

Pro Bono Survey results will strengthen Kansas programs



Last Spring, KBA members were asked to participate in an American Bar Association study on pro bono activities and attitudes. Responses were received from 1,376 of you. This was a very high response rate and provided a large amount of information. Pro bono programs are just beginning to develop action plans based on this information, but some very strong messages emerged. As we mark the Celebrate Pro Bono 2017 effort, these findings can guide our future.

Finding 1: While Kansas lawyers, as a group, do provide pro bono legal services, older lawyers are significantly more likely to provide those services, than younger lawyers.

Whether this has to do with time or opportunity, practice setting or location, we appreciate the lead set by the members of the Bar who provide this help. Whether in response to professional duty or the satisfaction of helping someone else, older lawyers are setting the way for pro bono service.

Kansas Legal Services has found this even extends to lawyers who have a retired (or inactive) license. As the KLS Emeritus program has become more widely known, there are currently five retired lawyers who are providing service on a pro bono basis through this program. For more information about this program, you can go to <http://bit.ly/2wWLF9c> or contact Marilyn Harp at harpm@klsinc.org.

Still, to grow the level of pro bono involvement (and give us more to celebrate) we need to find ways to provide volunteer opportunities that meet the interests and availability of younger lawyers. We also need older lawyers to encourage younger lawyers to provide pro bono involvement. When firms make a commitment to count pro bono hours as equivalent to billable hours in evaluating associates, pro bono activities grow. Only about 20% of those surveyed indicated that

they were able to provide pro bono work during office hours and using firm resources.

Finding 2: Those in private practice are more likely to provide pro bono services than those in a firm, in government or in non-profit employment.

This finding makes sense for two reasons. First, lawyers are most comfortable providing pro bono service in an area of law with which they are familiar. For lawyers in practice areas that don't regularly meet the general public, the learning curve for pro bono work can be steeper. Programs that recruit volunteer lawyers must be committed to providing training for all volunteers.

Another barrier is the issue of current and future conflicts of interest that arise when a lawyer provides short term legal services in a clinic or courthouse setting. Kansas Legal Services, with support of the Kansas Bar Association, the Christian legal Society's Legal Aid Program (Kansas) and the Kansas Chapter of the American Board of Trial Advocates, is seeking the adoption by the Supreme Court of ABA Model Rule 6.5. If adopted, this change will help ease that issue for some types of pro bono work. This solution has worked in 46 other states.

We have examples from across the state, where groups of lawyers have taken on a specific type of legal work or adopted a low income "block" and provided legal services. Shook, Hardy and Bacon was recognized by the Kansas Bar Association in 2014 for its program in finding stability for children in the Kansas City area through adoption or guardianship. In 2016, the Wichita Bar Association members created "Clean Slate Day," to provide expungement services. Similar programs could be replicated across the state by firms or bar associations. These programs could include lawyers in a variety of



practice settings, providing training and other support where needed.

Finding 3: Based on data from 550 attorneys reporting pro bono activities in 2016, Kansas attorneys provided an average of 42 hours of pro bono service annually

Kansas lawyers have been challenged to volunteer 50 hours of pro bono services on an annual basis to those unable to afford an attorney. This survey result indicates that, for those lawyers who include pro bono service as a regular part of their practice, this goal is attainable.

Finding 4: The majority of pro bono service was advice (70%), provided to someone known to the lawyer (60%), who the lawyer believed to be unable to pay for the service (55%) and in an area of law that the attorney had experience (79%).

These survey results are probably not surprising. When a lawyer is asked, by someone they are acquainted with and who they believe can't hire an attorney, for advice in an area of law in which the lawyer is comfortable, those questions get answered. The challenge is, how often does this occur? It might be that person in need doesn't know any lawyers, or the lawyer they know doesn't have experience in the appropriate area of law. Those people get left out.

Pro bono programs seek to be the "match maker" in these situations. They do this by screening participants to verify they are low income, recruiting a broad group of attorneys to consider providing the needed legal service and, often, providing malpractice insurance for those attorneys who participate.

The KBA's new "Free Legal Answers" program is a new program on this model. It currently has 30 Kansas attorney volunteers providing answers to civil legal questions to Kansans who qualify for the service. All communication is by email and can be handled at times convenient to the lawyer. Contact Pat Byers (pbyers@ksbar.org) if you want more information. <https://kansas.freelegalanswers.org/>

The "Elder Law Hotline," managed by Kansas Legal Ser-

vices, is another advice only program. Regular orientation calls get volunteer attorneys familiar with how the program operates. Contact Jan Wagner (wagnerj@klsinc.org) for more information.

KLS maintains a website (www.klsprobono.org) to recruit, match and support volunteer attorneys in reviewing clients in need of advice or representation. Check out this website for more information. KLS also schedules attorneys willing to provide advice on a regular basis in courthouse based help centers or specific court dockets.

As this report indicates,¹ there is a lot to Celebrate about Pro Bono in Kansas. Using the valuable input, pro bono programs will be able to improve and provide more services to those in need in the future. ■

1. The full survey is available from the Kansas Bar Association through the following link:
<https://go.ksbar.org/ProBonoSurveyReport2017>

About the Author



Marilyn Harp has been the Executive Director of Kansas Legal Services since Sept. 2006. Prior to becoming Executive Director, she worked in a variety of attorney and management roles with Kansas Legal Services since Sept. 1979. She is a graduate of the University of Kansas School of Law (May 1979) and has a BSW from the University of Kansas School of Social Welfare. She has been continuously licensed to practice law in Kansas since 1979.

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Passionate about Pro Bono at Washburn Law

As lawyers, we know that the legal profession is one of service. Students who participate in the Washburn Law Pro Bono Program demonstrate a commitment to serving the community and receive an enhanced practical legal experience. While lawyers must make a living, they should also use their unique legal skill set to better the communities in which they live. Attorneys achieve this by providing volunteer legal assistance to individuals of limited means. Washburn Law students who participate in pro bono projects learn the value of this service and discover firsthand the personal benefits that come from helping others. For students, pro bono work is a wonderful combination of gaining legal experience, interacting with legal professionals, and serving their communities.



Washburn University School of Law faculty and students enjoyed participating in 2016's Celebrate Pro Bono Week

Washburn Law Pro Bono Program

Since 2010, the Washburn Law Pro Bono Program has encouraged students to understand and embrace their future professional obligation to provide legal services to individuals of limited means. The Pro Bono Program promotes the value of law-related public service through the administration of several pro bono initiatives within the law school.

The mission of the Washburn University School of Law is to prepare students to be "effective lawyers with the knowledge, skills, and values necessary to serve their clients, our profession, and society at large." In keeping with this mission, an emphasis on providing legal services to individuals of limited means has always been a priority at the school. Washburn Law has a rich tradition of clinical education, establishing one of the nation's first in-house, live-client law clinics in 1970. Before opening the Washburn Law Clinic, Washburn Law students and faculty participated in pro bono projects by as-

sisting patients at the Topeka V.A. Hospital, serving as juvenile probation officers for the local court, and working in the Topeka Bar Association's legal aid program. Students, faculty and alumni were deeply involved with the initial *Brown v. Board of Education* litigation and worked on a pro bono basis when it was re-opened in the 1970's to determine whether Topeka schools had been desegregated.

The current Washburn Law Pro Bono Program illustrates the law school's continued commitment to law-related public service and includes Pro Bono Honors Recognition to students who satisfy the terms of the voluntary Pro Bono Honors Pledge. All students who complete at least 50 hours of Pro Bono Service are recognized in the Washburn Law graduation bulletin and receive a notation on their official transcripts. Students who complete 50 hours of Pro Bono Service receive "Pro Bono Honors"; those who complete 100 hours or more of Pro Bono Service receive "Distinguished Pro Bono Honors."

Beginning with the class of 2010, students have volunteered over 9,300 hours and 76 students have received Pro Bono Certificates. We easily expect to exceed 10,000 total volunteer hours this year.

Current Washburn Law Pro Bono Projects

Veterans Legal Assistance Clinic (VLAC) – In 2014, the Washburn Law Clinic recognized that the needs of veterans in Northeast Kansas were not being fully met, and clinic faculty and students set out to right that wrong. Supervised by Law Clinic faculty, students assist qualifying veterans with expungements of past criminal convictions which can act as barriers to veterans' access to housing and employment opportunities. Faculty and students also assist veterans with estate planning matters, including drafting wills and powers of attorney. Student volunteers provide client intake assistance, and students enrolled in the Law Clinic draft the necessary legal documents to aid veterans with their legal problems. VLAC is typically offered one Saturday each semester and advertised through local newspapers, radio, and television media.

Volunteer Income Tax Assistance (VITA) - For many years, Washburn Law students have helped low-income Topekan prepare and file their state and federal income tax returns. Every Saturday morning from early February through mid-April, dedicated students can be found at the law school providing this service. Organized by the Tax and Estate Planning Association and supervised by Professor Lori McMillan, countless Topekans have benefitted from the VITA program, and students have learned valuable skills with respect to client interviewing and client service.

Servicemembers Civil Relief Act (SCRA) Judge's Guide - This semester, student members of the Veterans' Legal Association of Washburn (VLAW) are excited to embark upon a brand new pro bono project. Congress enacted the SCRA in 2003 to provide temporary suspension of administrative and judicial proceedings when military service affects the ability of a servicemember to meet or attend to civil obligations. In conjunction with the Servicemembers Civil Relief Act Foundation, Inc., students will research and publish an overview of the SCRA to assist the judiciary and other members of Kansas's legal community in understanding the SCRA and its protections for military personnel and their families. The resulting bench book will be provided to all Kansas judges. Second-year student and VLAW president Martin Tador states, "VLAW is extremely honored to assist with creating a Kansas SCRA Judge's Guide. This opportunity is a significant way for our members to utilize their skills to further our mission of supporting both the military and legal communities in Kansas."

Other Projects - In addition to the specific projects outlined above, many Washburn Law students regularly serve as volunteers with Kansas Legal Services; as victim rights advocates at the Johnson County District Attorneys' Office; as legal advocates with Court Appointed Special Advocates

(CASA) representing the best interests of children in abuse and neglect proceedings; and as student researchers updating "know your rights" pamphlets for the Kansas Bar Association, among other services.

Washburn Law Students Want to Help You!

Washburn Law students are eager to assist Kansas attorneys on pro bono matters. Third-year student Sarah Balderas, current president of the Washburn Pro Bono Society, states, "We hope to see our fellow classmates volunteering in the Topeka community so we can give back to the city where we received the opportunity to study law." In addition to in-person assistance with cases in Topeka, students can provide remote research assistance to attorneys throughout the state.

If you need research or writing assistance with a pro bono case, please contact Tammy King, Director of Professional Development & Pro Bono, at 785.670.1703 or tammy.king1@washburn.edu. ■



About the Author



Tammy King is Director of Professional Development and Pro Bono at Washburn University School of Law where she advises law students and alumni on career options, job search strategies, and making the transition to professional employment. Tammy also coordinates the Washburn Law Pro Bono Program.

KU's Pro Bono Program: Doing Good

Since 2009, National Pro Bono Week in October has been celebrated throughout the country with events for lawyers to provide legal assistance to those who cannot afford it. The week is also an opportune time to recognize lawyers performing pro bono service, and to call for more of us to fulfill this professional obligation. This October, I am pleased to report about the efforts the University of Kansas (KU) School of Law is making to encourage a lifelong commitment to serving those in need, and to recognize our students for their pro bono service. Last January, KU launched a new Pro Bono Program. Building on the law school's rich tradition of commitment to the community, the Pro Bono Program links students with opportunities to do pro bono work and honors those who complete fifty hours during their law school tenure. In the Class of 2017, six graduates achieved this distinction, despite the program being only months old. Additionally, the annual Pro Bono Honor Roll recognizes students who complete fifteen hours of pro bono service during the academic year. Ten students achieved this designation last year, and with the start of this school year, a growing number of students are already reporting pro bono hours.

We designed KU's Pro Bono Program with a few goals in mind. The primary goal is to encourage students' commitment to pro bono service as part of their professional lives – starting in law school. Second, for law students, pro bono work enhances their legal education. Doing “hands-on” legal work provides students an opportunity to develop fundamental lawyering skills, as well as professional role identity, both of which are key to graduating practice-ready. Finally, the Pro Bono Program further fosters the law school's culture of commitment to community; it is a way for our students to make meaningful strides in recognizing and addressing the need for access to justice.

These goals guided us to define “pro bono” as law-related work that benefits persons of limited means, not-for-profit organizations, individuals or groups seeking to promote access to justice, or a government entity. To qualify for recognition, students may not receive compensation or academic credit for their work, and they must be supervised by an attorney or other qualified individual. We adopted this fairly broad definition of pro bono in order to promote as much participation as possible, recognizing the value for both students and the public. This definition does, however, exclude non-law-relat-

ed community service projects, as we want law students to recognize that they have a professional responsibility to use their specialized skills in serving those in need.

Fulfilling Professional Responsibility

The Rules of Professionalism reinforce that pro bono service is an expectation for lawyers. ABA Model Rule 6.1 states that “[e]very lawyer has a professional responsibility to provide legal services to those unable to pay” and that lawyers “should aspire” to perform 50 hours of pro bono service each year. In Kansas, Rule 6.1 states that lawyers should perform “public interest legal service,” but sets forth no mandatory or aspirational hours guideline. Although pro bono service is widely recognized as a core value of the legal profession, a discouragingly low percentage of practicing attorneys (15 to 18 percent) actually do pro bono work, and of those, only 10 to 20 percent assist low-income clients.¹

Law schools have an obligation to teach—and to model—the responsibility to do pro bono work. In the past few decades, three seminal reports on legal education have called for law schools to teach students not only how to “think like a lawyer,” but also how to “act like a lawyer”—how to be a lawyer.² Acting like a lawyer involves both a skills dimension (competence in lawyering skills) and a civic dimension (exemplifying professional values).³ KU has a long history of exemplifying this “civic dimension” of legal education through pro bono service. For example, two of the law school's in-house clinics, the Paul E. Wilson Project for Innocence and the Legal Aid Clinic, have been seeking justice for low-income clients since 1966 and 1967, respectively. Students participating in these clinics see firsthand how access to legal counsel can impact a person's livelihood. Beyond clinical opportunities, students have long engaged in law-school-based programs like the Volunteer Income Tax Assistance (VITA) program which, each year, assists hundreds of low-income taxpayers complete their tax returns and obtain tax refunds that may actually lift them out of poverty. Thus, pro bono service is by no means new to KU; the Pro Bono Program just reinforces this professional responsibility and honors students who embody it.

Enhancing Legal Education

In addition to teaching students the values of the profession, pro bono service complements KU's clinic and field