

Cultivating a Successful In-House *Pro Bono* Program

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Corporations have a long tradition of community engagement through corporate responsibility programs that have customarily involved attention to diversity and inclusion, environmental sustainability, and charitable giving or responsible investing. Such programs also have encouraged community service focused on issues relevant to the corporation's industry or the interests of individuals at the company. An opportunity to deepen the impact of the service offered by talented people at corporations through professional skills-based volunteering is now being led by a significant number of in-house legal departments, with visionary general counsels and chief legal officers at the helm.

Pro bono programs, which have long been synonymous with corporate responsibility efforts at law firms, have proven more challenging for corporations to adopt. Historically, the majority of in-house lawyers who have chosen to contribute to the legal profession's tradition of public service have done so by connecting with *pro bono* clients in an individual capacity. While this work was endorsed by their corporate employers, structures supporting and coordinating it within the corporation tended to be the exception to the rule.

However, the rise of in-house *pro bono* over the last decade has provided corporations a new way to give back to the communities in which they live and work. Expansion of traditional corporate responsibility into the realm of professional skills-based volunteering reaps benefits that include critical service to the communities where corporations operate, increased skill development and positive brand recognition. According to the Washington, D.C.-based Pro Bono Institute, which established the Corporate Pro Bono Challenge in 2006, the number of in-house legal departments that have committed to performing a substantial amount of *pro bono* has grown from fewer than 50 companies in 2006 to 170 companies representing 36 industry sectors in 27 countries in 2016.

When developing in-house legal department programs, for maximum impact, companies should prioritize directing efforts toward areas of meaningful need, creating policies that encourage *pro bono* work in a safe and responsible manner, and establishing partnerships with legal services organizations and outside counsel.

Goal-Setting

Successful in-house *pro bono* efforts intentionally define the structure, areas of substantive work and metrics for their programs.

Structural decisions include whether to promote a cafeteria-style plan by encouraging lawyers to select matters that appeal to their individual interests or to establish an umbrella-style one in which the corporation selects a focus (e.g., families and children, veterans, immigration), and matters fit within that area. With either approach, some selection of general issue areas, even if broad, makes a program more impactful because it allows efficient training of lawyers, more substantial relationships with legal services attorneys, better understanding of client population and issues, improved results, and less reliance on resources of legal services organizations.

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Substantive areas of law might be chosen because of the strengths of the company or industry sector, needs of the local community, current vital needs in the legal landscape or vision of in-house legal department leadership.

Establishing metrics that will be used from the outset of a program allows in-house legal departments to both assess and celebrate success. These include counting hours, examining the percentage of people participating, and conducting qualitative inquiries regarding participant engagement and client satisfaction. In addition, reviews of partnerships — and depending on the type of work, a look at larger-scale changes in public policy or community development — can reveal both meaningful outcomes and new challenges to tackle. For example, corporations can assess whether they are working with the right legal services organization and law firm(s) or whether interests, issues and resources would be better served through different partnerships.

Policy and Program Development

Written policies provide clarity to legal departments related to guidelines for involvement. They include:

- aspirational goals in terms of number of hours or instances of participation;
- whether time spent should be recorded;
- information about involvement by lawyers and nonlegal staff within the legal and compliance departments;
- inclusion of *pro bono* work in employee evaluations;
- required intake procedures for approval of matters, conflict checks, staffing considerations and any other reporting needs;
- types of matters, representations and clients that are permitted; and

- operating definitions of what counts as *pro bono*.

Attention to compliance and risks also is required as a program develops. These concerns can be company- and jurisdiction-specific but may include:

- understanding whether the company has sufficient malpractice insurance or if partnering with a legal services organization will provide coverage;
- examining attorney registration rules in the United States that require lawyers licensed in foreign jurisdictions to register where they will provide *pro bono* service;
- attending to corresponding limits on the service that can be provided under registration rules; and
- studying international lawyer regulations that may significantly restrict types of service, including bars on practice before certain types of tribunals or on behalf of certain clients.

Beyond policies, effective program development depends on building a supportive structure for the program in the form of a *pro bono* committee and director, administrative assistance or some combination of those roles. Messaging from the highest levels of the legal department or the company that involvement in *pro bono* work will be valued is a critical piece of the initiation, maintenance and success of a program.

Partnerships

Accomplished in-house programs rely on a three-legged stool model, involving partnerships with legal services organizations and outside counsel, to ensure an understanding of where real need exists; connection with clients; and support for program development, training and staffing.

The expertise of legal services organizations provides consequential insight that allows legal department leaders to make thoughtful choices about the focus of their programs. Legal services organizations also make it possible for in-house lawyers to better connect with the people and communities they hope to serve and provide training to lawyers who will likely need mentorship as they learn new areas of practice.

The Pro Bono Institute reports that over 90 percent of in-house legal departments partner with outside law firms when undertaking *pro bono* work. The Association of Pro Bono Counsel reports that over 200 *pro bono* counsel or partner roles are supported within over 100 large law firms internationally. Collaboration with outside law firms, many of which have dedicated *pro bono* professionals, allows legal departments to leverage the developed *pro bono* administrative structure within law firms and to engage in shared value projects staffed by lawyers from both the corporation and the law firm. *Pro bono* professionals within law firms regularly provide program development consulting and project partnering opportunities to corporate leaders invested in creating robust programs.

Creating Opportunities

Pro bono opportunities can generally be categorized into three types: limited-scope, full representation and signature projects.

Limited-scope opportunities most often take place in a clinic setting where lawyers work with a client for a period of hours to accomplish a discrete task or provide limited guidance on a legal issue. These could include assisting with certain types of immigration issues, advising small businesses or entrepreneurs, drafting simple legal documents like wills or guardianship papers, or guiding *pro se* litigants in family or housing court. In

this setting, there is generally no expectation that participating lawyers will assist clients beyond the boundaries of the clinic. The locations of clinics vary from court-based settings to community sites, and they are frequently hosted by a law firm that organizes the clinics with a legal services partner.

Full representation or longer-term work involves assisting a variety of client types with legal needs from start to finish. Teams made up of in-house and outside law firm lawyers divide the responsibilities and bring different skills to the representations. The scope of work that falls under this category is broad and includes:

- assistance to indigent clients on matters such as landlord-tenant cases, family law issues, or immigration and asylum engagements;
- governance, entity creation, real estate or labor work on behalf of nonprofits;

- legal research in support of litigation or the goals of legal services and other nonprofits; and
- public policy advocacy work through white paper drafting and participation in *amicus* efforts.

Signature projects highlight a company or legal department's commitment to making a beneficial change for a certain population or issue. These projects often bring together lawyers with different skill sets who work on issues from multiple angles. For example, a legal department that decides to focus on veterans issues might engage its litigators in monthly clinics to help veterans with limited-scope legal needs, its transactional lawyers to provide governance assistance to nonprofits that support veterans and its government affairs lawyers to advocate for improved policies.

Creating opportunities that are mindful of the existing skills of the company's lawyers while also providing comfortable

openings for lawyers to learn new ones maximizes participation. Notably, with each type of opportunity, involvement by nonlegal staff is readily available through efforts including research, translation and interpretation, and general project and program management. The process of developing projects is expanded through consultation with established law firm programs that can make connections with legal services organizations, provide a menu of possibilities, offer sample policies, manage administrative logistics, and facilitate partnering on work that is important to lawyers from both the company and the law firm.

The historical commitment of the legal profession to *pro bono* work is growing exponentially within legal departments across the globe. The path to creating successful programs is now paved with resources and experience at the ready for corporations that are dedicated to bringing the culture of skills-based volunteering to in-house legal departments.