

Philanthropy Counts

By Maureen K. Petrini

This article is the second in a series on public service options under Bar Council's Resolution to Enhance Pro Bono Publico and under Virginia's new Rules of Professional Conduct. The first article appeared in the December 1999 issue of this magazine. It showcased Virginia's licensed legal aid societies in the context of due diligence under the new charitable giving provisions of Rule 6.1.

Although the new rules continue the historical expectation that lawyers should devote 2% of their professional time to voluntary pro bono activities, they provide more options than ever for exercising that responsibility. Pure pro bono, or the direct delivery of free legal services to the indigent and to civic, religious and charitable groups is still a priority. So are mentoring, teaching, and using one's legal skills and training as a volunteer on behalf of the public. New Rules 6.1, 6.2, and 6.3 (see, www.vsb.org/public-information/pro-bono) are far more flexible, however, than related language in the predecessor code. Rule 6.1 and its commentary recognize, without specifying any dollar minimum, the importance of charitable donations given in proportion to a lawyer's professional income. The contributions of mediators on sliding fee scales and court appointed counsel also count when they are substantially undercompensated. Acknowledged, as well, is the "collective fulfillment" of professional responsibilities attributed to lawyer groups such as last year's Powell Award recipient, the Legal Division of Freddie Mac.

Charitable Choices

Opportunities abound for lawyers to make financial contributions to charities that deliver legal services directly to the public. And generous giving on the part of lawyers can motivate foundations and other major donors to partner on law-related projects. Despite this potential, the financial giving patterns of lawyers have not favored legal services programs as beneficiaries. Instead they have traditionally resembled the patterns of other Americans, who are similarly situated.

Lawyers, like their friends and neighbors, tend not to give to legal charities or to social welfare programs that benefit the poor or the dispossessed. They direct their generosity to conventional charities that they personally benefit from, such as museums, symphonies, and other cultural institutions, or that reflect their own interests or those of corporate and other major clients.

Solicited and unsolicited donations targeted to mainstream civic and professional groups, to alma maters, and to religious organizations seem to be the norm. It is unclear why this is so for lawyers, who might be expected to have a heightened appreciation for the societal value of promoting fairness in an adversarial justice system.

Perhaps, despite the imposition of funding cutbacks and sweeping restrictions¹, and the attacks on legal services that routinely surface during annual budget negotiations, the profession itself can be faulted for not cultivating targeted philanthropy among its own members. Some lawyers may persist in viewing civil legal services as a federal underwriting responsibility. Others may be uncomfortable about perceived business conflicts if they overtly underwrite programs that occasionally or potentially could challenge their individual or corporate clients. Still, other lawyers may be unaware of how increased public access to competent representation can reflect positively on the image of the profession as a whole. The bottom line is that lawyers may not consider access to affordable legal counsel a personal priority when they weigh this goal against competing charitable causes.

Given the historical preference of lawyers to follow traditional giving patterns and the new rules recognizing the value of donations to direct providers of legal services, it makes sense to look at options that could ultimately redound to the benefit of the profession as well as to the public. Options that not only fit within traditional parameters, but also promote the ends of justice, fit in the "enlightened self-interest" category.

Mainstream Giving Patterns: Civic and Professional Group Options

Charlottesville and its environs are spectacularly located in Central Virginia at the foothills of the Blue Ridge Mountains. Although this area has its share of poor and dispossessed residents, its unspoiled beauty and other, almost unique, features have long attracted an affluent and progressive cadre of civic and business leaders, wealthy landholders, talented workers and professionals, nationally acclaimed writers, celebrities, academicians, and other professionals. Viewed by many as a kind of Shangri-La, it has been home to several prominent U.S. Presidents who had the wherewithal to light elsewhere had they chosen to do so.

In 1967, within this magnetic mix of social chemistry, economic stability, and inviting landscape, a group of Charlottesville area attorneys and law students from the University of Virginia School of Law founded the Charlottesville-Albemarle Legal Aid Society (CALAS). For 32 years the program thrived. It weathered a series of fiscal

storms. The most recent one was induced by its voluntary relinquishment of federal funds—an event that was triggered when the local bar insisted that CALAS accept the types of clients and cases local private bar leaders felt it was morally obliged to take. Renouncing its long history as a grantee of the National Legal Services Corporation (LSC) was only the beginning. CALAS reinvented itself. It transferred many of its functions to a new legal aid society created to accept federal funds because bar leaders felt those funds would have tainted CALAS' private grants with federal restrictions had CALAS remained an LSC grantee.

Now, with a track record several years old as a non-LSC grantee, unlike too many other public interest groups across the country, CALAS has not experienced the staff burnout, attrition, and high staff turnover that many programs with social justice missions nationwide have faced. Nor has CALAS had major difficulty in attracting gifted employees. This runs counter to the increasing difficulty of attracting major talent to public service work—a dilemma that more and more law school deans have identified as a serious national problem. In fact, quite the opposite is true. Not only has it lured and retained some of the most effective advocates in Virginia, it has expanded its funding base through cultivation of multiple grant sources to nearly compensate for the loss of LSC funds.

These achievements can be traced to many things, including the investor attitude of the local bar, the Charlottesville Albemarle Bar Association, and to the dynamic leadership of CALAS' Executive Director, Alex Gulotta, the recipient of the Virginia State Bar's 1999 Virginia Legal Aid Award. True to its investor role and its long-standing commitment to legal services for the poor, the bar association has just begun a Capital Campaign on behalf of the Legal Aid Society. Demurring to the climate of forced mergers that has gripped most of Virginia's licensed legal aid providers, CALAS' board has set out a plan to ensure that Planning Region Ten will continue to be serviced by something it has identified as a priority, its own quality, unrestricted provider. Bar leaders are looking for 100% participation from local attorneys in the campaign and report that area lawyers have already pledged more than \$75,000 representing \$1,000 or more per firm attorney. The longer range goal is \$2-million divided equally between a building fund and an endowment fund. A strategic part of the building fund plan is to raise \$150,000 from the legal community, which the bar has identified as the Legal Aid Society's natural constituency.

While many other Virginia legal aid societies have also persisted in attracting and retaining quality professional staff despite a host of challenges, others, especially where the geography and local economic infrastructure may be less assuming, are most appreciative of help in this regard. A very creative response has been used for years by Virginia Legal Aid Society (VLAS), which serves Southside and the entire southern tier of the state up to the Appalachian foothills. VLAS invites donations to help with an award program that underwrites annual subsidies to retain modestly compensated legal staff who have large outstanding law school loans.

Donations to bar-sponsored fundraising projects and to campaigns sponsored directly by legal aid are only two examples of

charitable giving opportunities with a professional connection. Other professional associations such as the Fairfax Bar Foundation and the Foundation of the Bar Association of the City of Richmond provide opportunities for donating to legal services projects.

United Way Campaigns are another way for lawyers to give to legal services programs. Donations can be anonymous. This is one way urban-based attorneys can sponsor rural legal services programs without offending local, wealthier service providers or giving the appearance of favoritism. It is also a way for attorneys, who are pleased with the work of pioneering legal aid societies, to show their appreciation quietly with added dollars. Some may question the suitability of encouraging lawyer donations to civic groups with a mainstream focus and traditional means of distributing funds to grantees. Increasingly however, major urban United Way programs across the nation are being viewed as progressive institutions with a concerted social justice mission to deliver major services to poor communities that are designed to fight crime and address economic stagnation.

The Alma Mater Connection

Another conventional approach with a twist of enlightened self-interest is for lawyers to donate to law school clinical or public service extern programs that are compatible with their own philosophical orientations. The Lewis F. Powell, Jr. Memorial Fellowship in Legal Services at the University of Virginia School of Law places outstanding graduating law students or departing judicial clerks in public interest organizations that provide legal services to the indigent. Another option at UVA is to help sponsor student pro bono projects through the Public Service Center which partners with the Charlottesville-Albemarle Legal Aid Society and many other reputable nonprofit service providers.

Those who prefer underwriting supervised practice experiences for students that emphasize mediation rather than litigation might consider supporting the clinical efforts of third-year practice students at Regent University Law School in Virginia Beach. If you are interested in clinical programs that defend property rights and limited government, or the concerns of certain crime victims and small business owners, contact the Washington Legal Foundation's Economic Freedom Clinic at George Mason University's Law School. Attorneys can also consider targeting, by institution, donations to the Virginia Law Foundation's Summer Law School Internship Program. Placements for participating law students are available through each law school located in the Commonwealth.

Religious Organizations that Fund Legal Services for the Underserved

Religious organizations as beneficiaries are the third leg of the conventional philanthropy triad. Many faith-based groups fund affiliated legal services programs. Often these programs address the legal needs of populations that other groups are prohibited from serving or choose not to serve. Some religious organiza-

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PRO BONO Opportunities

Lawyers Needed to Assist Veterans

Two-thirds of all veterans appealing their cases to the new U.S. Court of Appeals for Veterans Claims in Washington cannot afford a lawyer. In each case, the government is represented by a lawyer. The Veterans Consortium Pro Bono Program is seeking volunteer attorneys. Each attorney agreeing to accept one case will receive free training, a comprehensive veterans law manual, pre-screened cases and on-going access to veterans law experts as mentoring attorneys. The next all-day veterans law training will be held at the D.C. Bar on April 14, 2000. Another will be held on November 3, 2000. There is an at-home videotape option in some circumstances. CLE credits are available and malpractice coverage is provided for those not already covered. Court-awarded fees are possible in some cases. Call the Veterans Consortium at 202-265-8305, extension 126 to register or extension 109 for more information.

Resources

The Norfolk Law Library is located in Dominion Tower at 999 Waterside Drive, Suite 1300 in downtown Norfolk. One of 25 public law libraries around the state, Norfolk Law Library is open to the public as well as practitioners. It is staffed with two full time lawyer-librarians who offer a wide range of research services to practitioners including LEXIS and WESTLAW research, Internet searching and interlibrary loan services. The general public can gain access to the Internet and CD-ROMs, as well as a wide range of self-help and lay-oriented resources. Research pathfinders have been produced on topics ranging from AIDS to the ADA to the Family and Medical Leave Act for their use. In addition, helpful brochures produced by the VSB, the Virginia Office of Consumer Affairs and the Office of the Executive Secretary of the Virginia Supreme Court are available to the public free of charge. Library hours are Monday–Friday, 9 A.M.–5 P.M.

Call 757-622-2910 for more information or visit the Norfolk Law Library Web site at www.whro.org/cl/nll.

Norfolk Law Library is an independent nonprofit foundation and gratefully accepts tax-deductible cash donations.

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tions also make grants available to outside entities, whether or not there is a religious component to the work of the recipient group. The nonprofit volunteer program known as Jewish Legal Services in Baltimore, Maryland is an example of the former. While it targets services to the Jewish community, it does not discriminate against clients who are not members of the faith.

The Catholic Diocese of Richmond, with offices in that city, Norfolk and Roanoke makes legal help available to newcomers through its Refugee and Immigration Services program (www.diocric.org/nav/dirframe.htm). On occasion, the Diocese has made grants available to other nonprofits with compatible but secular legal missions. The Rutherford Institute in Charlottesville focuses on first amendment cases. It also serves asylum seekers when client needs meet its service priorities. The interdenominational Samaritan House in Virginia Beach serves victims of domestic violence.

Each of these and others² similarly situated provide charitable outlets for lawyers seeking avenues for traditional philanthropic giving to benefit the public and the profession. Like the professional/civic option and law school-based opportunities, they coincide conveniently with the intention of Rule 6.1 and its commentary to expand public service activities for Virginia's lawyers in a fashion that is cognizant of individual lawyer sensibilities. ☺

Endnotes

- 1 In 1996, Congress cut the budget of civil legal services providers by 30%. It also imposed restrictions to preclude grantees of the national Legal Services Corporation (LSC) from engaging in a host of advocacy activities including class actions, collection of attorneys' fees, representation of inmates and aliens, lobbying, and challenging welfare reform. There has been no mid-course correction of the devolution process at the federal level since then. In fact, some states, including Virginia, have recently been faced with legislative attempts to graft so-called "second generation" federal-style restrictions on state funding for legal services.
- 2 For information on other groups with religious affiliations that may fund, consider funding, or refer philanthropic inquiries on legal services to underserved populations, potential donors might explore the Internet. See, for example, the social justice entries under "Resources for Ministry" listed on the National Council of Churches Web page (www.news@nccusa.org). Other sources include: Karamah: Muslim Women Lawyers for Human Rights, a charitable, educational organization which focuses on the domestic and global issues of human rights for Muslims (www.Karamah.org/Karamah); the Christian Legal Society (www.christianlegalsociety.org); United Jewish Communities (www.ujcvp.org); and Catholic Charities (www.catholiccharitiesdc.org).

Visit the Pro Bono page on the VSB Web site for pro bono training and opportunities listed at

www.vsb.org/probono/



Steve Rosenfield Receives Lewis F. Powell, Jr. Pro Bono Award

By Jim Hingeley

Virginia's new Rules of Professional Conduct became effective January 1, 2000. Public Service Rules 6.1, 6.2, and 6.3 and their commentary preserve the traditional expectation that attorneys voluntarily devote two percent of their professional time to pro bono activities. However, the rules, and Bar Council's 1999 Resolution to Enhance Pro Bono Publico, have expanded the definition of pro bono activities. Newly recognized are: charitable donations to legal services providers; collective fulfillment of responsibilities by law firms and other attorney groups; and nominally compensated work by mediators and other Virginia lawyers such those taking court-appointed cases on behalf of indigent criminal defendants. Mr. Rosenfield, the recipient of this year's Lewis F. Powell, Jr. Pro Bono Award, is being recognized both for his decades long contributions in the civil arena and for his contributions on behalf of indigent criminal defendants.

Steve Rosenfield's volunteer spirit and dedication to the poor make him a truly deserving recipient of this year's Lewis F. Powell, Jr. Pro Bono Award.

Steve Rosenfield came to Virginia as a VISTA volunteer 30 years ago to help build homes for low-income residents in Cumberland County. Now he's in Charlottesville, helping build a wood products recycling company which gives low-income workers a chance to own a stake in the business. It's been a remarkable journey from carpentry to entrepreneurship, with 22 years of great lawyering along the way. No matter how little Steve himself earned during these years, his foremost concern always was helping people who had less than he did.

Bypassing law school, Steve became a lawyer by reading the law at the Charlottesville-Albemarle Legal Aid Society. Compared with law school, this experience gave Steve a head start in understanding the needs of the poor for greater access to the legal system. While reading the law, he served as an unpaid paralegal, assisting low-income people with social security, Medicaid, and food stamp claims, counseling prisoners on disciplinary proceedings, and helping workers qualify for unemployment benefits. For a year after being admitted to the bar in April, 1977, Steve stayed on at the Legal Aid Society as a VISTA volunteer, earning \$44 a week as a lawyer, a good deal less than most lawyers then charged for an hour of their time.

In 1978 Steve took a regular job as a staff lawyer at the Legal Aid Society, and then in August 1979, he opened his solo practice in Charlottesville. For the next 20 years he unceasingly gave his time and legal talent to the poor, always at great personal financial sacrifice. Nearly every day Steve responded to a letter from a prisoner, giving free legal advice about civil rights violations, habeas corpus claims, and family legal problems including divorce, debts, and consumer problems. Prisoners often were isolated and on their own. Steve generously responded to their inquiries and served as their vital link to the outside world.

Steve counseled employees who wanted to unionize at no charge. He organized a shelter for homeless alcoholics, providing an alternative to their arrest and incarceration. He served as an unpaid legal advisor to the Sexual Assault Resource Agency, helping victims of sexual assault, and was a volunteer counselor at Offender Aid and Restoration in Charlottesville.

Perhaps the neediest and most vulnerable of those whom Steve helped were prisoners on Virginia's death row. He represented Dennis Stockton without charge in challenging death row conditions of confinement. He represented Joseph O'Dell without charge in seeking greater access for members of his legal team. After the 1984 death row prisoner escape from Mecklenburg brought tightened security procedures, he successfully represented all death row inmates in a federal class-action lawsuit to keep the Department of Corrections from illegally recording privileged attorney-client conversations.

As an outgrowth of his work on death row, Steve became active in Virginians for Alternatives to the Death Penalty, where he is now a board member. Among its many initiatives, VADP has consistently advocated for improvements in legal services provided to the poor and condemned on death row. In addition, he took the lead in the passage of death penalty moratorium resolutions by the Charlottesville-Albemarle Bar Association and the Virginia College of Criminal Defense Attorneys. The moratorium resolutions help focus attention on the need for better representation of the indigent accused in capital cases.

As far-reaching and valuable as Steve's pro bono work with civil clients has been, he probably gave even more to his indigent criminal clients. He worked as assigned counsel in state court for fees that were, and remain, the lowest in the nation. Because his high standards and ethical commitment to his clients kept him from cutting corners in indigent criminal cases, he often worked for less than the minimum wage. For him, doing his best work for the neediest was far more important than earning a good living, and he is an inspiring example to all lawyers who are familiar with his work.

Over the course of 20 years, by conservative estimates, Steve worked 6,000 hours on indigent criminal cases, more than three full years by the measure of big law firm billable hour expectations. Of course, working so many hours at low wages doesn't tell the whole story of Steve's pro bono contributions. For every hour he worked, often at less than the minimum wage, he had to pay the overhead to keep his office functioning for his indigent clients.

It was an enormous strain for Steve as a solo practitioner to pay for the secretarial help, law books, office space, telephone service, and all the other resources needed to provide quality representation to his indigent criminal clients. In the end, Steve paid thousands of dollars and turned away scores of paying clients to carry out the Sixth Amendment mandate to provide effective assistance of counsel to indigent criminal clients. In addition to the indigent clients he has so capably represented, the State of Virginia owes Steve a tremendous debt of gratitude for voluntarily taking responsibility for the work that Virginia is constitutionally obligated to undertake, but refuses to adequately fund.

Steve never sought recognition for his extraordinary pro bono work and can't fully appreciate what a good model of an ethical and committed lawyer he has been. Social responsibility and giving to the poor have been such integral parts of Steve's life for so long that he fails to see his life as anything special. Reacting to the announcement of his receiving the Powell Award, he said, "I'm honored, flattered, and surprised that I'm receiving the award when there are so many of my colleagues who are equally deserving."

Former VSB President Ed Lowry made it clear why Steve is such a deserving recipient of this year's Powell Award. He called Steve a sensitive and determined advocate. "Steve has for many years been one of those extremely important but unheralded contributors to the effort to assure quality access to legal services

for the poor, the oppressed, and the outcast in society. He has never attempted to gain either fame or personal economic gain from these efforts," Lowry said. "Steve's willingness to take on any case and provide advocacy for those who most need it and who are least able to provide it for themselves is a model we all should aspire to," Lowry added. 🌱

Jim Hingeley has been a public defender for almost nine years, opening the Lynchburg Public Defender office in 1991 and Charlottesville-Albemarle in 1998. He is currently a member of the special committee on Access to Legal Services of the Virginia State Bar and vice-president of the Virginia College of Criminal Defense Attorneys.