinate pro bono projects with the sections, committees and divisions of The Florida Bar. This work has been critical to the development of the pro bono foreclosure prevention project with the Real Property Probate and Trust Law Section and the disability appeals pro bono project with the Administrative Law Section. The development and coordination of these projects should continue to be a part of FLS' work.

The Pro Bono Developer also staffs the Standing Committee, so is in a good position to facilitate partnerships.

Recommendation: *Continue and expand development and support of pro bono projects with large firms and with sections, committees, and the Young Lawyers Division of The Florida Bar.*

Partners: *Pro bono programs and sections, committees and the YLD of The Florida Bar*

Staffing. This Report recommends that the Standing Committee take on additional responsibilities. This can only happen if the staffing of the committee is increased. Currently FLS staffs the committee. It is recommended that FLS increase its staffing so more work can be done with the Standing Committee and more work can be done to coordinate the partners of the legal community while they work to increase pro bono legal services. The Florida Bar Foundation should fund this staffing.

Recommendation: *Expand staff for coordination of the Report's recommendations, particularly for the Standing Committee.*

Partners: *Florida Bar Foundation*

The Florida Bar Foundation

The Florida Bar Foundation (FBF) is the largest funder of civil legal aid for the poor in Florida. FBF has a critical stake in ensuring that its funding is maximized, whether it funds pro bono directly or funds the legal aid staff component of an organization that has a pro bono program.

FBF Staffing and Leadership. FBF has played a key leadership role in facilitating the development of the civil legal aid system in Florida. The revitalization of the pro bono system needs FBF's targeted leadership as well. It is recommended that FBF employ a staff person who can focus on pro bono legal services development, and specifically facilitate the advancement of the pro bono programs.

Recommendation: *Expand staff to focus on pro bono legal services development.*

Partners: *Pro bono programs*

Grant-making. FBF's grant-making is a key component to revitalizing the pro bono legal services system as it can use its grant-making to test and make improvements to the system.

Program standards. The grantee organizations should be held to higher standards through written expectations and program assessments. Improvements in the areas discussed in the pro bono program recommendations section, such as recruitment, pro bono opportunities, and training, should be expected of virtually all of the programs, along with increases in the amount of assistance provided by pro bono attorneys. FBF should review the *ABA Standards for Programs Providing Civil Pro Bono Legal Services to Persons of Limited Means* with the pro bono programs and develop written expectations of the programs, based on the *Standards*.

Recommendation: *Hold all pro bono programs to higher standards. Review ABA Standards with the programs and develop written expectations.*

Partners: *Pro Bono Programs.*

Pilot projects. Many factors affect the success of pro bono programs. It is recommended that FBF fund pilot projects to test the effect of such efforts as increasing staff, improving

recruitment methods, expanding pro bono opportunities, and providing more training, on creating vibrant programs that provide increased amounts of pro bono assistance to clients.

Recommendation: Fund pilot projects of the pro bono programs to test the effects of a variety of efforts on increasing pro bono assistance.

Partners: Pro Bono Programs

Statewide projects. Many of this Report's recommendations will need staff to facilitate their implementation. FLS and the Standing Committee are the two groups that will need staff assistance at the statewide level to ensure the success of a new and sustained pro bono legal services initiative.

Recommendation: Fund increased staffing at Florida Legal Services for coordination of the implementation of the Report's recommendations, and fund a statewide campaign for pro bono legal services.

Partners: Florida Legal Services and the Standing Committee

CONCLUSION

It is time for Florida's leaders to take a fresh look at their pro bono system to see what can and should be done to increase pro bono legal services and make it a major component in the effort to extend access to justice to all Floridians.

The Florida legal community has a long and proud history of promoting pro bono legal services. It was the first state to adopt IOLTA, releasing millions of dollars to support staffed and pro bono civil legal services. It was the first state to adopt mandatory pro bono reporting. And it was also the first to adopt an emeritus rule making it easier for retired attorneys to volunteer services. Beyond these "firsts," there has also been steady support by all the major institutions, the Florida Supreme Court and lower courts, The Florida Bar, the Standing Committee on Pro Bono Legal Service of the Florida Supreme Court/The Florida Bar, The Florida Bar Foundation, the voluntary bar associations, law firms, pro bono programs, and Florida Legal Services.

These combined efforts helped Florida build a number of successful organized pro bono programs, strong commitments and participation by many lawyers and law firms, and a general participation rate of approximately 50 percent of the bar.

Unfortunately, 50 percent is far below what these institutions envisioned, far below the aspirational goal of the Florida Pro Bono Rule, below what other states have been able to achieve, and far below what is needed to close the justice gap. And even this level of participation is in jeopardy. Overall participation has not grown in seven years, and participation through the organized pro bono programs, the core of the effort to make justice available to all, has sharply declined.

This Report has documented the challenges facing those who wish to help pro bono reach its potential—societal trends, changes in the legal profession, and weakened commitment to pro bono by many individuals and institutions. The Report has also documented the system's major assets, the thousands of Florida attorneys who can testify to the personal satisfaction they gain through voluntary service, the law firms, government agencies, and judges who actively encourage participation, the many dedicated staff in the organized programs, and leaders in all of Florida's major legal institutions who have given and continue to give significant time and effort to making pro bono an integral part of the profession.

Florida's legal community has demonstrated that it can capitalize upon these assets; it can do better than 50 percent, it can generate the same will and enthusiasm for greater participation that it did years ago in achieving its many equal justice "firsts." By bringing passion and integrated strategies to their pro bono system, Florida's leaders can accomplish new "firsts" and move Florida much closer to fulfilling the promise of equal justice for all. The work will not be easy—the system is in great need. But so too are the clients it serves; and Florida's pro bono lawyers have surely taught that the need can be met and the rewards which come from doing so far outweigh the costs.

APPENDICES

Appendix 1: Study Design and Methodology

Attorney Survey

A web-based survey was e-mailed to all attorneys in good standing, with an e-mail address, in each of the Study counties—a total of 34,049 attorneys. Some e-mails did not get through to attorneys because of spam filters. Nearly 3,000 attorneys (2,995) started the survey and 2,751 completed it. Some of the respondents did not practice in one of the Study counties. Their quantitative data was not used. A few of their narrative responses are used in this Report. Questions were asked about the respondents' demographics, their pro bono legal service and questions about what would result in more pro bono legal services.

The survey results are not statistically valid because a random sample of the total attorneys was not used. A random sample would have produced far fewer responses. Having more responses, particularly narrative responses, is more critical to gathering the needed information for this Study.

Much of the survey's language tracked the language used in the pro bono reporting section of The Florida Bar's dues statement and language used in a pro bono survey conducted by the American Bar Association. Some of this language is not as clear as the researchers would have preferred, but allows for comparisons.

The demographics of the respondents, however, are comparable to and fairly representative of the entire Florida Bar membership. The Florida Bar conducts an Economics and Law Office Management Survey every two years that gathers a variety of information, including the demographics of in-state Bar members. Table 3 compares the Bar's overall in-state 2006 demographics with this Study's survey respondents.³⁴ Some of the differences may be attributable to the Study's survey being conducted two years after the Bar's survey. For example, the percentage of Bar members who are females has increased by one to five percent every two years since the Bar's 1984 survey. Some notable differences between the Study survey's respondents and the most recent Bar demographics include:

- five percent of the survey respondents are managing partners, compared to 12 percent of Florida Bar members
- a larger proportion of attorneys with large firms (more than 25 attorneys) responded to the survey (29 percent compared to 12 percent)
- a larger proportion of females responded to the survey (43 percent compared to 32 percent)

³⁴ *Results of the 2006 Economics and Law Office Management Survey*, The Florida Bar, December 2006. The results' margin of error is plus or minus four percent at the 95 percent confidence level.

Table 3. Comparison of Attorney Survey Respondents (2715 respondents) with All Florida Bar Members

		Pro Bono Survey of Attorneys in Study Counties	Bar Economics Survey of All Florida Bar Members
Percent			
Legal Occupation or Classification			
Private Practice	Solo Practitioner	24	29
	Partner/shareholder	21	18
	Associate	16	14
	Managing partner	5	12
	Practitioner with one or more associates	2	5
	Of counsel	3	<1
Government	Local, State, Federal & Judicial staff	14	14
	Judge	2	1
Other Legal Position	Corporate counsel	5	5
	Other position	1	2
	Legal aid/legal service	2	<1
Non-legal position		4	not asked
Size of firm or legal workplace			
	One attorney	28	32
	Two to five attorneys	22	34
	Six to ten attorneys	10	12
	11 to 25 attorneys	13	10
	Over 25 attorneys	not asked	12
	26 to 50 attorneys	9	not asked
	51 to 100 attorneys	6	not asked
	More than 100 attorneys	14	not asked
Employment status			
	Full-time	90	94
	Part-time	7	5
	Unemployed	1	<1
	Retired	2	<1
Gender			
	Male	57	68
	Female	43	32
Age group ³⁵			
	Under 35/35 or under	18	20
	35 or 36 to 49	39	41
	50 to 64 or 65	37	34
	Over 64 or 65	7	5
Annual income/ Net income from legal work ³⁶			
	Median range	\$100,001 - \$125,000	\$100,001 to \$200,000
County bar association member			
		55	48

³⁵ Different age groups were used by the two surveys.

³⁶ Different income questions with different income ranges were used by the two surveys.

Pro Bono Program Survey

An on-line survey was completed by all of the directors or coordinators of the nine pro bono programs reviewed in the Study counties. The question areas included demographics, education, experience, salary, staffing, pro bono attorney recruitment, participation and recognition activities, pro bono participation, pro bono cases and projects, and contributions.

In-person and Telephone Interviews

The pro bono programs reviewed in the Study counties were each visited and interviews conducted of a variety of pro bono staff, pro bono organization board members, circuit pro bono committee chairs, chairs of law firms' pro bono committees, bar association officials, law school staff, pro bono attorneys and attorneys who do not provide pro bono legal services. Telephone interviews were also conducted of many individuals in similar roles, including attorneys who volunteered on the attorney survey to be interviewed. The number and type of interviews included the following:

- all nine coordinators/directors of the pro bono programs
- twenty-one pro bono staff or staff of civil legal aid programs who work with pro bono attorneys; only two pro bono staff were not interviewed
- the supervisor of each pro bono program's director or coordinator, which was the organization's executive director in some cases, the president of the Board of Directors in others, and the resource development director in one case
- four resource development directors of organizations with pro bono programs; (The pro bono director/coordinator is in charge of resource development in three programs and the executive director is in charge of resource development in two programs.)
- seven executive directors of the organizations with pro bono programs; (Two of the coordinators are the executive directors.)
- six presidents of the board of directors of the organizations with pro bono programs and five other board members
- presidents of the county bar association in six of the Study counties
- executive directors of six of the county bar associations in the Study counties, including one who is also the director of the pro bono organization
- chairs of the five Circuit Pro Bono Committees in the Study counties that meet or have met
- five law school public interest staff
- two judges who are not on circuit pro bono committees
- dozens of Florida attorneys who provide pro bono legal services, do not provide pro bono legal services, and/or give contributions in lieu of pro bono legal services

Program Policies and Materials

Extensive information about the pro bono programs was reviewed, including program brochures; recruitment materials and letters; pro bono attorney procedures or policies; pro bono case and project descriptions; case placement, monitoring and closing letters; staff job descriptions; staff procedures or policies; program budgets, pro bono plans; and recent news clippings about the programs. Pro bono programs' policies or procedures that may affect the client experience were not reviewed as this is outside the Study's scope.

Data Review

Although some data is available from the mid-1990's from The Florida Bar and from before that from The Florida Bar Foundation, the more recent data (2000 – 2006 and sometimes 2007) is used in this Report. This data has been used because it is more complete and detailed and because seven or eight years of trend data is adequate to determine the effectiveness of state and local policies and practices.

Data was reviewed from The Florida Bar's 2000 – 2006 membership fees statements, The Florida Bar Foundation's statistics from the organizations with pro bono programs, and 2007 statistics from the Study county pro bono programs. The Florida Bar's data is limited to in-state Florida attorneys or Study county attorneys, unless otherwise noted.

Much of the data has limitations including different interpretations of categories and incomplete reporting on the dues statement, different interpretations of categories on the Florida Bar Foundation's grant report forms, and different reporting years—calendar year for Foundation reports and July-June year for Bar reports. In addition, the totals for the number of attorneys reporting are not available for 2001 and 2002, making some trend data incomplete.

Other Research

Research was conducted on a variety of topics that may affect pro bono legal services activities, including the development of pro bono legal services in Florida; past activities of the Circuit Pro Bono Committees; best practices of other pro bono programs; law school pro bono policies and programs; information from other states with mandatory reporting of pro bono; and ABA and other states' pro bono studies.

Appendix 2: Rules Regulating the Florida Bar Rules of Professional Conduct 4.6 Public Service

RULE 4-6.1 PRO BONO PUBLIC SERVICE

(a) Professional Responsibility. Each member of The Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly relate to the legal needs of the poor. This professional responsibility does not apply to members of the judiciary or their staffs or to government lawyers who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions. Neither does this professional responsibility apply to those members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline.

(b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory in nature. The failure to fulfill one's professional responsibility under this rule will not subject a lawyer to discipline. The professional responsibility to provide pro bono legal service to the poor may be discharged by:

- (1) annually providing at least 20 hours of pro bono legal service to the poor; or
- (2) making an annual contribution of at least \$350 to a legal aid organization.

(c) Collective Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor. Each member of the bar should strive to individually satisfy the member's professional responsibility to provide pro bono legal service to the poor. Collective satisfaction of this professional responsibility is permitted by law firms only under a collective satisfaction plan that has been filed previously with the circuit pro bono committee and only when providing pro bono legal service to the poor:

- (1) in a major case or matter involving a substantial expenditure of time and resources; or
- (2) through a full-time community or public service staff; or
- (3) in any other manner that has been approved by the circuit pro bono committee in the circuit in which the firm practices.

(d) Reporting Requirement. Each member of the bar shall annually report whether the member has satisfied the member's professional responsibility to provide pro bono legal services to the poor. Each member shall report this information through a simplified reporting form that is made a part of the member's annual membership fees statement. The form will contain the following categories from which each member will be allowed to choose in reporting whether the member has provided pro bono legal services to the poor:

- (1) I have personally provided _____ hours of pro bono legal services;
- (2) I have provided pro bono legal services collectively by: (indicate type of case and manner in which service was provided);

- (3) I have contributed \$_____ to: (indicate organization to which funds were provided);
- (4) I have provided legal services to the poor in the following special manner: (indicate manner in which services were provided); or
- (5) I have been unable to provide pro bono legal services to the poor this year; or
- (6) I am deferred from the provision of pro bono legal services to the poor because I am: (indicate whether lawyer is: a member of the judiciary or judicial staff; a government lawyer prohibited by statute, rule, or regulation from providing services; retired, or inactive).

The failure to report this information shall constitute a disciplinary offense under these rules.

(e) Credit Toward Professional Responsibility in Future Years. In the event that more than 20 hours of pro bono legal service to the poor are provided and reported in any 1 year, the hours in excess of 20 hours may be carried forward and reported as such for up to 2 succeeding years for the purpose of determining whether a lawyer has fulfilled the professional responsibility to provide pro bono legal service to the poor in those succeeding years.

(f) Out-of-State Members of the Bar. Out-of-state members of the bar may fulfill their professional responsibility in the states in which they practice or reside.

Comment

Pro bono legal service to the poor is an integral and particular part of a lawyer's pro bono public service responsibility. As our society has become one in which rights and responsibilities are increasingly defined in legal terms, access to legal services has become of critical importance. This is true for all people, be they rich, poor, or of moderate means. However, because the legal problems of the poor often involve areas of basic need, their inability to obtain legal services can have dire consequences. The vast unmet legal needs of the poor in Florida have been recognized by the Supreme Court of Florida and by several studies undertaken in Florida over the past two decades. The Supreme Court of Florida has further recognized the necessity of finding a solution to the problem of providing the poor greater access to legal service and the unique role of lawyers in our adversarial system of representing and defending persons against the actions and conduct of governmental entities, individuals, and nongovernmental entities. As an officer of the court, each member of The Florida Bar in good standing has a professional responsibility to provide pro bono legal service to the poor. Certain lawyers, however, are prohibited from performing legal services by constitutional, statutory, rule, or other regulatory prohibitions. Consequently, members of the judiciary and their staffs, government lawyers who are prohibited from performing legal services by constitutional, statutory, rule, or regulatory prohibitions, members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline are deferred from participation in this program.

In discharging the professional responsibility to provide pro bono legal service to the poor, each lawyer should furnish a minimum of twenty hours of pro bono legal service to the poor annually or contribute \$350 to a legal aid organization. "Pro bono legal service" means legal service rendered without charge or expectation of a fee for the lawyer at the time the service commences. Legal services written off as bad debts do not qualify as pro bono service. Most pro bono service should involve civil proceedings given that government must provide indigent

representation in most criminal matters. Pro bono legal service to the poor is to be provided not only to those persons whose household incomes are below the federal poverty standard but also to those persons frequently referred to as the "working poor." Lawyers providing pro bono legal service on their own need not undertake an investigation to determine client eligibility. Rather, a good faith determination by the lawyer of client eligibility is sufficient. Pro bono legal service to the poor need not be provided only through legal services to individuals; it can also be provided through legal services to charitable, religious, or educational organizations whose overall mission and activities are designed predominately to address the needs of the poor. For example, legal service to organizations such as a church, civic, or community service organizations relating to a project seeking to address the problems of the poor would qualify.

While the personal involvement of each lawyer in the provision of pro bono legal service to the poor is generally preferable, such personal involvement may not always be possible or produce the ultimate desired result, that is, a significant maximum increase in the quantity and quality of legal service provided to the poor. The annual contribution alternative recognizes a lawyer's professional responsibility to provide financial assistance to increase and improve the delivery of legal service to the poor when a lawyer cannot or decides not to provide legal service to the poor through the contribution of time. Also, there is no prohibition against a lawyer contributing a combination of hours and financial support. The limited provision allowing for collective satisfaction of the 20-hour standard recognizes the importance of encouraging law firms to undertake the pro bono legal representation of the poor in substantial, complex matters requiring significant expenditures of law firm resources and time and costs, such as class actions and post-conviction death penalty appeal cases, and through the establishment of full-time community or public service staffs. When a law firm uses collective satisfaction, the total hours of legal services provided in such substantial, complex matters or through a full-time community or public service staff should be credited among the firm's lawyers in a fair and reasonable manner as determined by the firm.

The reporting requirement is designed to provide a sound basis for evaluating the results achieved by this rule, reveal the strengths and weaknesses of the pro bono plan, and to remind lawyers of their professional responsibility under this rule. The fourth alternative of the reporting requirements allows members to indicate that they have fulfilled their service in some manner not specifically envisioned by the plan.

The 20-hour standard for the provision of pro bono legal service to the poor is a minimum. Additional hours of service are to be encouraged. Many lawyers will, as they have before the adoption of this rule, contribute many more hours than the minimum. To ensure that a lawyer receives credit for the time required to handle a particularly involved matter, this rule provides that the lawyer may carry forward, over the next 2 successive years, any time expended in excess of 20 hours in any 1 year.

RULE 4-6.5 VOLUNTARY PRO BONO PLAN

(a) Purpose. The purpose of the voluntary pro bono attorney plan is to increase the availability of legal service to the poor. The following operating plan has as its goal the improvement of the availability of legal services to the poor and the expansion of present pro bono legal service programs. The following operating plan shall be implemented to accomplish this purpose and goal.

(b) Standing Committee on Pro Bono Legal Service. The president-elect of The Florida Bar shall appoint a standing committee on pro bono legal service to the poor.

(1) The standing committee shall be composed of:

(A) 5 members of the board of governors The Florida Bar, 1 of whom shall be the chair or a member of the access to the legal system committee of the board of governors;

(B) 5 past or current directors of The Florida Bar Foundation;

(C) 1 trial judge and 1 appellate judge;

(D) 2 representatives of civil legal assistance providers;

(E) 2 representatives from local and statewide voluntary bar associations;

(F) 2 public members, 1 of whom shall be a representative of the poor;

(G) the president or designee of the Board of Directors of Florida Legal Services, Inc.; and

(H) 1 representative of the out-of-state practitioners' division of The Florida Bar.

(2) Responsibilities of the Standing Committee. The standing committee shall:

(A) receive reports from circuit committees submitted on standardized forms developed by the standing committee;

(B) review and evaluate circuit court pro bono plans;

(C) beginning in the first year in which individual attorney pro bono reports are due, submit an annual report as to the activities and results of the pro bono plan to the board of governors of The Florida Bar, The Florida Bar Foundation, and to the Supreme Court of Florida;

(D) present to the board of governors of The Florida Bar and to the Supreme Court of Florida any suggested changes or modifications to the pro bono rules.

(c) Circuit Pro Bono Committees. There shall be 1 circuit pro bono committee in each of the judicial circuits of Florida. In each judicial circuit the chief judge of the circuit, or the chief judge's designee, shall appoint and convene the initial circuit pro bono committee and the committee shall appoint its chair.

(1) Composition of Circuit Court Pro Bono Committee. Each circuit pro bono committee shall be composed of:

(A) the chief judge of the circuit or the chief judge's designee;

(B) to the extent feasible, 1 or more representatives from each voluntary bar association, including each federal bar association, recognized by The Florida Bar and 1 representative from each pro bono and legal assistance provider in the circuit, which representatives shall be nominated by the association or provider; and

(C) at least 1 public member and at least 1 client-eligible member, which members shall be nominated by the other members of the circuit pro bono committee.

Governance and terms of service shall be determined by each circuit pro bono committee. Replacement and succession members shall be appointed by the chief judge of the circuit or the chief judge's designee, upon nomination by the association, the provider organization or the circuit pro bono committee, as the case may be, as deemed appropriate or necessary to ensure an active circuit pro bono committee in each circuit.

(2) Responsibilities of Circuit Pro Bono Committee. The circuit pro bono committee shall:

(A) prepare in written form a circuit pro bono plan after evaluating the needs of the circuit and making a determination of present available pro bono services;

(B) implement the plan and monitor its results;

(C) submit an annual report to The Florida Bar standing committee;

(D) to the extent possible, current legal assistance and pro bono programs in each circuit shall be utilized to implement and operate circuit pro bono plans and provide the necessary coordination and administrative support for the circuit pro bono committee;

(E) to encourage more lawyers to participate in pro bono activities, each circuit pro bono plan should provide various support and educational services for participating pro bono attorneys, which, to the extent possible, should include:

(i) providing intake, screening, and referral of prospective clients;

(ii) matching cases with individual attorney expertise, including the establishment of specialized panels;

(iii) providing resources of litigation and out-of-pocket expenses for pro bono cases;

(iv) providing legal education and training for pro bono attorneys in specialized areas of law useful in providing pro bono legal service;

(v) providing the availability of consultation with attorneys who have expertise in areas of law with respect to which a volunteer lawyer is providing pro bono legal service;

(vi) providing malpractice insurance for volunteer pro bono lawyers with respect to their pro bono legal service;

(vii) establishing procedures to ensure adequate monitoring and follow-up for assigned cases and to measure client satisfaction; and

(viii) recognition of pro bono legal service by lawyers.

(d) The following are suggested pro bono service opportunities that should be included in each circuit plan:

- (1) representation of clients through case referral;
- (2) interviewing of prospective clients;
- (3) participation in pro se clinics and other clinics in which lawyers provide advice and counsel;
- (4) acting as co-counsel on cases or matters with legal assistance providers and other pro bono lawyers;
- (5) providing consultation services to legal assistance providers for case reviews and evaluations;
- (6) participation in policy advocacy;
- (7) providing training to the staff of legal assistance providers and other volunteer pro bono attorneys;
- (8) making presentations to groups of poor persons regarding their rights and obligations under the law;
- (9) providing legal research;
- (10) providing guardian ad litem services;
- (11) providing assistance in the formation and operation of legal entities for groups of poor persons; and
- (12) serving as a mediator or arbitrator at no fee to the client-eligible party.

Appendix 3: Statewide Florida Pro Bono Legal Services Reports

Source: Florida Bar Membership Fees Statements for Bar Years 2000 - 2006

Table 4. In-state Florida Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Bar Year	On Own*				Organized Program*			
	Attorneys	Percent***	Hours	Hours/Atty	Attorneys	Percent***	Hours	Hours/Atty
2000	17,091	40%	660,648	41	3,782	9%	102,641	37
2001	19,497	n/a	719,659	41	4,866	n/a	106,998	38
2002	20,140	n/a	791,332	42	3,981	n/a	100,620	39
2003	21,196	43%	805,108	42	4,593	9%	100,805	40
2004	21,456	46%	930,252	47	4,308	9%	111,300	46
2005	21,920	46%	846,591	42	4,143	9%	92,597	39
2006	22,938	46%	877,630	41	3,972	8%	96,305	43

Bar Year	Both				No Subcategory Marked				Total**			
	Attys	%	Hours	Hours/Atty	Attys	%	Hours	Hours/Atty	Attys	%	Hours	Hours/Atty
2000	970	2%	55,818	58	2,260	5%	105,763	47	22,163	52%	924,870	42
2001	2,054	n/a	100,109	49	838	n/a	41,453	49	23,223	n/a	970,737	42
2002	1,407	n/a	74,125	53	754	n/a	34,654	46	23,540	n/a	1,003,195	43
2003	2,043	4%	111,720	55	804	2%	34,306	43	24,550	50%	1,051,939	43
2004	1,864	4%	94,093	50	961	2%	47,634	50	24,861	54%	1,183,279	48
2005	1,759	4%	84,688	48	949	2%	42,879	45	25,289	53%	1,066,755	42
2006	1,717	3%	101,090	59	884	2%	39,393	45	26,107	52%	1,114,418	43

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/Atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program because the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 5. In-state Florida Attorneys Who Did Not Provide Pro Bono Legal Services or Contribute

Bar Year	# of Attorneys	Percent of Reporting Attorneys
2000	7,800	18%
2001	8,631	n/a
2002	10,283	n/a
2003	11,347	23%
2004	10,825	23%
2005	10,483	22%
2006	12,174	24%

Table 6. In-state Florida Attorneys Who Reported They Are “Deferred”

Bar Year	# of Attorneys	Percent of Reporting Attorneys
2000	5,316	12%
2001	6,134	n/a
2002	6,634	n/a
2003	7,048	14%
2004	7,222	16%
2005	7,288	15%
2006	7,659	15%

The reporting form has the option of what is called “deferred.” This is to be used by attorneys who are (1) a member of the judiciary; (2) judicial staff; (3) a governmental lawyer prohibited by statute, rule or regulation from providing services; (4) retired; or (5) inactive. Fifteen percent of the attorneys checked they were deferred in 2006. However, some of these attorneys also checked they provided some pro bono legal services.

Appendix 4: Pro Bono Legal Services in Study Counties

Source: Florida Bar Membership Fees Statements for Bar Years 2000 – 2006

Table 7. Brevard County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Year	# Attys in county	# Attorneys Reporting	On Own*				Organized Program*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	787	659	257	39%	12,998	51	88	13%	2,216	25
2001	791	n/a	290	n/a	10,502	36	127	n/a	2,898	23
2002	830	n/a	321	n/a	13,349	42	98	n/a	2,435	25
2003	836	758	331	44%	13,630	41	123	16%	2,704	22
2004	878	766	327	43%	16,209	50	108	14%	2,859	26
2005	881	726	321	44%	15,228	47	98	13%	3,276	33
2006	928	783	338	43%	12,732	38	98	13%	3,055	31

YEAR	Both				No Subcategory Marked				Total By County**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	20	3%	727	36	52	8%	1,990	38	377	57%	17,931	48
2001	64	n/a	2,556	40	15	n/a	585	39	368	n/a	16,541	45
2002	34	n/a	1,532	45	11	n/a	459	42	396	n/a	17,775	45
2003	61	8%	3,230	53	15	2%	977	65	408	54%	20,541	50
2004	51	7%	2,114	41	20	3%	765	38	404	53%	21,947	54
2005	39	5%	2,016	52	12	2%	381	32	392	54%	20,901	53
2006	40	5%	1,754	44	10	1%	485	49	406	52%	18,026	44

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 8. Broward County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Year	# Attys in County	# Attorneys Reporting	On Own*				Organized Program*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	6,539	5,889	2,258	38%	86,197	41	421	7%	13,423	32
2001	6,632	n/a	2,617	n/a	97,289	40	465	n/a	8,766	n/a
2002	6,845	n/a	2,700	n/a	106,477	42	382	n/a	10,454	n/a
2003	7,084	6,072	2,889	48%	104,099	39	399	7%	8,301	21
2004	7,330	6,049	2,982	49%	111,663	40	414	7%	11,128	27
2005	7,539	6,024	2,974	49%	117,367	42	384	6%	6,260	16
2006	7,775	6,382	3,135	49%	112,411	38	341	5%	9,370	27

Year	Both				No Subcategory Marked				Total By County**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	130	2%	6,679	51	260	4%	10,369	40	2,809	48%	116,668	42
2001	207	n/a	9,629	47	94	n/a	3,845	41	2,969	n/a	119,529	40
2002	142	n/a	7,816	55	100	n/a	3,872	39	3,040	n/a	128,619	42
2003	199	3%	9,938	50	99	2%	3,409	34	3,188	53%	125,747	39
2004	212	4%	10,234	48	102	2%	3,888	38	3,286	54%	136,913	42
2005	183	3%	10,114	55	132	2%	6,059	46	3,307	55%	139,800	42
2006	175	3%	9,148	52	100	2%	4,466	45	3,401	53%	135,395	40

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 9. Duval County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

YEAR	# Attys in County	# Attorneys Reporting	ON OWN*				ORGANIZED PROGRAM*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	2,422	2,013	844	42%	30,912	39	154	8%	4,266	28
2001	2,490	n/a	977	n/a	34,642	39	175	n/a	2,975	n/a
2002	2,609	n/a	1,038	n/a	39,026	40	136	n/a	3,646	n/a
2003	2,707	2,329	1,099	47%	39,247	39	179	8%	3,039	17
2004	2,824	2,347	1,133	48%	41,084	39	175	7%	7,421	42
2005	2,928	2,254	1,154	51%	40,335	38	149	7%	4,872	33
2006	3,060	2,523	1,174	47%	41,545	38	179	7%	4,598	26

YEAR	BOTH				NO SUBCATEGORY MARKED				TOTAL BY COUNTY**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	51	3%	3,135	61	95	5%	3,789	40	1,042	52%	42,101	40
2001	89	n/a	3,696	42	60	n/a	8,430	141	1,123	n/a	49,743	44
2002	61	n/a	3,332	55	35	n/a	1,743	50	1,148	n/a	47,747	42
2003	95	4%	4,220	44	43	2%	2,337	54	1,226	53%	48,843	40
2004	85	4%	4,792	56	44	2%	8,682	197	1,267	54%	61,979	49
2005	80	4%	3,155	39	51	2%	2,330	46	1,274	57%	50,692	40
2006	85	3%	9,492	112	55	2%	2,710	49	1,323	52%	58,345	44

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 10. Hillsborough County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Year	# Attys in County	# Attorneys Reporting	On Own*				Organized program*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	4,333	3,879	1,446	36%	50,356	38	251	5%	4,743	26
2001	4,413	n/a	1,611	n/a	59,052	42	251	n/a	3,027	n/a
2002	4,593	n/a	1,715	n/a	60,575	39	226	n/a	3,687	n/a
2003	4,751	4,094	1,726	39%	61,986	41	263	4%	4,607	30
2004	4,930	4,134	1,734	39%	59,321	39	260	3%	4,385	30
2005	5,081	4,116	1,835	42%	64,271	40	279	4%	4,041	25
2006	5,256	4,407	1,946	42%	70,650	41	255	3%	6,111	44

Year	Both				No Subcategory Marked				Total By County**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	65	2%	2,498	38	183	5%	6,758	37	1,815	47%	64,355	35
2001	95	n/a	3,869	41	62	n/a	2,382	38	1,829	n/a	68,330	37
2002	76	n/a	3,010	40	79	n/a	3,131	40	1,944	n/a	70,403	36
2003	109	3%	4,579	42	75	2%	2,226	30	1,955	48%	73,398	38
2004	116	3%	6,071	52	87	2%	2,883	33	1,965	48%	72,660	37
2005	120	3%	5,283	44	76	2%	4,274	56	2,070	50%	77,869	38
2006	116	3%	4,912	42	87	2%	2,967	34	2,172	49%	84,640	39

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 11. Lee County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Year	# Attys in County	# Attorneys Reporting	On Own*				Organized Program*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	858	770	343	45%	11,640	35	19	2%	399	21
2001	890	n/a	378	n/a	13,086	38	51	n/a	227	n/a
2002	923	n/a	369	n/a	11,463	33	33	n/a	387	n/a
2003	985	862	402	47%	14,781	39	43	5%	418	10
2004	1,031	878	407	46%	13,260	35	45	5%	388	9
2005	1,095	889	439	49%	13,737	34	50	6%	591	12
2006	1,130	963	442	46%	14,417	34	45	5%	3,581***	80

Year	Both				No Subcategory Marked				Total By County**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	7	1%	270	39	37	5%	1,310	35	392	51%	13,619	35
2001	38	n/a	1,675	44	14	n/a	389	28	405	n/a	15,377	38
2002	18	n/a	640	36	14	n/a	527	38	398	n/a	13,017	33
2003	21	2%	931	44	16	2%	338	21	440	51%	16,468	37
2004	27	3%	1,136	42	19	2%	523	28	444	51%	15,307	34
2005	31	3%	1,291	42	23	3%	1,009	44	481	54%	16,628	35
2006	20	2%	1,228	61	23	2%	830	36	490	51%	20,056	41

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

*** Hours provided through an organized program in 2006 reflect unusually high reporting in this category.

Table 12. Leon County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Year	# Attys in County	# Attorneys Reporting	On Own*				Organized Program**			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	2,621	2,382	702	29%	25,925	40	298	13%	8,745	29
2001	2,714	n/a	740	n/a	27,828	43	386	n/a	9,309	n/a
2002	2,748	n/a	771	n/a	31,476	44	294	n/a	8,915	n/a
2003	2,788	2,511	809	32%	33,231	46	345	14%	10,266	30
2004	2,860	2,486	817	33%	31,850	43	316	13%	8,160	26
2005	2,962	2,544	838	33%	32,844	43	310	12%	7,338	24
2006	3,016	2,635	832	32%	31,754	42	303	11%	8,127	27

Year	Both				No Subcategory Marked				Total By County**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	52	2%	3,193	61	100	4%	4,424	44	1,048	44%	42,286	40
2001	97	n/a	5,678	59	29	n/a	1,039	36	1,058	n/a	43,854	41
2002	54	n/a	2,632	49	22	n/a	1,019	46	1,033	n/a	44,042	43
2003	94	4%	5,074	54	24	1%	1,095	46	1,084	43%	49,666	46
2004	81	3%	4,637	57	33	1%	1,450	44	1,085	44%	46,097	42
2005	81	3%	4,282	53	23	1%	1,104	48	1,090	43%	45,568	42
2006	79	3%	4,332	55	38	1%	2,279	60	1,094	42%	46,492	42

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 13. Miami-Dade County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

Year	# Attys in County	# Attorneys Reporting	On Own*				Organized Program*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	11,291	9,665	4,089	42%	173,158	45	681	7%	20,190	30
2001	11,497	n/a	4,634	n/a	181,619	44	958	n/a	19,053	n/a
2002	11,733	n/a	4,734	n/a	190,558	43	763	n/a	26,613	n/a
2003	11,886	10,212	4,966	49%	208,526	46	964	9%	28,228	29
2004	12,127	9,943	4,950	50%	209,024	46	890	9%	20,095	23
2005	12,390	9,611	5,027	52%	213,552	47	895	9%	23,422	26
2006	12,613	10,118	5,180	51%	213,879	45	860	8%	22,226	26

Year	Both				No Subcategory Marked				Total By County **			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	215	2%	15,292	71	542	6%	27,721	51	5,097	53%	236,360	46
2001	478	n/a	26,483	55	209	n/a	8,956	43	5,323	n/a	236,111	44
2002	322	n/a	21,788	68	195	n/a	9,617	49	5,370	n/a	248,576	46
2003	460	5%	35,538	77	181	2%	9,846	54	5,651	55%	282,138	50
2004	435	4%	23,534	54	256	3%	12,306	48	5,661	57%	264,959	47
2005	437	5%	21,241	49	216	2%	11,748	54	5,701	59%	269,963	47
2006	424	4%	25,406	60	185	2%	7,881	43	5,801	57%	269,392	46

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Table 14. Orange County Attorneys Who Reported They Personally Provided Pro Bono Legal Services

YEAR	# Attys in County	# Attorneys Reporting	On Own*				Organized Program*			
			Attorneys	Percent	Hours	Hrs/Atty	Attorneys	Percent	Hours	Hrs/Atty
2000	3,800	3,500	755	22%	29,424	43	640	18%	21,806	34
2001	3,939	n/a	972	n/a	32,749	41	751	n/a	20,236	n/a
2002	4,090	n/a	1,005	n/a	36,990	41	618	n/a	16,848	n/a
2003	4,214	3,674	1,086	30%	34,979	38	688	19%	16,687	24
2004	4,381	3,737	1,142	31%	38,753	40	645	17%	15,676	24
2005	4,554	3,657	1,149	31%	39,950	40	644	18%	17,083	27
2006	4,737	4,024	1,281	32%	46,504	41	588	15%	14,207	24

YEAR	Both				No Subcategory Marked				Total**			
	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty	Attys	%	Hours	Hrs/Atty
2000	64	2%	3,774	59	162	5%	7,572	47	1,493	43%	62,576	42
2001	170	n/a	10,004	59	48	n/a	2,454	51	1,601	n/a	65,443	41
2002	108	n/a	5,342	49	59	n/a	3,912	66	1,574	n/a	63,092	40
2003	161	4%	8,105	50	45	1%	1,345	30	1,658	45%	61,116	37
2004	167	4%	9,337	56	61	2%	2,049	34	1,681	45%	65,815	39
2005	154	4%	7,227	47	44	1%	1,612	37	1,683	46%	65,872	39
2006	149	4%	6,544	44	58	1%	3,243	56	1,778	44%	70,498	40

* The On Own and Organized Program categories include attorneys who reported both providing pro bono legal services on their own and through an organized program, and attorneys who reported providing service in only one category. The Hours/atty calculation in these categories does not include attorneys who reported "both" providing service on their own and through an organized program since the dues form does not ask attorneys to allocate their hours between the two.

**Attorneys and the hours of service they provided are counted only once in the grand totals.

Appendix 5: Pro Bono Statistics of Programs in Study Counties

The statistics in these tables are for each of the pro bono programs that cover one of each of the eight Study counties. The titles note where more than the Study county is in the pro bono program's service areas. The category "Providing Service" includes attorneys who provided pro bono legal services by handling cases or participating in special projects, or both. An attorney who both handled cases and participated in a special project may be counted twice. The 1999 statistics are from reports the pro bono programs provide to the Florida Bar Foundation and may contain some discrepancies. 2007 statistics are from the programs directly.

Table 15. Brevard County Legal Aid

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(Case Handling + Other Pro Bono Projects)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	734	--	285	39%	3,680	260	595	85	16%
2007	900	19	230	26%	2,557	743	723	138	15%
Change '99-'07	23%	n/a	-19%	-34%	-31%	186%	22%	62%	-4%

**Table 16. Legal Aid Service of Broward County
(Broward County statistics only)**

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(Case Handling + Other Pro Bono Projects)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	1,175	--	821	70%	8,125	724	704	325	3%
2007	7,800	100	220	3%	3,500	289	349	450	6%
Change '99-'07	564%	n/a	-73%	-96%	-57%	-60%	-50%	38%	66%

**Table 17. Jacksonville Area Legal Assistance
(Duval County Only)**

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(Case Handling + Other Pro Bono Projects)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	2,500	--	785	31%	4,276	518	598	0	0%
2007	2,500	25	285	11%	3,835	276	598	317	13%
Change '99-'07	0%	n/a	-64%	-64%	-10%	-47%	0%	n/a	n/a

**Table 18. Bay Area Legal Services
(Hillsborough and Pasco Counties)**

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(Case Handling + Other Pro Bono Projects)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	4,000	--	1,757	44%	10,207	294	811	400	10%
2007	5,350	100	588	11%	4,286	347	588	732	31%
Change '99-'07	34%	n/a	-67%	-75%	-58%	18%	-27%	83%	208%

**Table 19. Florida Rural Legal Services
(13 counties, including Lee County)**

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(Case Handling + Other Pro Bono Projects)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	6,000	--	325	5%	2,162	323	326	102	3%
2007	6,000	300	350	6%	2,632	192	273	259	4%
Change '99-'07	-0%	n/a	8%	8%	22%	-41%	-16%	154%	30%

**Table 20. Legal Aid Foundation of the Tallahassee Bar Association
(Leon County)**

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(Case Handling + Other Pro Bono Projects)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	2,300	--	416	18%	10,113	901	874	15	1%
2007	774	53	244	32%	4,427	534	884	-	0%
Change '99-'07	-66%	n/a	-41%	74%	-56%	-41%	1%	-100%	-100%

**Table 21. Legal Services of North Florida
(16 counties, including Leon County)**

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(<i>Case Handling + Other Pro Bono Projects</i>)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	3,330	--	1,560	47%	4,755	1,497	2,261	168	5%
2007	4,676	63	319	7%	4,974	1,839	1,753	495	11%
Change '99-'07	40%	n/a	-80%	-85%	5%	23%	-22%	195%	110%

Table 22. Legal Aid Society of the Dade County Bar Association

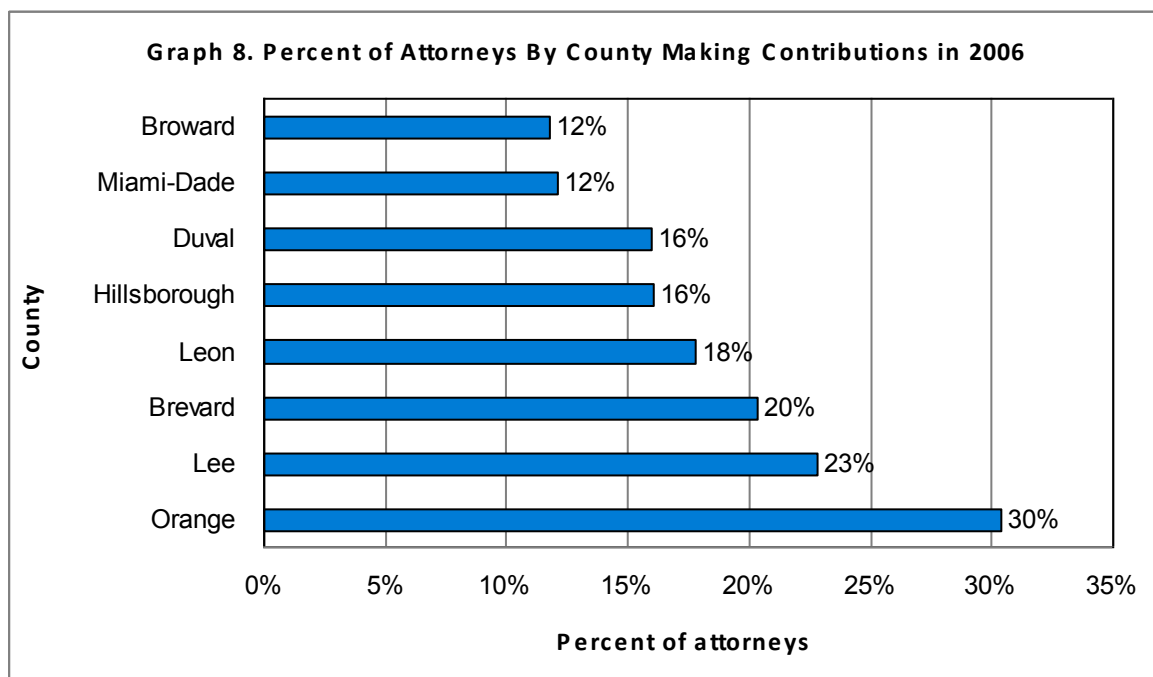
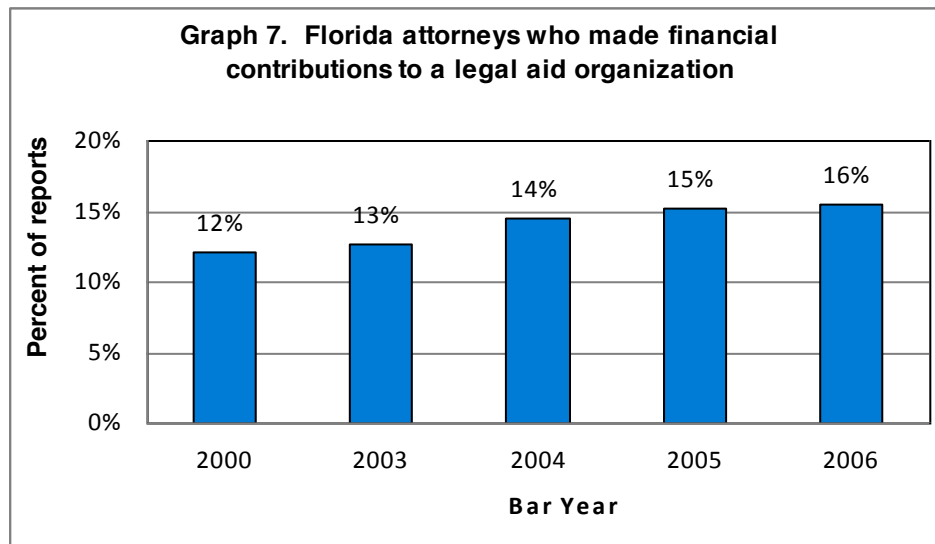
Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(<i>Case Handling + Other Pro Bono Projects</i>)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	11,400	--	6,745	59%	28,344	1,693	4,332	330	3%
2007	12,985	187	5,680	44%	17,730	1,226	3,669	520	4%
Change '99-'07	14%	n/a	-16%	-26%	-37%	-28%	-15%	58%	38%

Table 23. Legal Aid Society of the Orange County Bar Association

Year	Estimated # Eligible Attorneys	Newly Recruited Attys	# of Attorneys Participated in Pro Bono Program(<i>Case Handling + Other Pro Bono Projects</i>)	% Providing Service	Hours Contributed	Cases		Contributions	
						New	Closed	Attys	%
1999	3,685	--	1,209	33%	31,057	2,849	2,780	1,130	28%
2007	4,700	225	1,178	25%	17,389	1,283	1,205	1,435	30%
Change '99-'07	28%	n/a	-3%	-24%	-44%	-55%	-57%	27%	9%

Appendix 6: Attorney Contributions to Legal Aid Organizations

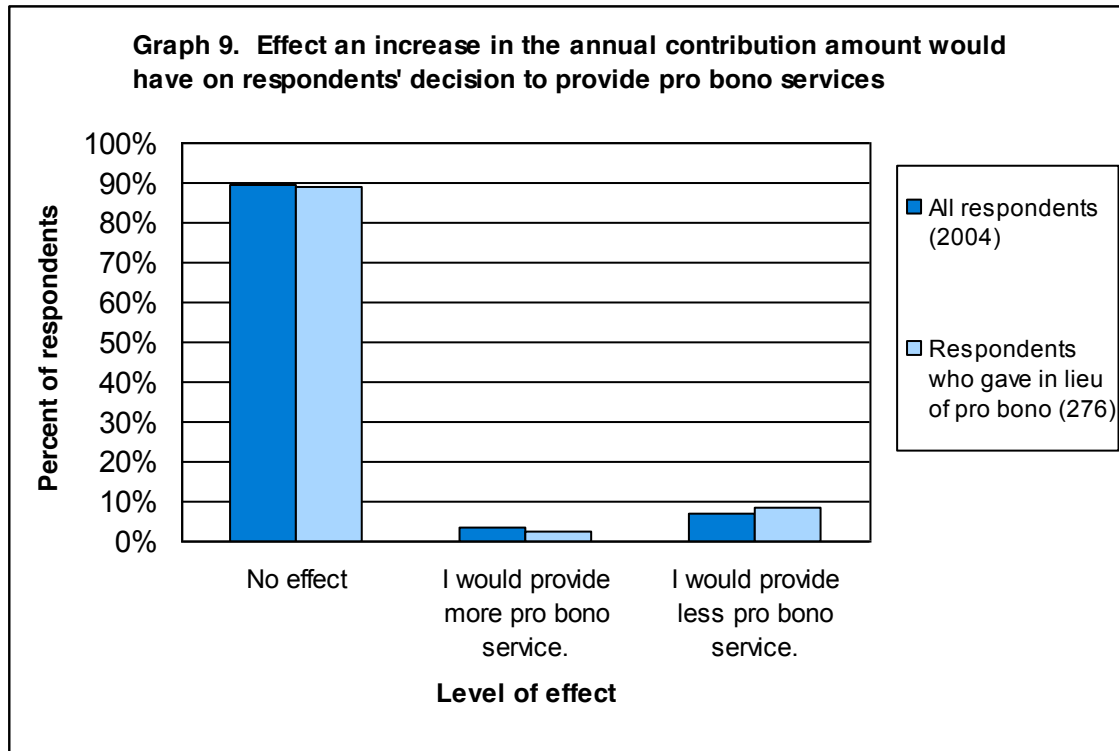
Source: Florida Bar Membership Fees Statements for Bar Years 2000 – 2006



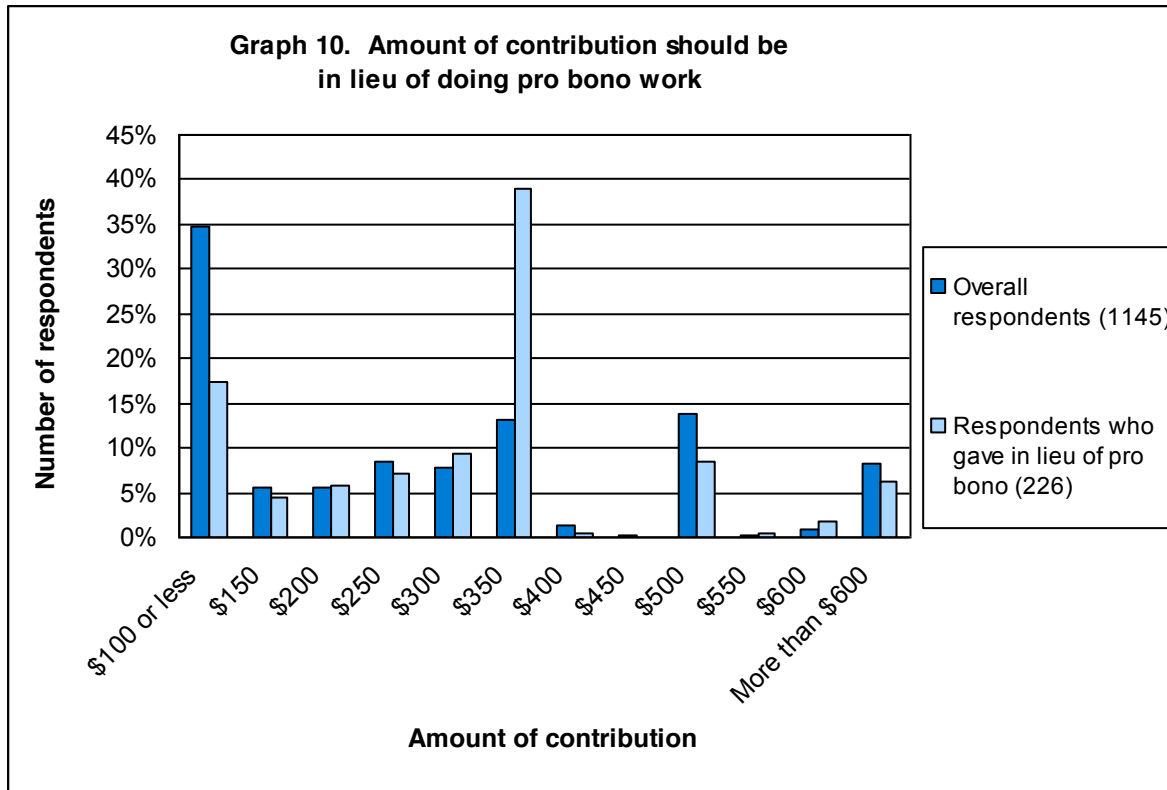
Note that the Lee County Bar Association assesses \$50 from each member that is given to Lee County Legal Aid.

Appendix 7: Findings about Alternative Contributions

The Florida pro bono rule has an alternative contribution amount of \$350. This amount, often referred to as the pro bono “buy-out” or “buy-in” has been the same since the rule was implemented in 1994. When asked what effect, if any, an increase in the annual contribution amount would have on their decision to provide pro bono legal services, survey respondents do not vary significantly between those who contribute in lieu of pro bono legal services and those who do not. Approximately 90 percent of both groups say it would have no effect. (See Graph 9.)



When asked how much the rule’s contribution amount should be, the survey responses varied widely. Of those who marked one of the choices, 13 percent chose \$350, 25 percent chose larger amounts ranging from \$400 to “more than \$600,” and 62 percent chose smaller amounts from “\$100 or less” to \$300. Those respondents who specifically gave contributions to legal aid organizations in lieu of providing pro bono legal services were more likely to think the amount should be the same or increased. (See Graph 10.) More than half (55 percent) of those who gave contributions to legal aid organizations in lieu of providing pro bono legal services gave \$350; fifteen percent gave more; and thirty percent gave less.



Many survey respondents added comments to their answers about the amount of the contribution. Again, the comments varied widely. Some say there should be no “buy-out”—that every attorney should provide pro bono legal services. Others say the amount should not be “mandated”—again showing the attorneys’ misunderstanding of exactly what is required by the rule. Still other respondents think the amount should be based on hourly rates or on an attorney’s ability to contribute. And, many respondents say the amount should be “\$0.”

Most individuals who were interviewed think the contribution should be increased, primarily because it has been the same amount for 14 years, while attorneys’ incomes have risen during that time. When asked what the amount should be, the amounts varied, but many of the interviewees said \$500 and others said it should be based on an attorney’s ability to contribute.

The 2006 Bar survey gives some guidance to the amount that an attorney may be able to afford to contribute. The majority (60 percent) of the respondents charged an average or standard hourly rate of more than \$200, including 35 percent who charged \$250 or more and 18 percent who charged \$300 or more. The median range of legal income is \$100,001 to \$200,000.

Virtually all individuals interviewed acknowledged that the contribution amount is not comparable to the 20 hour goal, but realistically could not be equalized. For example, a \$200 hourly rate would result in a contribution of \$4,000 if equalized to the pro bono goal.

Other guidance comes from the seven states with pro bono rules that specify an explicit amount of an annual contribution to legal aid organizations to meet the pro bono professional obligation. The specific amounts range from \$200 to \$500, with Massachusetts' rule of "from \$250 to 1% of the lawyers annual taxable income" possibly having the highest amount. (See Table 24.)

Table 24. Buy-in Amounts in State Pro Bono Rules³⁷		
State	Hours	Amount
Massachusetts	25	"from \$250 to 1% of the lawyer's annual taxable income"
Nevada	20-60	\$500.00
Utah	50	\$500.00
Wyoming	50	\$500.00
District of Columbia	50	\$400.00
New Mexico	50	\$350.00
Florida	20	\$350.00
Mississippi	20	\$200.00

³⁷ State by State Pro Bono Service, ABA Standing Committee on Pro Bono and Public Services and the Center for Pro Bono, <http://www.abanet.org/legalservices/probono/stateethicsrules.html>.

Appendix 8: Findings about Pro Bono Reporting

Florida attorneys are required to report their pro bono legal services on The Florida Bar's annual membership fees statement. However, in 2006 17 percent of Florida's in-state attorneys did not complete the pro bono section of the fees statement. Since 2000 (with data unavailable for 2001 and 2002), the highest compliance rate has been 87 percent and the lowest 80 percent. (See Table 25.)

Reporting Procedure: The Florida Bar does not offer on-line reporting into a database, and is not currently considering implementing it.³⁸ However, in addition to being less convenient for many attorneys, paper reporting requires data entry of the pro bono reporting, which has led to some inaccurate aggregate reports. A report about Maryland's mandatory pro bono reporting system found that the quality of the data improved as on-line reporting increased and was improved.³⁹

Compliance Enforcement: The Florida Bar does not follow up with the attorneys who do not complete the pro bono report nor does it discipline them. The only consequence to not reporting is that an attorney's reporting is reviewed and taken into account if an attorney has disciplinary allegations or charges against him or her.⁴⁰ Rule 4-6.1(b), which describes the 20 hour pro bono legal service and \$350 contribution goals, has a line that states, "the failure to fulfill one's professional responsibility under this rule will not subject a lawyer to discipline." It is unclear whether this applies to all of 4-6.1 (including reporting) or only to the goals of providing pro bono legal services or a contribution in 4-6.1. Many attorneys are frustrated by there being no consequence to not reporting about pro bono legal services.

Table 25. Completion of Pro Bono Report by Florida Attorneys		
	Attorneys	
Bar Year	Number	Percent
2000	43,018	87%
2001	n/a	n/a
2002	n/a	n/a
2003	49,232	87%
2004	46,223	83%
2005	47,285	80%
2006	49,856	83%

Source: Florida Bar Membership Fees Statements for Bar Years 2000 - 2006

Florida's reporting compliance rate is lower than the compliance rates in all but one other state that requires reporting about pro bono service. (See Table 26.) The three states with 99 or 100 percent compliance have three major differences from Florida's policy and practice: (1) reporting has an on-line option; (2) one or more follow-up notices of non-compliance are sent; and (3) consequences for non-compliance are enforced. Implementing the policies and practices of the states with compliance rates of 99 or 100 percent should improve compliance with the pro bono requirement and the accuracy of the data about pro bono legal services being provided in Florida.

³⁸ E-mail from Terry H. Hill, Director, Programs Division, The Florida Bar, April 10, 2008.

³⁹ *Final Report: Current Status of Pro Bono Service Among Maryland Lawyers, Year 2005*, Prepared by ANASYS, Inc. for Administrative Office of the Courts, November 8, 2006.

⁴⁰ E-mail from Terry H. Hill, Director, Programs Division, The Florida Bar, April 8, 2008.

Table 26. Mandatory Reporting Compliance Rates

State	Compliance	On-line & Paper Reporting	Latest Year of Reporting Data	Non-reporting Consequence
Nevada	100%	Yes	2007	\$100 fine
Illinois	99.6%	Yes	2006	stricken from master roll (not allowed to practice law)
Maryland	99.4%	Yes	2005	decertification
Florida	83%	No	2006	secondary violation
Mississippi	67%	No	2007	suspension (same as non-compliance with mandatory CLE or non-payment of dues), but not enforced
Hawaii	n/a	Yes	2007 (first year)	administrative suspension

Sources: E-mails from Lyn Flanigan, Hawaii State Bar Association, March 31, 2008; *2006 Annual Report of the Attorney Registration and Disciplinary Commission*, Illinois; *Final Report: Current Status of Pro Bono Service Among Maryland Lawyers, Year 2005*, Prepared by ANASYS, Inc. for Administrative Office of the Courts, November 8, 2006; E-mail from Larry Houchins, The Mississippi Bar, March 18, 2008; *2007 Pro Bono Reporting*, State Bar of Nevada.

Disclosure of Information: Some attorneys do not like mandatory reporting because they do not want their individual pro bono legal services numbers disclosed to the public, which the Florida Constitution may allow. Illinois' and Maryland's pro bono rules specifically state that individual data will not be disclosed or that data will only be released in the aggregate. This may be another factor in their higher compliance rates.

Purpose and Accuracy of Data: When individuals were asked what purpose they think mandatory pro bono reporting serves, almost all interviewees said they think it makes attorneys think once a year about whether they have provided pro bono legal services, and that makes it worth having. Some also said it is useful to have the data from reporting, but most said the data is likely inaccurate. Many said that they likely underestimate their pro bono hours because they do not keep strict time records about the hours and do not want to over-estimate.

The Reporting Form: Some attorneys said the form is confusing and they would like it to be simplified. One clear problem with the form is that the reference "to the poor" is only made in certain sections, and not in the first section asking whether attorneys provided pro bono legal services. A subcommittee of the Standing Committee has identified other problems with the form as well.

The Study found that many attorneys are unaware of local pro bono programs. The reporting form, particularly if it is on-line, can be an effective way to educate attorneys about pro bono legal services opportunities. The Illinois form includes a link to a website with information about pro bono programs in Illinois.

Appendix 9: Findings about Voluntary Bar Associations

Many pro bono programs were originally started in Florida and the United States by local, voluntary, bar associations. Four of the nine pro bono programs in the Study counties—Brevard County Legal Aid, Legal Aid Foundation of the Tallahassee Bar Foundation, Legal Aid Society of the Dade County Bar Association, and Legal Aid Society of the Orange County Bar Association—were started by local bar associations.

These programs likely began for a variety of reasons, but a sense of professional responsibility was most certainly at the top of the list for many. Legal Aid Society of the Orange County Bar Association (LASOCBA) was specifically reviewed in the Study because of its close relationship with the Orange County Bar Association. The Orange County Bar Association requires all members to accept two case referrals per year from LASOCBA or participate in at least one project sponsored by LASOCBA or contribute \$350 to LASOCBA. This policy is strictly enforced, with memberships suspended for non-compliance. Interviews revealed a culture of pro bono legal services that permeates the bar association. Some members do question whether the policy is limiting potential membership—approximately 60 percent of Orange County attorneys belong to the Bar—and some survey responses confirm this. However, the OCBA strongly backs its policy.

The Tallahassee Bar Association (TBA) operates what some members believe to be the oldest, mandatory pro bono program in the country. Up until about twenty years ago, the TBA required that members take pro bono cases that were assigned randomly through its Legal Aid Program. Exemptions from this requirement applied to attorneys who had been members of the TBA for at least fifteen years and to judges, quasi-judicial officers, and judicial clerks.

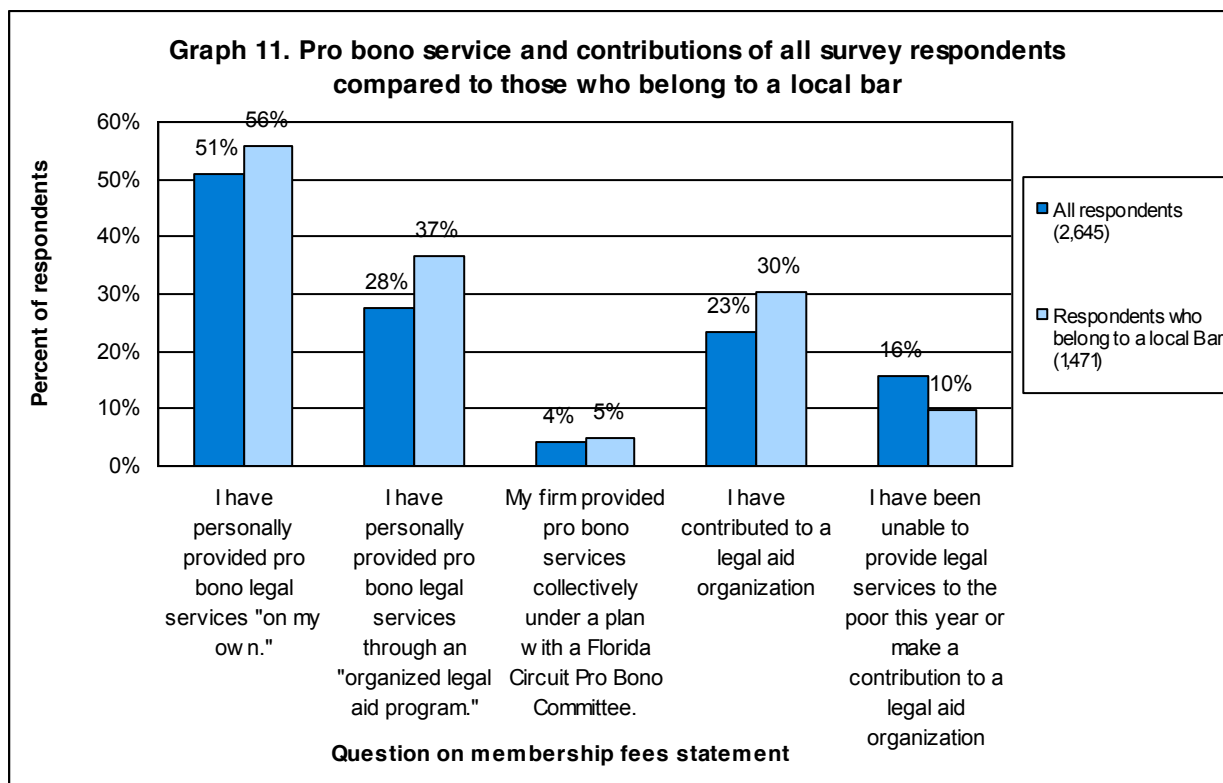
In the mid-1980's, the TBA leadership came under pressure to end the mandatory pro bono aspect of the Legal Aid Program. Much of this was due to the advent of the Administrative Procedures Act (with its resultant increase in government lawyers), more private lawyers from elsewhere in Florida, as well increased lawyer specialization. The size of the legal community was growing, but many new or new-to Tallahassee attorneys were declining to join the TBA. To try to meet some of the objections to the pro bono requirement, the Legal Aid Program developed a number of alternative programs aimed at government attorneys, such as a Senior Center Advice Clinic and a Small Claims Advice Clinic. The Legal Aid Program also began to provide malpractice coverage for legal aid work. Additionally, with the aging of the association—and many younger lawyers not joining—the TBA increased the length of the membership requirement for exemption from mandatory pro bono service through legal aid to twenty years.

Since that time, and despite these measures, membership in the Tallahassee Bar Association has stagnated and the number of exempt members has increased. In 1989, there were 613 non-judge, lawyer members of the TBA with only 83 exempt from mandatory pro bono service with legal aid. In 2008, there are approximately 606 such members, with 343 exempt. During that same time, the number of Florida Bar members in Leon County increased from 1,902 to 2,971.

Thus, a significant number of TBA members, including some past presidents, have pushed for the abolition of its mandatory pro bono legal services requirement, and the issue has periodically generated contentious debate among the membership. Some opponents and proponents of the program alike believe that the mandatory requirement of pro bono

participation has cost the association in terms of membership and, thus, camaraderie and influence within the local system of justice. Presently, the TBA is engaging its Young Lawyers Section in designing a legal-aid mentoring/partnering program, to help make younger lawyer members more comfortable taking pro bono cases as co-counsel.

Bar membership overall seems to have a positive effect on pro bono legal services and contributions. The attorney survey found that respondents who were members of one of the county bars (nearly 1500 respondents) were more likely to provide pro bono legal services and more likely to contribute to a legal aid organization. (See Graph 11.)



Appendix 10: Findings About Law Schools

The first opportunity for instilling attorneys with a sense of professional responsibility about pro bono legal services is generally in law school. The ABA Standards for the Approval of Law Schools require all ABA-approved law schools to offer “substantial opportunities for...student participation in pro bono activities.”⁴¹ The ten law schools in Florida have a variety of pro bono policies—some that require pro bono service and some that promote voluntary opportunities. (See Table 27.)

Table 27. Florida Law School Pro Bono Policies		
Law School	Policy	Recognition
Barry University School of Law	Voluntary 40 hours of legal or non-legal service	Top graduate recognized
Florida A&M University College of Law	not available	
Florida Coastal School of Law	not available	
Florida International University College of Law	Mandatory 30 hours of legal service	Reception for all and top student receives an award
Florida State University College of Law	Mandatory 20 hours of legal service	Certificate at graduation
Nova Southeastern University Shepard Broad Law Center	Voluntary 50 hours of legal service	Wear gold cord at graduation; listed in graduation program; certificate of recognition; Reception
St. Thomas University School of Law	Mandatory 40 hours with at least 20 hours of legal service	Certificates at Law Day ceremony; students with 100+ hours honored
Stetson University School of Law	Mandatory 20 hours with at least 10 hours of legal service	Wear ribbon at graduation; students with 40+ hours receive awards at graduation
University of Florida	Voluntary 35 hours of legal and non-legal work	Certificates at annual brunch; top student honored
University of Miami	Voluntary 25 hours of legal work	Recognition at annual reception; noted on transcript if reach 25 hours

Source: <http://www.abanet.org/legalservices/probono/lawschools> and interviews with Florida law school representatives.

Many of the Florida law school pro bono programs have public interest fairs where employers and students can develop matches for placements. One school has a pro bono symposium during Public Interest Week. All of the interviewed law school staff spoke of the benefits of pro bono for students, particularly of instilling a sense of professional responsibility about pro bono.

Many volunteer lawyers strongly suggest that the development of a feeling of professional obligation has to begin in law school. Some legal aid pro bono programs acknowledge the difficulty of developing meaningful placements for the 20 or 40 hour periods that many students want or need to do, but feel that law student pro bono service is valuable. Law school staff report that students rate their placements with legal aid highly. A missing step is that legal aid

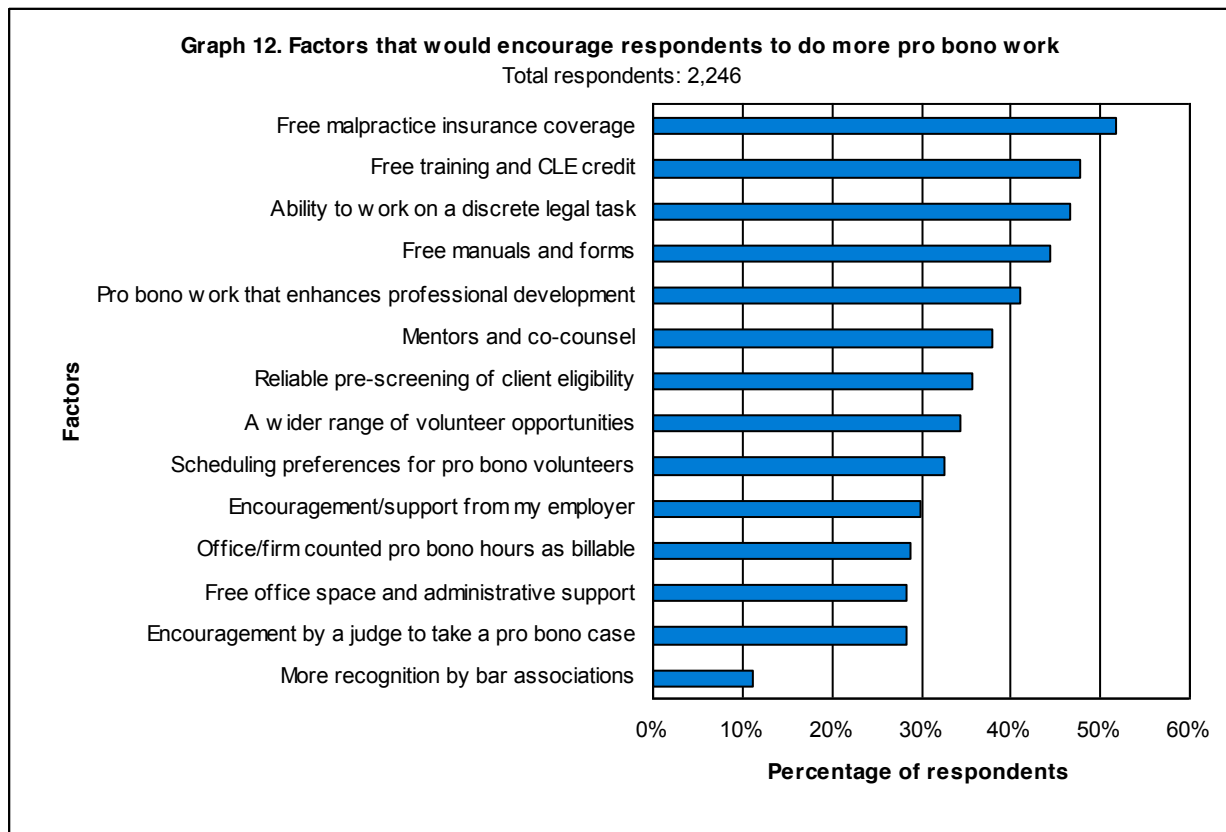
⁴¹ Standard 302(b)(2) of the ABA Standards for the Approval of Law Schools, <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%203.pdf>.

pro bono programs generally do not follow-up with former students to specifically recruit them after they become attorneys. This would be a fairly simple, effective recruiting tool.

The law school pro bono policies vary in whether pro bono legal services is targeted to the poor, making promotion of Florida's rule of pro bono to the poor important, particularly for those students who do not do placements with legal aid. Having a pro bono attorney—either a professor or a lawyer from the community—talk about why they provide pro bono legal services and the cases they do on behalf of the poor may be one of the most effective recruiting mechanisms and could be used more at Florida law schools.

Law school pro bono programs can give law students a sense of professional responsibility about pro bono legal services and educate them about the legal needs of poor people, but most importantly give students their first pro bono experience, which may encourage them to provide pro bono legal services after graduation.

Appendix 11: Factors that Would Encourage More Pro Bono Legal Services



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