

**DRAFT**  
**PROGRESS REPORT**  
**INDIANA PRO BONO COMMISSION**  
**December 1999**

This Report is designed to inform the Supreme Court and the District Committees about the progress of the Indiana Pro Bono Commission and to communicate how the Commission hopes to proceed from here. The Commission's goals are clearly defined in Rule 6.5 of the Indiana Rules of Professional Conduct. In order to accomplish these goals, the Commission has been focusing primarily on communication with and between the District Committees and educating them on resources in our state and different models of service delivery.

We have been using two main tools to facilitate the communication and education. The first is the web site that we are developing with information from and for the District Committees. The second tool is the Report and Plan Format that was designed to facilitate the development of the District Committee's Plan and to provide the Commission with a standard for evaluation and comparison.

**HISTORY**

On October 22, 1997 the Supreme Court adopted Rule 6.5 of the Rules of Professional Conduct. This rule created the Indiana Pro Bono Commission and established the framework for fourteen District Committees whose primary task is to develop and implement a plan to meet the civil legal needs of lower income people in their district. This rule became effective on February 1, 1998.

In the Spring of 1999, the Supreme Court appointed the Honorable L. Mark Bailey of the Indiana Court of Appeals as Chairman of the Indiana Pro Bono Commission. Pursuant to Rule 6.5, the Supreme Court appointed eleven members to the Commission and the Indiana Bar Foundation appointed ten. Their terms of service began on July 1, 1999. In August 1998, the Supreme Court appointed presiding judges in District one and District eight. In the Spring of 1999, the Supreme Court appointed judges in the remaining Districts.

In July of 1999, the Chair of the Commission requested the assistance of Kelly Kann Davidson as a consultant for the development of the district committees and to provide staff support for the Chair of the Commission. The first task for Ms. Davidson was to assist the chair in planning a Pro Bono Conference for August to familiarize everyone with the issues and to educate the commission and the District judges about their charge. This conference was held on August 27 and 28, 1999 at the Indiana Government Center South in Indianapolis. The Chief Justice, Hon. Randall Shepard, Deborah Farmer of the Indiana Bar Foundation, and Hon. Mark Bailey, the chair of the Commission all spoke to the attendees to encourage them in the task they were undertaking. Speakers from Florida, Michigan and Chicago shared their experiences and offered insight into the development of the Commission and its work.

During this conference, the Commission met for the first time. At this initial meeting, the Commission approved the format for the "1999 Annual Report and Plan" and the timing for its completion. This format was designed to assist the judges and their committees in the development of their plan. The Commission felt strongly about requiring each district to use this format to assist the commission in its evaluation of the plans and allow it to compare and contrast the districts and their work. The Commission also recommended the hiring of Kelly Kann Davidson as the Executive Director of the Indiana Pro Bono Commission. This was accomplished with support from the Indiana Bar Foundation, the Supreme Court and the four LSC funded programs in Indiana. The Commission established several committees, delegated certain tasks and planned a future meeting.

The Judges met at this conference and shared some of their concerns and experiences. They took the approved format for the "Annual Report and Plan" along with their instructions to convene a committee and began their work. Due to the timing of the conference in August, the Commission requested that the District Judges only be required to submit the Report portion of the 1999 Annual Report and Plan by November 1, 1999. The Report included the history of pro bono in their district and information about all of the existing services and resources. A complete Report and Plan for the year 2000, which includes the report submitted by November 1 and each district's plan, will be due on June 30, 2000.

The District Judges met again at a Judicial Conference on September 29, 1999. The Pro Bono Commission met again on December 10, 1999 and reviewed the progress of the web site and the information gathered in the Reports from the Districts. An allocations committee was established and they will begin to work on criteria for evaluating the plans when they are submitted in June 2000.

## **PROGRESS OF THE DISTRICT COMMITTEES**

### **Appointing the Committee**

The first task of the district committees was to appoint a committee pursuant to Rule 6.5. The categories delineated in the rule include most of the major programs and resources that are or should be involved in meeting the legal needs of the lower income families and individuals. Each category is a "Stakeholder" in the issue of access to justice and in the outcome of the plan. The District Chairs followed these guidelines in the appointments although some districts report that they continue to have difficulty getting appointed members to attend meetings or participate.

### **History of Pro Bono Activity in the District**

This section of the Report calls for a history of how these individuals or the organizations or programs they represent have worked together or not worked together to address the legal needs in the community. Many of the programs and organizations have no history of communication. This section is also an opportunity to share successes and failures of each program or organization and learn from each other. Successfully bringing these people to the same table to educate each other about their services is an invaluable step to achieving the goals set forth in Rule 6.5.

### **Identifying the Existing Programs, Services and Resources**

The appointed committee is then responsible for identifying all of the existing programs, services and resources in their district. These organizations, programs, resources and individuals will be the building blocks of the plan. This investigation is critical to establishing available tools for the delivery of legal services and establishing where the target population currently goes to resolve their problems and to obtain services of all types. The Commission's hope was that the committee members would survey various community members including clergy, social service agencies, local government, and citizens to determine what, if anything is being done to assist people with little or no income with their legal needs. This should provide a starting point for the committee and the information is an excellent baseline from which the Commission can measure progress.

### **Identifying Problems and Resolutions**

The next section of the Report asks the Committee to identify problems or barriers in the community that interfere or prevent the lower income residents from achieving access to justice. These problems might include a lack of information for pro se litigants, inadequate transportation, too many applications to the local

provider, no provider in the district, or simply a lack of education about available resources. Once these issues are identified, the Committee should look at their available resources and existing services and utilize them to develop proposed resolutions to the problems and ways to enhance current efforts. This process should create an effective network to address the issues.

## **Plan**

Armed with all of their collected information about problems, resources and solutions, each district will design a plan, which prioritizes the problems and utilizes all of the resources in an effort to resolve the problems. The Commission hopes that each District will use not only the ideas of the other committees in Indiana but of other communities across the country to create the most effective and efficient system to address the legal needs of the poor and low income families tailored for their district.

## **Budget**

Each district will design a budget for the expenses required to effectuate their plan. This budget will be submitted to the Commission as part of the plan and the request for IOLTA funds. This budget will allow the Commission to evaluate the financial needs of every district and determine common needs throughout the state. From this vantage point, the commission will be better able to recommend how the IOLTA funds should be used to enhance access to justice in the district and the state.

## **ANALYSIS OF THE 1999 DISTRICT REPORTS**

As of January 7, 2000, the Commission has received Reports from twelve districts. District nine indicated that the Commission will receive their Report very soon and the Commission is still awaiting word from District eleven. All of the reports identify existing resources in the District's community. Having the benefit of a statewide perspective, the commission feels that these committees have only begun to identify valuable resources that might be utilized in their plans. As the committees begin asking questions and evaluating their situations, we believe additional community resources will be identified. The Commission will also attempt to provide information about other resources that were not identified. Some examples of resources that many districts overlooked are court staff with pro se forms, domestic violence shelters with protocols to deal with legal needs, court appointed counsel and civil public defender programs, legal education seminars, Guardian Ad Litem programs and special projects within the ICLU. The District Committees identified eleven general types of resources across the state. The following is a summary of the reports and the information contained therein. Maps illustrating these findings are attached to this summary.

**LEGAL SERVICES CORPORATION FUNDED PROGRAMS** - There are four LSC funded programs in the state. Together, they serve every county in the state. There are, however, only 10 Counties with offices and an additional three with either staff or an outreach person present. These programs all provide intake and screening in their service area, employ staff attorneys on a full time basis and have a pro bono program with administrative support that utilizes private attorneys in the community to represent eligible clients. Two of the programs have pro se clinics as well. Although they appear to be significantly understaffed, they provide the bulk of the legal services to the poor and working poor in Indiana. They also provide the necessary administrative support for most of the bar association sponsored programs.

**NON-LSC FUNDED PROGRAMS** - There are five programs that exist to provide legal services to the poor and working poor and do not receive LSC funds. These organizations differ greatly from each other. Four of them have staff attorneys who represent clients and the fifth provides legal advice and utilizes private attorneys as pro bono volunteers. The funding sources are varied but they are mostly private funds except for

the Elkhart County program that receives funds from the local court.

**LAW SCHOOLS** - There are four law schools in Indiana. All four of the law schools have at least one clinical program that serves indigent clients. Two of the schools, Valparaiso and Indiana in Indianapolis, also have student pro bono programs. Valparaiso requires that each student complete 20 hours of pro bono prior to graduation. Indiana University at Indianapolis has a voluntary student pro bono program with a special designation on their diploma for participants.

**BAR ASSOCIATIONS AFFILIATED WITH A PROVIDER** - Twelve County Bar Associations reported that they have pro bono programs in affiliation with a local provider. Most of the programs consist of an attorney agreeing to accept a case after the local provider screens the applicants for eligibility. The Service Provider also provides administrative support to track the cases, keep records, and support the attorneys. Basically, the bar association endorses the pro bono activity of its members and takes responsibility for increasing participation on the local pro bono panel.

**UNAFFILIATED BAR ASSOCIATIONS** - Only five county bar associations reported that they have independent pro bono programs without help from a provider organization. However, only the Vanderburgh county bar association has a mechanism for administrative support. The other four are referral services that have gathered lists of attorneys willing to do pro bono and when an individual calls requesting assistance and alleges that they cannot pay, the client is given a name of an individual from the panel to call. These programs do not track the clients to determine when the client's matter was resolved or keep records of whether the client and attorney ever spoke to each other. They also have no means to provide resources and do not provide any training.

**SERVICE ORGANIZATIONS WITH PRO BONO PANELS** - Several Community Organizations and Social Service Agencies have found it necessary to create a mechanism to help their clients obtain legal assistance. In response to the need, they have developed a panel of attorneys who have agreed to take pro bono referrals. Some of the agencies reported are domestic violence shelters, Christian Ministries, and homeless shelters. Like some of the bar associations, most of these programs are referrals, only one in Delaware County has follow up or support for the attorneys.

**LEGAL LINE, ASK A LAWYER, INFORMATIONAL PROGRAMS** - Five bar associations sponsor informational programs such as a radio show or a volunteer manned phone line that people can call for advice or referral to an appropriate agency. Porter County offers 30 minutes of free consultation to indigent clients. Most of the other informational services do not screen for income but are available to indigent people.

**CHILDREN'S PROGRAMS** - Four programs were identified as completely dedicated to meeting the legal needs of children. Marion County has two non-profit privately funded organizations, Lake County has one program and the Bloomington Campus of Indiana University Law School has a Guardian Ad Litem Clinic. Although there are many CASA programs around the state (approximately 57), the districts did not specifically identify them as a resource.

**COURT APPOINTED CIVIL PUBLIC DEFENDER PROGRAMS** - These reports were submitted prior to the Court of Appeals decision in *Holmes v. Jones* but three districts identified court programs that appoint counsel for indigent litigants in civil cases. Although the statute existed well before these reports were submitted, there are many indications that it is not general practice for the courts to appoint counsel in civil cases unless there is a liberty interest. This new case law may increase the recognition of court based programs for indigent representation. It seems that at this time, court programs for a civil public defender are nonexistent, unknown or underutilized.

**PROGRAMS SERVING NON-PROFIT ORGANIZATIONS** - There are two programs serving non-profit organizations. COLAP is in Indianapolis and the Vanderburgh County Bar Association has a program that serves non-profit Corporations. Other reports indicated that various members of local bar associations do this work but not in an organized way.

**SUMMARY OF FINDINGS** - Although there are many ways to address the legal needs of the lower income population in any community, the overwhelming portion of the work in Indiana is being addressed by the LSC funded programs. In approximately sixty counties in Indiana, the LSC funded organization is the only resource for free civil legal assistance in the county. In many other counties, the LSC funded organization or local legal aid provides the administrative and legal support necessary to run an effective pro bono program utilizing the private bar as pro bono attorneys. Other programs expand the resources and availability of legal services but most of the state of Indiana has relied on the established LSC funded organizations and Legal Aid organizations to do this work. Despite the existences of several organizations who do similar work in a few counties, programs identify a greater need for these services than what all of the organizations can provide. Most of the provider programs and existing services are working in excess of capacity. Consequently, the primary expandable resource is Pro Bono.

Clearly our current system is neither as efficient nor as effective as it could be. Through communication and the development of a plan by each district that is tailored to the particular needs, the commission has begun an ambitious effort toward achieving the goals set forth in Rule 6.5. To further this effort, the Commission plans to sponsor a conference for the District Committees in 2000. The agenda will focus on developing solutions to problems presented in the 1999 reports. Additionally, the commission will continue to be available to find resources that are appropriate and helpful for the development of an integrated delivery system of quality legal services to the indigent people in our state.

### **THE WEB SITE**

In addition to supporting the judges and assisting them through the development of their plans, the Commission also began to synthesize the information about the status of pro bono in our state and to develop tools to use to further the goals of Rule 6.5. In order to facilitate this communication, the commission has designed a web site where each district's Report is posted along with any other information about their committee, or their district that they want posted. This site, located at [www.state.in.us/judiciary/probono](http://www.state.in.us/judiciary/probono), also has links to many of the national pro bono resource sites as well as other local web sites that include information about local Legal Services providers, district banks that participate in IOLTA and other sites which might be helpful.

As the District plans develop, we will be adding more information that will be useful to the districts and to pro bono attorneys. We are currently developing a calendar of events that might be of interest to the pro bono community such as CLE events, upcoming conferences, due dates, etc. We hope to find appropriate sponsors for substantive materials to assist pro bono attorneys in their representation, possibly utilizing forms and research material. This web site will be primarily user driven and responsive to the requests from the district committees.

### **OTHER WORK**

The Commission, through its chair and staff, has also been available to speak at coordinating events like bar association meetings and District Committee meetings. We traveled to Clarksville, Vincennes, Fort Wayne, Terre Haute, and Richmond to provide information about the commission and its work. We plan to visit more districts in the upcoming year.

In addition, the Indiana State Bar Association has asked for our assistance in developing a curriculum for the Annual Spring meeting. The ISBA has made a commitment to promoting Pro Bono as a theme of the Meeting and will sponsor a "Pro Bono Fair" for all of the volunteer organizations in the state. This will be a wonderful opportunity to educate the ISBA members about the Commission and also give the providers an opportunity to recruit new volunteers. A Draft outline of the day is attached.

## CONCLUSION

The Commission will continue its work to support the districts in every way. We have established a baseline for measuring progress and gathered information, which will be useful in furthering our role under Rule 6.5. As pro bono service again is brought into the main stream of the legal profession, we view service and support to the districts and coordination of regional and state initiatives to be the role of the Pro Bono Commission.

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