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# Don't Do It Alone: A Community-Based, Collaborative Approach to Pro Bono

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## INTRODUCTION

Even before the current economic crisis, the need for free legal assistance for the poor reached critical levels.<sup>1</sup> Federal funding for legal services organizations remains staggeringly low,<sup>2</sup> and non-profit organizations providing free legal service struggle to secure adequate long-term funding. The current real estate crisis has only heightened this problem by depleting many states' Interest on Lawyer Trust Accounts (IOLTA), programs that fund legal service programs.<sup>3</sup> As a result, pro bono is an increasingly important mechanism for delivering free

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1. See *infra* notes 17-20.

2. See LEGAL SERVICES CORPORATION, DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS, AN UPDATED REPORT OF THE LEGAL SERVICES CORPORATION 3 (2009), [http://www.lsc.gov/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/pdfs/documenting_the_justice_gap_in_america_2009.pdf) [hereinafter LSC, DOCUMENTING THE JUSTICE GAP 2009] (“[L]ess than one in five low-income persons get the legal assistance they need. To fund this need, the federal share must grow to be five times greater than it is now, or \$1.6 billion.”).

3. See Manuel Valdes, *Economic Woes Threaten Legal Aid Nationwide*, ASSOCIATED PRESS, Dec. 7, 2008, available at <http://www1.whdh.com/news/articles/business/B097733>; *Free Legal Help for Low-Income Residents Drying Up*, ASSOCIATED PRESS, Nov. 30, 2008, available at <http://www1.whdh.com/news/articles/local/B096930/>.

legal service to low-income individuals in the United States.<sup>4</sup> Unfortunately, the number of attorneys providing pro bono legal services does not even approach meeting the need for free legal services for low-income individuals and families.<sup>5</sup>

While attorneys have many reasons why they may choose not to participate in pro bono work,<sup>6</sup> one reason could be that traditional pro bono programs do not offer sufficient support to attorneys who accept client referrals.<sup>7</sup> As Professor Lucie White notes, “the typical pro bono attorney works *alone*, rather than in collaboration with other lawyers or community organizations. He represents individual indigent clients in what are typically one-shot court cases, intense but brief.”<sup>8</sup> The experience of working alone on a complicated pro bono case can be isolating, frustrating, and overwhelming, as one law firm associate describes:

Before my law firm joined the [Pro Bono Collaborative (“PBC”)], I provided pro bono on an ad hoc basis. Although I was committed to the work, the cases that came my way were primarily family law cases and they were neither easy nor time-efficient and I had no support from anyone in the community. One case required an investment of 75 hours—without, unfortunately, a great result. Initially, it looked like a pretty basic family law issue involving a client who was in need of a restraining order. As the case evolved and I got to know my client, I realized that the case involved poverty issues, abuse issues, special education needs, mental health issues, and landlord/tenant issues. My client was relying on me for far more than legal services and advice. She wanted me to be her counselor and advocate for numerous non-legal issues. In addition, it became extremely difficult to set proper boundaries with this client because I had come to learn that her mental health issues prevented her from trusting people and getting the help she needed. Yet, she trusted me! That being said, I did not have the proper contacts in the community to be able to help her. My attempts to get her in touch with the people and agencies that could help her were somewhat successful, but very time-consuming and extremely frustrating. I kept thinking that there had to be a better way to do pro bono work.<sup>9</sup>

This associate’s pro bono experience is common; a lawyer may have a genuine

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4. See Scott L. Cummings, *The Politics of Pro Bono*, 52 UCLA L. REV. 1, 5 (2004). It should be noted that this article does not examine the merits and shortcomings of pro bono as a means of providing free legal service to low-income individuals. For a discussion of the limitations of pro bono as the dominant means of dispensing free legal service, see *id.* at 145-49.

5. See *infra* notes 18-20 and accompanying text; see also Russell Engler, *From The Margins to the Core: Integrating Public Service Legal Work into the Mainstream of Legal Education*, 40 NEW ENG. L. REV. 479, 484 (2006) (“Legal needs studies have consistently shown that anywhere from seventy to ninety percent of legal needs of the poor go unaddressed in America.”).

6. See DEBORAH L. RHODE, *PRO BONO IN PRINCIPLE AND IN PRACTICE: PUBLIC SERVICE AND THE PROFESSIONS* 132 (2005).

7. See Lucie White, *Pro Bono Or Partnership? Rethinking Lawyers’ Public Service Obligations for A New Millennium*, 50 J. LEGAL EDUC. 134, 136, 140 (2000).

8. *Id.* at 140.

9. Pro Bono Collaborative attorney at mid-sized Providence law firm.

desire to help, but based on a bad experience, becomes discouraged from accepting future pro bono work, thereby reducing pro bono legal assistance to those who need it. Once more, the experience is likely less than satisfying for the client and for any community-based organizations assisting the client as the legal assistance is often disconnected from the client's other needs and relationships in the community.

As discussions are taking place in every corner of the legal profession—the ABA, state bar associations, legal services programs, law firms, and law schools<sup>10</sup>—about how to engage more lawyers in pro bono work, there is a growing call for innovative collaborative approaches to the delivery and expansion of pro bono legal services that provide a more supportive and satisfying framework for lawyers, clients, and the community.<sup>11</sup> Collaborative models seek to complement the traditional individualized model of one attorney per case with an alternative model based on strategic alliances among community-based organizations, law students, and lawyers in order to better leverage the resources of each partner.<sup>12</sup> This type of approach is particularly important for engaging lawyers who are not trained in, and do not practice in, areas generally required by traditional pro bono programs, such as family law.<sup>13</sup> It is also useful for tapping non-litigators and transactional attorneys who have important skills to offer, but who typically do not participate in individual client referral pro bono programs.

In 2006, Roger Williams University School of Law (“RWU Law” or “the law school”), the only law school in Rhode Island, developed such a collaborative model of pro bono service delivery. The law school created the Pro Bono Collaborative to help address the need for free legal service by complementing

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10. See *infra* notes 29-42 and accompanying text.

11. See White, *supra* note 7, at 136 (suggesting that new efforts must be made to increase pro bono on a systemic level by focusing on “establishing collaborative programs” that bring together attorneys and community-based organizations); see also Deborah L. Rhode, *Rethinking the Public in Lawyers' Public Service: Pro Bono, Strategic Philanthropy, and the Bottom Line*, 77 *FORDHAM L. REV.* 1435, 1446-47 (2009). For example, the ABA Standing Committee on Pro Bono and Public Service and the Center for Pro Bono catalogues innovative pro bono practices and offers technical assistance to bar associations and state programs seeking innovative ways to engage lawyers in pro bono work. See ABA, Standing Comm. on Pro Bono and Public Service and the Center for Pro Bono, <http://www.abanet.org/legalservices/probono/> (last visited Feb. 5, 2010).

12. See, e.g., Karen Tokarz et al., *Conversations on “Community Lawyering:” The Newest (Oldest) Wave in Clinical Legal Education*, 28 *WASH. U. J.L. & POL'Y* 359, 374-75 (2008); see also JAMES E. AUSTIN, *THE COLLABORATION CHALLENGE: HOW NONPROFITS AND BUSINESSES SUCCEED THROUGH STRATEGIC ALLIANCES* 10 (2000) (“[N]o single entity has all the inputs necessary to address an identified social need effectively. When you cannot go it alone and succeed, collaboration becomes a prerequisite to effectiveness.”).

13. The traditional individual referral pro bono model may work well for lawyers who practice in smaller firms or solo practices and who already accept individual cases in these areas. See *infra* note 68 and accompanying text (discussion of a Rhode Island survey showing that most lawyers participating in pro bono work were solo or small firm practitioners who already practice in the areas of law sought by the pro bono program).

existing services provided by Rhode Island Legal Services and the Rhode Island Bar Association's Volunteer Lawyers Program. The PBC was designed to develop and facilitate partnerships between major Rhode Island law firms, RWU law students, and community-based organizations ("CBOs") to provide pro bono legal assistance to some of Rhode Island's most vulnerable populations. From its inception, the program was designed to increase the availability of free legal representation, while simultaneously addressing and overcoming the barriers to pro bono participation, as identified by Rhode Island lawyers in a 2005 RWU Law survey.<sup>14</sup> In addition to increasing the number of attorneys providing pro bono service, the PBC was created to facilitate pro bono projects that would address the needs of low-income communities in Rhode Island, as identified by the CBOs that serve these communities. By partnering lawyers and law students with CBOs, the PBC creates a supportive structure for lawyers, as well as a more holistic approach to client concerns. Finally, because the program was designed by and is housed in a law school, the PBC provides law students with a structured and well-supervised pro bono experience that can easily be translated into practice.

Part I of this Article traces recent commentary on the need for expanded pro bono service, the institutionalization of pro bono services, the barriers that prevent lawyers from taking on pro bono matters, and suggestions for ways to engage more lawyers in pro bono service. Part II describes the development of the PBC at RWU Law and the law school's role in facilitating community dialogue about expanding the delivery of pro bono service in Rhode Island. Part III explains the goals and benefits of the PBC's three-way partnership model by examining each of the partners' roles: CBOs, law students and faculty, and law firms. Part IV explores some of the challenges of the model and the ways in which these challenges might be overcome.

## I. TRENDS IN PRO BONO PARTICIPATION

During the past decade, the need for free legal assistance for low-income individuals and families has increased dramatically.<sup>15</sup> Nearly 54 million people qualify for federally-funded free legal assistance.<sup>16</sup> However, studies conducted by the American Bar Association ("ABA") and the Legal Services Corporation ("LSC") indicate that "only a small fraction of the legal problems experienced by low-income people (less than one in five) is addressed with the assistance of a private or legal aid lawyer."<sup>17</sup> There is one legal aid attorney for every 6,415

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14. See *infra* notes 68-72 and accompanying text.

15. See Leslie Boyle, *Meeting the Demands of the Indigent Population: The Choice Between Mandatory and Voluntary Pro Bono Requirements*, 20 GEO. J. LEGAL ETHICS 415, 415-16 (2007).

16. See LSC, DOCUMENTING THE JUSTICE GAP 2009, *supra* note 2, at 27.

17. See LSC, DOCUMENTING THE JUSTICE GAP 2009, *supra* note 2, at 13.

individuals who qualify for federally-funded legal assistance.<sup>18</sup> In comparison, there is one private attorney available for every 429 Americans in the general population.<sup>19</sup>

With severely limited federal funding for free legal representation through legal services and legal aid offices<sup>20</sup> and with LSC programs mandated to incorporate private attorney involvement into their practice,<sup>21</sup> pro bono is critically important to efforts to expand free legal services.<sup>22</sup>

#### A. THE EVOLUTION OF PRO BONO SERVICE

Although pro bono has a long history in the American legal system,<sup>23</sup> the “institutionalization” of pro bono through formal policies and organized efforts is a fairly new trend.<sup>24</sup> In 1969, following the creation of the Legal Service Corporation (LSC), the federal legal services program, the American Bar Association (ABA) promulgated its first formal pro bono policy.<sup>25</sup> During the 1980s, in response to the increased need for pro bono following major LSC budget cuts under President Reagan,<sup>26</sup> the ABA’s position on pro bono progressed to include an aspirational goal of 50 hours of pro bono service per year.<sup>27</sup> Today, nearly every state has an ethics rule articulating the professional responsibility of attorneys to engage in pro bono for individuals unable to pay,<sup>28</sup> and most bar associations have some type of program to facilitate pro bono

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18. See LSC, DOCUMENTING THE JUSTICE GAP 2009, *supra* note 2, at 19.

19. See *id.*

20. See William H. Neukom, *Reaching Across Borders and Barriers*, A.B.A. J., Feb. 2008, at 9, available at [http://abajournal.com/magazine/article/reaching\\_across\\_borders\\_and\\_barriers/](http://abajournal.com/magazine/article/reaching_across_borders_and_barriers/) (“Legal Services Corp. will receive only \$350 million in federal funding this year, despite the work of lawyers and advocates around the country. That means that, in real dollars, the LSC’s budget remains about half of what it was when the LSC was created in 1974, while the need for legal aid has increased.”). See generally Raymond H. Brescia et al., *Who’s In Charge, Anyway? A Proposal for Community-Based Legal Services*, 25 FORDHAM URB. L.J. 831, 831-40 (1998) (discussing the history of the Legal Services Corporation).

21. See 45 C.F.R. § 1614.1(a) (2008) (LSC programs must set aside 12.5% of their federal funding for private attorney involvement (PAI)).

22. See Cummings, *supra* note 4, at 5.

23. See generally Judith L. Maute, *Changing Conceptions Of Lawyers’ Pro Bono Responsibilities: From Chance Noblesse Oblige To Stated Expectations*, 77 TUL. L. REV. 91, 96-147 (2002) (discussing the historical roots of pro bono).

24. See Cummings, *supra* note 4, at 6.

25. See MODEL CODE OF PROF’L RESPONSIBILITY EC 2-25 (1969) [hereinafter MODEL CODE] (“Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged.”).

26. See Jan A. May, *Mapping A Labyrinth To Justice: Lessons And Insights From Innovative Legal Services Delivery Methodologies Implemented In The District Of Columbia*, 5 UDC L. REV. 79, 82-83 (2000).

27. See MODEL RULES OF PROF’L CONDUCT R. 6.1 (2007).

28. See Boyle, *supra* note 15, at 419 (citing ABA State-by-State Pro Bono Service Rules, <http://www.abanet.org/legalservices/probono/stateethicsrules.html> (last visited Feb. 5, 2010)).

referrals.<sup>29</sup> These programs are one of the most common sources for pro bono referrals.<sup>30</sup> The organized bar's success in advocating for greater private sector involvement in the provision of pro bono in large part has caused this trend.<sup>31</sup>

In addition to the efforts of bar associations, large law firms play an important role in promoting and facilitating pro bono work.<sup>32</sup> Many of the country's largest and most prominent law firms employ strong pro bono policies and ambitious pro bono goals.<sup>33</sup> Several of these firms create positions within their firms to promote, develop, and facilitate pro bono work.<sup>34</sup> Unlike solo practitioners and small firm attorneys, large law firms are uniquely equipped to act as a "mass supplier of pro bono personnel" and to absorb the costs of pro bono representation.<sup>35</sup> Large law firms have been attracted to pro bono, both because they aspire to preserve the tradition of a noble and service-minded profession and because of the tangible economic benefits derived from providing pro bono legal service which include, *inter alia*, improved public image and a competitive edge in recruiting top law school graduates.<sup>36</sup>

Law schools also make significant contributions to the pro bono movement.<sup>37</sup> In addition to the free legal assistance facilitated through law school clinics,<sup>38</sup> law schools emphasize initiatives that not only educate law students about their professional duty to perform pro bono service, but also create opportunities for law students to actively engage in pro bono service during law school.<sup>39</sup> These

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29. See ABA Standing Comm. on Pro Bono, Directory of Pro Bono Programs, <http://www.abanet.org/legalservices/probono/directory.html> (last visited Feb. 5, 2010).

30. See RHODE, *supra* note 6, at 145.

31. See Cummings, *supra* note 4, at 18 ("The organized bar played a central role in building the institutional structures of pro bono during [the 1980s and 1990s], investing heavily in organizing nonprofit pro bono programs and promoting private-sector volunteerism in large law firms.").

32. See *id.* at 33 ("Although small-scale practitioners have been important actors in the pro bono system, it has been big firms that have provided the resources and prestige to promote pro bono as a central professional goal.").

33. See The Pro Bono Inst., *Law Firm Pro Bono Challenge*, <http://www.probonoinst.org/challenge.php> (last visited Feb. 5, 2010) (the Pro Bono Challenge "articulates a single, unitary [pro bono] standard for one key segment of the legal profession - the world's largest law firms"); The Pro Bono Inst., *Pro Bono Challenge Signatories List*, <http://www.probonoinst.org/challenge.sigs.php> (last visited Feb. 5, 2010); The Pro Bono Inst., *170 Percent Increase In Law Firm Pro Bono Over The Past Twelve Years*, <http://www.probonoinst.org/press.news.php> (last visited Feb. 5, 2010) (noting that in 2007, 135 of the nation's largest law firms performed over 4 million hours of pro bono).

34. See Cummings, *supra* note 4, at 40-41.

35. See *id.* at 33.

36. See *id.*; see also Jolie L. Justus, *Using Business Strategies And Innovative Practices To Institutionalize Pro Bono In Private Law Firms*, 72 UMKC L. REV. 365, 375 (2003).

37. See Robert Granfield, *Institutionalizing Public Service In Law School: Results On The Impact Of Mandatory Pro Bono Programs*, 54 BUFF. L. REV. 1355, 1370-73 (2007) (describing the institutionalization of pro bono in law schools).

38. Law school legal clinics have provided free legal services to the disenfranchised since the 1960s. See Jessica Davis, *Social Justice And Legal Education: Mandatory Pro Bono Legal Services*, 1 CHARLESTON L. REV. 85, 88-89 (2006).

39. See RHODE, *supra* note 6, at 21-22.

initiatives are the result of informal efforts to promote public service by law school faculty, students, and administrators that began in the 1980s and 1990s. The ABA took formal action in 1996 by amending its Accreditation Standards to recommend that law schools “encourage . . . students to participate in pro bono activities and provide opportunities for them to do so.”<sup>40</sup> In 2006, the ABA strengthened the standard to require law schools to “offer substantial opportunities for . . . student participation in pro bono activities.”<sup>41</sup>

The Association of American Law Schools (“AALS”) similarly promotes pro bono opportunities. In 1999, an AALS Commission on Pro Bono and Public Service Opportunities issued a report recommending “that law schools make available to all law students at least once during their law school careers a well-supervised law-related pro bono opportunity and either require the students’ participation or find ways to attract the great majority of students to volunteer.”<sup>42</sup> Some law schools have mandatory pro bono programs while others have formal voluntary programs.<sup>43</sup>

Yet even with the institutionalization of pro bono service among the organized bar, law firms, and law schools, and the general acceptance that pro bono service is a professional responsibility, private attorneys in the United States average less than an hour per week of pro bono service.<sup>44</sup> Even leaders in the pro bono movement, such as law firm signatories of the Pro Bono Institute’s Law Firm Pro Bono Challenge,<sup>45</sup> struggle to meet modest pro bono goals.<sup>46</sup> Accordingly, policies and rules must be coupled with innovative pro bono programs that attract attorney participation and ultimately create a life-long commitment to pro bono service.

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40. ABA Standing Comm. on Pro Bono and Pub. Service, *Commission on the Renaissance of Idealism In the Legal Prof.* 4 (Aug. 2006), <http://www.abanet.org/renaissance/downloads/121B.pdf>.

41. ABA Accreditation Standards, Standard 302(b)(2) (2007), available at <http://www.abanet.org/legaled/standards/20072008StandardsWebContent/Chapter%203.pdf> (last visited Feb. 5, 2010).

42. Ass’n of Am. Law Schs., *Learning To Serve: The Findings And Proposals Of The AALS Commission On Pro Bono And Public Service Opportunities* 7 (1999), available at <http://www.aals.org/probono/report2.html#findings>.

43. See ABA Standing Comm. on Pro Bono and Pub. Service, *Chart of Law School Pro Bono Programs* (Sept. 30 2009), [http://www.abanet.org/legalservices/probono/lawschools/pb\\_programs\\_chart.html](http://www.abanet.org/legalservices/probono/lawschools/pb_programs_chart.html). Currently, there are thirty-six law schools that require some type of pro bono or community service work to graduate; nineteen of those require that the work be law-related and not receive academic credit. One hundred and twelve law schools have formal voluntary pro bono programs.

44. See ABA Standing Comm. on Pro Bono and Pub. Service, *Supporting Justice II: A Report on the Pro Bono Work of America’s Lawyers*, Feb. 2009, 1, 13, available at <http://www.abanet.org/legalservices/probono/report2.pdf>; see also Boyle, *supra* note 15, at 419 (citing DEBORAH L. RHODE, EQUAL JUSTICE UNDER THE LAW, ACCESS TO JUSTICE 145 (2004)).

45. To learn more about the Law Firm Pro Bono Challenge, see The Pro Bono Inst., *Law Firm Pro Bono Challenge*, <http://www.probonoinst.org/challenge.php> (last visited Feb. 5, 2010).

46. See RHODE, *supra* note 6, at 20 (“[O]nly 60% of these law firms [the signatories] have met the Challenge’s standard of committing 3% to 5% of the firm’s gross revenue.”).

## B. THE FUTURE OF PRO BONO SERVICE

Although pro bono service has progressed over the past several decades, significant barriers stand in the way of its potential to significantly reduce the dire need for legal service to the poor. One barrier may be the way in which pro bono is practiced and public service is perceived. As Professor Lucie E. White notes, old models of pro bono in which attorneys work alone with clients in “one-shot court cases” may create a big risk of “unsatisfactory results—for clients, lawyers and communities . . . .”<sup>47</sup> White urges attorneys, law students, and community organizations to work in collaborative partnerships. White’s collaborative vision, articulated in the context of public service programs in law schools, starts with “a base of listening; to carefully screen, train, support, and supervise . . . students; and to enable them to work side-by-side with low-income people in settings, like community-based nonprofits, in which low-income people have the status of members, participants, or citizens, rather than beneficiaries, supplicants, or clients.”<sup>48</sup>

In addition to the limitations of traditional pro bono models in which an individual volunteer attorney is matched with a client, empirical studies identify several barriers to pro bono participation. Based on a 2009 ABA survey of over 1,000 attorneys, the leading reason cited by attorneys for not providing pro bono service was a lack of time.<sup>49</sup> Related to time constraints, the ABA survey found that employers’ attitudes toward pro bono service greatly influenced attorney participation. These findings mirror many of the findings identified by Deborah L. Rhode in her empirical study regarding the personal characteristics, educational experiences, and workplace policies that influence pro bono participation.<sup>50</sup> Rhode found that workload demands, family obligations, billable hours expectations, and employers’ attitudes toward pro bono work were factors that limited pro bono participation.<sup>51</sup> Moreover, Rhode found that negative experiences with pro bono were the result of a mismatch between the attorneys’ interest and expertise and the available pro bono opportunities.<sup>52</sup> She also concluded that negative experiences with clients might have resulted from some attorneys’ lack of cultural competency.<sup>53</sup>

Several strategies are deployed to translate pro bono principles into practice and to make pro bono opportunities more accessible and effective.<sup>54</sup> These strategies include making pro bono service more visible through the adoption of

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47. White, *supra* note 7, at 142.

48. *Id.* at 140-41.

49. See ABA Standing Comm. on Pro Bono and Pub. Service, *supra* note 44, at 22.

50. RHODE, *supra* note 6, at 125.

51. *Id.* at 132.

52. *Id.* at 136.

53. *Id.*

54. *Id.* at 167.

pro bono reporting policies and best practices, such as formal law firm pro bono policies,<sup>55</sup> as well as implementation of strategies to make pro bono more attractive and effective by: (1) reaching out to underutilized groups of attorneys, such as “transactional lawyers, in-house counsel, government lawyers, legal academics, retired lawyers, and lawyers in American firms abroad;”<sup>56</sup> (2) developing a wide range of pro bono opportunities and offering support structures, such as training and CLE credit, for volunteer attorneys;<sup>57</sup> (3) creating pro bono opportunities specifically geared toward non-litigators;<sup>58</sup> and (4) integrating the ethic of pro bono service into the formal law school curriculum.<sup>59</sup>

In law schools, debate continues about how best to inculcate students with the value of pro bono service. Some commentators strongly support mandatory pro bono programs,<sup>60</sup> while others argue that mandatory service programs infringe on students’ decisions to volunteer.<sup>61</sup> Nonetheless, the key to successful pro bono experiences for students is institutional support and integration of pro bono into the curriculum and into the mission and values of the school.<sup>62</sup> An increase in law school pro bono programs not only helps train the next generation of pro bono leaders but can also serve as a tool for expanding legal service to underrepresented clients and communities.<sup>63</sup>

Innovative approaches that partner law firms, law schools, and community-based organizations in pro bono service delivery hold great promise for addressing unmet legal need and inspiring pro bono participation by a wider range of law students and lawyers.

## II. THE DEVELOPMENT OF THE PRO BONO COLLABORATIVE: A SHORT HISTORY

In 1997, RWU Law created the Feinstein Institute for Legal Service (“the Feinstein Institute”) to house its public interest and pro bono programs.<sup>64</sup> As one

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55. *Id.* at 167-68.

56. *Id.* at 173.

57. *Id.* at 71.

58. *Id.* at 173-75.

59. *Id.* at 164.

60. See David Hall, *The Law School's Role in Cultivating a Commitment to Pro Bono*, 42 BOSTON B.J. 4 (1998).

61. See RHODE, *supra* note 6, at 40-41 (citing criticism of mandatory pro bono programs).

62. See *id.* at 164.

63. See Granfield, *supra* note 37, at 1368-69. It is important to note that there is disagreement about the extent to which formal law school pro bono programs increase pro bono participation of graduates. For a discussion of this issue, see also David L. Chambers & Cynthia F. Adcock, *Access to Justice—Pro Bono—Learning and Serving: Pro Bono Legal Services By Law Students*, 79 MICH. BAR J. 1056 (2000).

64. The Feinstein Institute for Legal Service was created with a generous grant from Mr. Alan Shawn Feinstein, a prominent philanthropist in Rhode Island. The Institute’s mission is to create a culture of public service at the law school. The Institute oversees a myriad of both curricular and extra-curricular public interest activities including the mandatory public service requirement and the Pro Bono Collaborative. See Feinstein

of nineteen law schools in the country with a pro bono requirement<sup>65</sup> for which all students must find community-based placements, and the only law school in Rhode Island, RWU Law devotes substantial resources to the Feinstein Institute and relies on it to develop community partnerships where students may fulfill their pro bono requirements. It also serves as a facilitator of community discussion about access to justice and public interest law issues.

#### A. THE LAW SCHOOL AS A FACILITATOR OF COMMUNITY DIALOGUE

In May 2004, the Feinstein Institute organized and hosted the Racial Justice Colloquium, which brought together nearly one hundred attorneys and community representatives to discuss and develop partnerships around issues of racial justice.<sup>66</sup>

While much of the discussion during the colloquium focused on community frustrations with substantive problems, such as racial profiling, treatment of minority and special needs children in the school system, lack of access to safe, affordable housing, and detention and deportation of immigrants, the resounding theme of the day was the dire need for pro bono legal assistance in low-income communities, especially communities of color. Following the colloquium, RWU Law offered to facilitate a task force which would continue to partner community organizations with local lawyers, RWU Law faculty, staff, and students. The Task Force created subcommittees for each of the four substantive areas discussed at the colloquium: criminal justice, education, housing, and immigration.<sup>67</sup>

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Institute—Roger Williams University School of Law, <http://law.rwu.edu/sites/files/default.aspx> (last visited Feb. 5, 2010).

65. RWU Law is one of nineteen law schools that require its students to complete a certain number of hours of law-related public service for which they cannot receive academic credit in order to graduate. See ABA Standing Comm. on Pro Bono and Public Service and the Center for Pro Bono, *Chart of Law School Pro Bono Programs*, *supra* note 43. RWU Law requires all students to complete at least fifty hours of pro bono service to graduate. This requirement was just increased for the class entering in 2009; the requirement was only twenty hours for the first several years of the program. See ROGER WILLIAMS SCHOOL OF LAW, *STUDENT HANDBOOK 2009-2010*, 42 available at <http://law.rwu.edu/content/pdf/studenthandbook.pdf> (last visited Feb. 12, 2010); see also Chambers, *supra* note 63, at 1056 (“[S]chools were much more varying in the extent to which they gave students the opportunity to provide voluntary services without credit.”).

66. Earlier that year, RWU Law staff had participated in a meeting held at the Rhode Island Foundation. The Rhode Island Foundation had joined forces with the Rockefeller Foundation to offer “racial justice collaborative grants.” The Rhode Island Foundation gathered representatives from CBOs and from the Rhode Island legal community to discuss the grant opportunity. At that meeting, staff from the School of Law realized that Rhode Island lacked a formal structure for discussion of partnerships between the legal community and CBOs representing minority communities. To fill this gap, the School of Law planned the colloquium to begin a conversation about creating a formal mechanism for dialogue between the community and lawyers.

67. The Feinstein Institute facilitated the Racial Justice Task Force from 2004-2007. The Education Subcommittee became the Education Justice Council which focuses on addressing the high dropout rate in Rhode Island, particularly for children of color. The Criminal Justice Committee focused primarily on addressing the affect of a criminal record on an ex-offender’s ability to find housing and employment. It drafted legislation to decrease the time an ex-offender has to wait to expunge his/her record. The Immigration Committee focused on developing legal services for immigrant detainees at the state facility in Central Falls,

## B. THE LAW SCHOOL'S STATE-WIDE SURVEY OF PRO BONO PARTICIPATION

In June 2005, in order to collect more data and gain insight into current pro bono activity in the state, the law school sought and received funding from the Rhode Island Foundation to conduct a voluntary study of the Rhode Island Bar membership regarding their pro bono participation. In particular, the law school sought to determine if the findings in national studies of pro bono participation held true for Rhode Island, a small and unique jurisdiction.<sup>68</sup>

The RWU Law survey<sup>69</sup> indicated that the majority of pro bono work in the state was done by small law firms and solo practitioners, as well as attorneys with twenty or more years of experience.<sup>70</sup> Law firm attorneys identified a number of barriers to participation in pro bono work which mirrored the national findings from an ABA study:<sup>71</sup> lack of training and expertise in areas of law typically used in pro bono work, time constraints related to their practice and billable hour requirements, and lack of institutional support for pro bono work.<sup>72</sup> Survey participants suggested that their pro bono participation would expand if they were provided with training and support in the areas of law that impact low-income communities, and were offered more manageable, predictable, and discrete pro bono tasks, as well as law student assistance.<sup>73</sup>

With the survey results in hand, the Feinstein Institute staff and law students researched model pro bono programs in other states and found a useful model in the Pro Bono Initiative ("PBI") of the Chicago-based Public Interest Law Initiative.<sup>74</sup> The PBI model encourages pro bono participation from large law

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Rhode Island. The Housing committee helped to develop an affordable housing project that became one of the initial pro bono projects for the PBC.

68. Rhode Island has roughly 5,000 licensed lawyers who are members of a mandatory state bar, the Rhode Island Bar Association. Before the PBC was created, the main vehicle for obtaining pro bono cases was through the Volunteer Lawyer Program, a project of the Rhode Island Bar Association. The Volunteer Lawyer Program closes approximately 400-450 cases per year. *See, e.g.*, Rhode Island Bar Association: Volunteer Lawyer Program, <http://ribar.com/public/volunteer.asp> (last visited Feb. 12, 2010). Further, Rhode Island has only a handful of law firms employing more than fifty attorneys. *See* 2010 Providence Business News list of Rhode Island Law Firms, <http://www.pbn.com/lists.html> (last visited Feb. 12, 2010).

69. The survey was developed, administered, and analyzed by attorney Jennifer Modell and a group of RWU law students. It was sent to just under 5,000 members of the Rhode Island Bar. It asked survey participants for information about past and current pro bono activity, barriers to participation in pro bono, and incentives that might increase pro bono participation. *See* Survey Instrument at [http://law.rwu.edu/sites/files/content/pdf/pbc\\_survey.pdf](http://law.rwu.edu/sites/files/content/pdf/pbc_survey.pdf) (last visited Feb. 5, 2010).

70. *See* Jennifer Modell, *Addressing Unmet Legal Need in Rhode Island: Barriers and Incentives to Pro Bono Participation*, Feinstein Institute for Legal Service, Roger Williams University School of Law 2-4 (June 10, 2005), available at <http://law.rwu.edu/sites/files/content/pdf/unmet-legal-needs-ri.pdf>.

71. *See* ABA Standing Comm. on Pro Bono and Pub. Service, *supra* note 44.

72. Modell, *supra* note 70.

73. *Id.*

74. *See* PILI Pro Bono Initiative: Promoting and Enhancing Pro Bono in Illinois, <http://www.pili-law.org> (last visited Feb. 12, 2010). Susan Shulman, former Director of the Pro Bono Initiative, provided technical assistance, which was enormously helpful to development of the PBC.

firm attorneys by developing discrete, short-term pro bono projects. An attorney coordinator assesses the unique talents and constraints of each law firm, connects each firm with a legal services provider that has developed a pro bono project, and provides support and recognition.<sup>75</sup>

While it was clear that the PBI provided important lessons for designing a pro bono model to engage large Rhode Island law firms, it was also apparent that the PBI model could not address all of the needs and concerns particular to Rhode Island, a much smaller community. First, as Rhode Island has only one statewide legal services program but many CBOs, it made sense to focus on partnerships with CBOs. This focus also allowed a community-based approach called for by community leaders at the Racial Justice Colloquium. Second, Rhode Island does not have the large urban law firms found in Chicago. While some firms in Chicago house as many as 3,000 attorneys,<sup>76</sup> Rhode Island's largest law firm, Edwards, Angell, Palmer and Dodge, LLP, has fewer than 100 attorneys in Rhode Island.<sup>77</sup> In addition, several Rhode Island firms are local offices of firms based elsewhere.<sup>78</sup>

### C. DESIGNING A COLLABORATIVE PRO BONO PROGRAM

Armed with information from the survey about barriers to participation by Rhode Island's large law firm attorneys and knowledge of other models for encouraging participation, the Feinstein Institute staff sought to develop a collaborative model that addressed the need identified at the Racial Justice Colloquium for community-based pro bono assistance—legal assistance for low-income and minority clients served by many of Rhode Island's CBOs—while also engaging Rhode Island's larger law firms and RWU law students and faculty. In January 2006, through generous funding from the Rhode Island Foundation, the Institute hired a director<sup>79</sup> to launch the Pro Bono Collaborative Pilot Project with the goal of enlisting three of Rhode Island's largest law firms in

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75. To further explore opportunities for development of a program in Rhode Island, the PBI Director and participating attorneys were invited to present the model at the Rhode Island Bar Association Annual Meeting in June 2005 as part of a presentation of the survey results by the Feinstein Institute. Rhode Island Bar President Jametta Alston was instrumental in working with Feinstein Institute staff to develop the presentation, "Innovative Ways to Incorporate Pro Bono into Your Practice."

76. The law firm of Baker & McKenzie, LLP employs over 3,000 attorneys. See *The National Law Journal* 250: *Annual Survey of the Nation's Largest Law Firms*, NAT'L L.J. (2009), available at <http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202425778391&slreturn=1&hblogin=1> (last visited Feb. 5, 2010).

77. See *Largest Law Firms in Rhode Island*, R.I. LAW. WKLY., <http://rilawyersweekly.com/special-features/largest-law-firms/> (last visited Feb. 5, 2010).

78. For example, Brown Rudnick LLP, Nixon Peabody LLP, and Motley Rice LLC.

79. Eliza Vorenberg, J.D., was hired as the PBC Director in January 2006. She was selected because she had extensive legal experience in both the private and public interest sectors and a passion for improving access to justice. The FILS staff deliberately chose an attorney with this kind of background since the Director would have to understand law firm attorneys' perspective and have credibility with attorneys, while also knowing the ins and outs of pro bono and poverty law practice.

pro bono projects serving CBOs and their individual clients in partnership with RWU law students. By December 2006, three collaborative projects were up and running, involving three major Rhode Island law firms and four CBOs. During the PBC's first year, the Director focused on creating and testing the model through three different types of projects: a special education direct representation project, an affordable housing legislative research and drafting project, and a rights education project covering several legal areas.<sup>80</sup>

In January 2007, through an additional grant from the Rhode Island Foundation, the PBC Pilot transitioned from a pilot project to an established program. By the end of the first full year, the PBC had engaged a total of six law firms, created ten projects, and integrated over twenty law students into the new model. Over the past four years, the PBC has grown to include ten law firms, over 50 lawyers, 23 projects, 26 CBOs, and over 60 law students.<sup>81</sup> The PBC also created an Advisory Board to ensure the long-term success of the PBC, both structurally and financially.<sup>82</sup>

#### D. WHY THE LAW SCHOOL AS FACILITATOR?

Locating a community-based, collaborative program—focused on increasing pro bono among the private bar—at a law school is unusual. Typically, pro bono programs have been housed in bar associations or other non-profit legal services programs.<sup>83</sup> While there are some challenges involved in housing a pro bono program at a law school, as will be discussed in Section IV, a number of reasons support utilizing a law school's leadership in such an endeavor. The development of the PBC illustrates this point.

First, Rhode Island has a small legal community with one mandatory bar association that administers the primary pro bono program in the state. Because the state has limited resources that are traditionally distributed to existing programs, creating new programs can prove difficult. Because the law school, as an academic institution, has no particular allegiance to any one organization or program, it serves in a neutral convening role: bringing together a wide range of constituencies to explore new ideas for addressing old problems. The Racial Justice Colloquium served this purpose and led to important community-wide

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80. See App. A.

81. See *id.*

82. This board includes representatives from each participating law firm and community-based organization, the law school, the community, and members of the judiciary who make themselves available for consultation. The Advisory Board provides advice and assistance on issues relating to the PBC's role in the Rhode Island legal community, financial sustainability, institutionalization in law firms, and improvements in the PBC model. For a brief report of the PBC Advisory Board's first meeting, see Feinstein Institute – Roger Williams University School of Law, *Pro Bono Collaborative History*, <http://law.rwu.edu/sites/fils/probono/history.aspx> (last visited Feb. 5, 2010).

83. See American Bar Association, *List of Pro Bono Programs*, <http://www.abanet.org/legalservices/probono/directory/programlinks.html> (last visited Feb. 5, 2010).

brainstorming about how to involve Rhode Island's larger law firms and CBOs in the distribution of pro bono legal services. The Rhode Island Foundation, which directs funding to partnership-based, innovative approaches to social problems, saw the law school's leadership as an important addition to efforts to expand access to justice in the state. Second, the law school is a logical place for innovation: it captures both the expertise and ideas of its faculty, but also the energy and commitment of law students who often come to law school eager to bring change. As an academic institution, the law school is a natural setting for researching, testing, and evaluating innovative models. As law schools develop a stronger role in the provision of pro bono legal service through formal programs for students, they can and should become increasingly involved in discussions with their surrounding communities about how to leverage resources and how to build partnerships that address unmet legal need.

### III. THE PRO BONO COLLABORATIVE MODEL: A THREE-WAY PARTNERSHIP

The Pro Bono Collaborative facilitates pro bono through a three-way partnership among law firms, law students and faculty, and community-based organizations. The PBC was designed to meet multiple goals, foremost of which were: (1) to address the unmet legal needs of low-income Rhode Islanders and community-based organizations, unable to pay for legal representation, by delivering high quality pro bono legal assistance; (2) to make pro bono work accessible and gratifying for large law firm attorneys; and (3) to educate law students about their professional responsibility to engage in pro bono service and to inspire a life-long commitment to public service by providing a positive and practical pro bono experience.

By developing and facilitating pro bono projects through partnerships with CBOs, the PBC serves as a unique vehicle for the identification of systemic—often preventable—unmet legal need at the community level. The PBC offers a range of non-traditional pro bono activities, such as legal rights education, transactional assistance, administrative advocacy, legislative advocacy, appellate advocacy, maintenance of non-profit organizational health, as well as direct legal representation.<sup>84</sup>

The law school is optimally situated to facilitate collaboration among law students, the private bar, and non-legal entities, such as CBOs. Typically, these three constituencies have not intersected nor have they worked toward a common

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84. Because LSC funded legal services programs may not engage in certain activities, such as impact litigation or legislative advocacy, the PBC offers an important opportunity to effect systemic change in Rhode Island through pro bono attorney involvement. See The Pro Bono Collaborative, <http://law.rwu.edu/sites/files/content/pdf/abc-brochure.pdf> (last visited Feb. 5, 2010); see also LSC, DOCUMENTING THE JUSTICE GAP 2009, *supra* note 2.

goal like the delivery of efficient and effective pro bono legal assistance.<sup>85</sup> The PBC set out to bring these constituencies together in a common effort of great importance to each. Finally, the PBC is designed to provide a collaborative approach to a shared goal, so that no partner works alone. To better understand how the PBC operates, the roles of each of the three partners—CBOs, law students and faculty, and law firms—are discussed in more detail below.

#### A. COMMUNITY-BASED ORGANIZATIONS: IDENTIFYING AND PREVENTING LEGAL PROBLEMS

*A grassroots organization focused on empowering Southeast Asian American Youth (SEAA) offers an intensive GED preparation program, which includes a community-organizing component. The organization's staff realized that to sit for the GED exam, each student was required to have a state-issued photo identification card. Students reported that they had difficulty obtaining these IDs and had received inconsistent information about the requirements for obtaining ID cards from the various bureaucracies charged with issuing them. In addition, several of the organization's clients had precarious housing situations or were homeless and could not prove residency. The Project Director knew that his students might drop out of the program if this bureaucratic impediment was not removed. Unsure of whether the photo identification issue was a "legal" need, the Director explained his concerns to the PBC staff who assured him that this was a legal issue the PBC could address. The PBC staff created a pro bono project proposal involving legal research, advice and counsel and, shortly thereafter, matched a law firm and law student with the CBO. After meeting to discuss the organization's concerns, the law firm lawyers and law student provided the organization with a list of the legal documents needed to obtain an ID card as well as suggested strategies for ensuring compliance by state regulatory and administrative bodies. The CBO is now in the process of creating a pamphlet to provide to its constituents outlining the documents needed for each different situation and advocacy strategies for dealing with the state agencies. They plan to share the pamphlet with other CBOs working with similar populations.*

As indicated in the example above, there are a range of legal hurdles faced by low-income individuals and communities that do not involve litigation and that never make it to traditional pro bono programs. For example, removing one small barrier to a young person obtaining a GED can prevent a host of other social, economic, and legal problems from ever occurring.<sup>86</sup> These barriers may involve

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85. Historically in Rhode Island these constituencies have not formally partnered before to expand pro bono service. To our knowledge, the PBC is the first collaborative program to partner a law school with community-based organizations and law firms.

86. See DAVID K. SHIPLER, *THE WORKING POOR: INVISIBLE IN AMERICA* 4-5 (2004):

a variety of legal issues, from an agency failing to comply with regulations, to a landlord violating the landlord-tenant law by refusing to return a rental deposit. While these issues may seem small or insignificant, they can pose insurmountable barriers for low-income people, yet can be easily remedied by a lawyer's involvement.

The PBC identifies unmet legal needs through partnerships with CBOs. Sometimes, a CBO presents a clear project idea to PBC staff, as was the case with the project described above. More often, however, PBC staff members meet with CBO representatives to discuss their clients' multiple and complex needs, identify the most pressing needs,<sup>87</sup> and then translate those needs into legal assistance projects that leverage the skills and expertise of the PBC law firms. Participating attorneys often meet clients' needs without litigation through preventive legal assistance such as know-your-rights workshops,<sup>88</sup> advice and counsel sessions, and, as in the case above, research and advice about holding administrative agencies accountable.

#### B. LAW STUDENTS AND FACULTY: LEARNING THE VALUE OF PRO BONO SERVICE THROUGH COLLABORATION

*A law professor with expertise in housing law learned from a local non-profit that it needed assistance creating closing documents to preserve certain housing units as affordable under the state's new inclusionary zoning law. As it turned out, the particular legal concerns involved were similar for other states and development of the documents could be critical to addressing this issue in states other than Rhode Island. The PBC staff met with the professor and the non-profit organization, developed a project proposal, and then recruited a firm with expertise in real estate law to partner on the project. Since the project involved extensive legal research, several law students were recruited for the project. The*

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Breaking away and moving a comfortable distance from poverty seems to require a perfect lineup of favorable conditions. A set of skills, a good starting wage, and a job with the likelihood of promotion are prerequisites. But so are clarity of purpose, courageous self-esteem, a lack of substantial debt, the freedom from illness or addiction, a functional family, a network of upstanding friends, and the right help from private or governmental agencies. Any gap in the array is an entry point for trouble, because being poor means being unprotected. You might as well try playing quarterback with no helmet, no padding, no training, and no experience, behind a line of hundred pound weaklings. With no cushion of money, no training in the ways of the wider world, and too little defense against the threats and temptations of decaying communities, a poor man or woman gets sacked again and again—buffeted and bruised and defeated. When an exception breaks this cycle of failure, it is called the fulfillment of the American Dream.

87. One tool the PBC developed to improve this understanding was a survey CBO staff could disseminate to their constituents. The survey covers the range of legal issues CBO clients might face and asks them to check those that apply.

88. See Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services Practice*, 4 CLINICAL L. REV. 433, 442 (1998).

*students worked as a group, developed a thorough memo of the legal issues and drafted closing documents to address the concerns involved. The students were often seen working for hours in one of the law school classrooms, talking through the issues, and dividing up tasks. When portions were completed, they met with the firm's attorney who provided supervision. Because some of the legal issues were novel, the law professor, now the project's faculty advisor, held a conference call to strategize with the students, the law firm supervisor, and the CBO staff. After hundreds of hours of work from the law students and countless hours from the supervising attorney, closing documents were created that will help to secure affordable units in the state for years to come.*

In addition to learning to work closely with CBO staff and law firm attorneys, law students also learn to collaborate with one another—an experience somewhat unusual in the traditional law school experience.<sup>89</sup> As the example above indicates, students working on the PBC Affordable Housing Project had a unique opportunity to collaborate with law students, a law firm attorney, and a faculty member from the law school. By working with other students and sharing responsibility for the work with a supervising attorney, students learn the value and satisfaction of working with other colleagues toward a shared goal.

While RWU Law has an unusually high percentage of law students who pursue public interest law after graduation,<sup>90</sup> the majority of its graduates will work in law firms.<sup>91</sup> Accordingly, in addition to making pro bono easier for law firm attorneys by providing law students to assist attorneys in each project, one of the goals of the PBC is to provide law students with a pro bono experience that exposes them to the rewards and challenges of incorporating pro bono into private practice,<sup>92</sup> while also introducing them to the overwhelming needs of CBOs and their clients. Goals for law student involvement and experience are considered in the initial design of each PBC project. The PBC staff ensures that each student's role and learning experience remain an important element of each

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89. For discussion of the need to actively teach law students how to collaborate, see Janet Weinstein, *Coming of Age: Recognizing the Importance of Interdisciplinary Education in Law Practice*, 74 WASH. L. REV. 319, 335, 361-64 (1999).

90. RWU Law has significantly more graduates entering public interest law than the national average. In 2008, 8.0% of RWU Law graduates entered public interest jobs. See Roger Williams University School of Law, Office of Career Services, Class of 2008 Employment Statistics, <http://law.rwu.edu/sites/careerservices/content/pdf/ERSS.pdf> (last visited Feb. 5, 2010). The national average for law graduates entering public interest law jobs was 5.4%. See National Association of Law Placement, Class of 2008 Selected Findings, available at <http://www.nalp.org/uploads/08SelectedFindings.pdf>.

91. Nearly 44% of 2008 RWU Law graduates are employed in private practice/law firms and 21% are employed in business. See Roger Williams University School of Law, Office of Career Services, Class of 2008 Employment Statistics, <http://law.rwu.edu/sites/careerservices/content/pdf/ERSS.pdf> (last visited Feb 5, 2010).

92. Through the law school's public service program, students can choose from over thirty placements to fulfill their public service requirement. While some small firms serve as public service placements by offering the chance for students to work on individual pro bono cases, the Institute wanted to provide students with the opportunity to work in larger firms. For more on the benefits of pro bono work for law students, see Melanie Kushnir, *Help Yourself and Others With Pro Bono*, ABA STUDENT LAW. MAG., Feb. 2006.

project, and that each partner fulfills his or her role in the PBC.

In addition to the important role of law students, RWU law faculty serve as project advisors, bringing substantive expertise to the collaboration. Faculty involvement is important for several reasons. First, because law students view faculty as important mentors in their professional development, faculty participation provides an added layer of credibility and importance to the PBC at the law school. Students benefit from a relationship with faculty outside of the classroom and faculty participation reinforces the importance of pro bono work as a value of the law school. Second, faculty involvement in addressing unmet legal need in the local community enhances the law school-community relationship by counteracting the criticism that academics exist in an ivory tower disconnected from the real needs in the community. Students witness the academic and substantive knowledge faculty bring to bear on real community problems and needs, thus reinforcing the connection between their academic learning and legal need and pro bono practice.

In the affordable housing example above, the faculty advisor played a critical role in helping bridge understanding among the non-profit housing organization, the law students, and the law firm attorney. Because of the advisor's expertise in housing law and policy and his previous work in the community, he had a unique understanding of the complexity of the problem and the appropriate expectations each party should have in the partnership. He also modeled collaborative problem-solving as well as a pro bono ethic for the students who participated in the project.

### C. LAW FIRMS: CONNECTING LAWYERS TO COMMUNITY NEED

*A large Rhode Island law firm signed onto the PBC in its pilot phase and sought a pro bono project that would engage associates on a discrete and time-limited pro bono project. The PBC Director had identified a large CBO that serves vulnerable families, many of which have recently immigrated. The CBO sought legal rights education for its clients. The rights education project was launched with an introductory meeting with several law firm lawyers, law students, and CBO staff during which the CBO staff not only identified areas of the law most relevant to their clients but also conducted a cultural competency training so the attorneys and law students would better understand the organization's diverse client population. Prior to the first workshop, the attorneys supervised the law students as they researched and drafted workshop outlines on issues such as housing, immigration, and civil rights. Over the next two years, the attorneys and students regularly held workshops at the CBO. During this time, the attorneys and law students heard the stories of clients and saw first-hand the tremendous need of the CBO's clients and they wanted to do more. In response, the PBC staff, along with the law firm and the CBO, revised the project to include individual representation on housing issues. After a comprehensive training on*

*housing law issues, as well as the creation of a new project manual that included project intake protocols and procedures, the project was re-launched as a monthly legal clinic project.*

The example above illustrates the PBC's unique ability to connect law firms to community organizations, and ultimately clients, by providing time-limited, well-defined, and predictable pro bono projects that allow law firms to increase their commitment to pro bono over time.<sup>93</sup> PBC projects are attractive to lawyers because they do not have to commit to working on projects alone. Because the PBC requires a law firm commitment, as opposed to an individual attorney commitment, attorneys work in teams with their colleagues and with the support of the law firm. In addition to feeling supported by their law firms, PBC attorneys are supported by law students who can ease the workload involved in taking on pro bono matters. The PBC staff also provides an unusually high level of support that goes beyond CLE training<sup>94</sup> to include cultural competency trainings, access to expert consultants, and ongoing project facilitation by PBC staff to ensure cooperation between law firms, CBOs, and law students. The PBC's collaborative, supportive approach results in enduring commitments and relationships between law firms and CBOs and between individual attorneys and CBO clients.

By engaging whole law firms, as opposed to individual attorneys, the PBC can also influence firm-wide involvement in, and commitment to, pro bono work.<sup>95</sup> Law firm management is asked to make a commitment to a PBC project or projects, commit a certain number of attorneys and attorney hours to the project, encourage their attorneys to treat PBC work with the same priority as other firm work, and designate an attorney who will act as the PBC liaison. In addition, a partner from each participating firm is expected to sit on the PBC Advisory Board.

#### IV. THE CHALLENGES OF A COLLABORATIVE MODEL

Though it has evolved into a successful program, the PBC has also faced challenges. The most important challenges are seemingly byproducts of the three-way collaboration model that is the essence of the PBC. Collaboration under the best of circumstances—where goals, values, and culture are aligned<sup>96</sup>—is

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93. Furthermore, “[pro bono attorneys] are most likely to return if their previous case was ‘straightforward’ (rather than ‘difficult’) and the attorney was able to say she ‘won’ (rather than ‘lost’) her previous pro bono case.” Karen A. Lash, *Pitching Pro Bono: Getting to First Base with the Big Firm*, 2 DEPAUL J. FOR SOC. JUST. 141, 147 (2008).

94. Because the law school is a Continuing Legal Education provider, most of the trainings include CLE credit, which is an added benefit to lawyers in states with mandatory CLE.

95. For example, the PBC works with law firms to develop and implement firm-wide pro bono policies.

96. Collaboration is defined as “[a] more durable and pervasive relationship . . . participants bring separate organizations into a new structure with full commitment to a common mission. Such relationships require comprehensive planning and well-defined communication channels operating at all levels.” MICHAEL WINER & KAREN RAY, *COLLABORATION HANDBOOK: CREATING, SUSTAINING, AND ENJOYING THE JOURNEY* 22 (2003) (“[A]

a significant undertaking. Where there are not only multiple competing interests, but also vastly different institutional cultures and values, collaboration is especially challenging. While the PBC's partners are committed to the ultimate goal of increasing access to pro bono legal service, their individual priorities can hamper the collaboration itself.

One major challenge is that the involved institutions' primary missions are not entirely aligned. The law firm, at its core, is a for-profit business, despite the fact that law is a service-driven profession; the law school, at its core, is a non-profit educational institution; and the CBO, at its core, is a non-profit service-based institution. At the end of the day, despite the many shared values among the three stakeholders, the priorities of each institution can cause conflict with the priorities of the others. Likewise, each institution has its own unique culture. Law firms value an efficient business model; law schools value a process-oriented, reflective model; and CBOs value community-building and quality service to the greatest number of individuals possible.<sup>97</sup> In sum, building and sustaining the partnerships that are essential to the PBC's success can be daunting and far more labor-intensive than recruiting participants or creating, designing, and maintaining a steady stream of legal projects.

#### A. THE COLLABORATION CHALLENGE

##### 1. THE LAW FIRM: A PROFIT-DRIVEN INSTITUTION

The law firms involved in the PBC are committed to pro bono service. The management in each firm chose to join the PBC in an effort to broaden the range of pro bono opportunities offered to their attorneys. Pro bono service is a part of their mission, values, and culture. Pro bono service does not explicitly further the firms' primary business bottom line, a bottom line that often results in intense pressure within firms to bill hours and recruit paying clients.<sup>98</sup> Those pressures, particularly for lawyers at the associate level,<sup>99</sup> can interfere in PBC attorneys' ability to fully commit to their pro bono projects and to create meaningful relationships with project partners. The PBC model involves making time for collaboration with the other partners and providing preventive legal work not

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mutually beneficial and well-defined relationship entered into by two or more organizations to achieve results they are more likely to achieve together than alone.”).

97. We do not, by any means, intend to suggest that the only goal of each partner is profit, education, or service. Each partner's mission is richly textured and multi-faceted, and there are many overlapping goals among the partners.

98. However, some make the argument that pro bono is good for business. See Esther F. Lardent, *Introduction: Symposium on Innovations in Pro Bono Practice*, 72 UMKC L. REV. 295, 299 (2003).

99. Law firm management understandably views the PBC as a good opportunity to involve associates in pro bono work, but does not always identify or address how associates should prioritize PBC work against projects for the firm's private clients. One of the goals of the PBC is to help law firms develop policies and protocols that guide attorneys, particularly associates, in how best to incorporate pro bono work into their practice.

viewed as urgent.<sup>100</sup>

Law firm institutional pressures can interfere with associates' availability for these PBC endeavors, which are not usually perceived internally as time-sensitive. Associates have "billable hours" expectations, higher level attorneys making demands on their time, and a steep learning curve in adapting to the "business" of the law firm. Oftentimes, these pressures can result in law firms switching attorneys on PBC projects at the last minute to accommodate law firm matters considered to be more pressing. This procedure is entirely consistent with the firm's business model. For example, when a major business transaction is being negotiated, all hands are on deck. An attorney may be pulled from other work to focus solely on the transaction while a substitute attorney may be asked to step in on less pressing assignments, such as a PBC project.

Needless to say, substituting an attorney at a PBC project meeting, one who has not taken part in the initial partnership development, can interfere with the continuity of the project. Such a change requires the project's CBO and the law students to not only bring the substitute attorney up-to-date, but it also conveys to the CBOs and law students the impression that the law firm views the PBC work as less important than the other business of the law firm. For obvious reasons, this situation can impede the development of the relationship between the project partners.

In an effort to address this challenge, the PBC staff actively encourages and facilitates regular communication among the partners through email and conference calls, in order to strengthen relationships among the partners outside of formal meetings. Over time, as the law firms and participating attorneys become more invested in their relationships with the CBOs and their clients, fewer situations arise in which firms substitute attorneys on projects. The goal of the PBC is to develop strong relationships between the CBOs and the firms so that PBC projects are viewed as joint ventures requiring commitment from the individuals as well as the institutions involved.

## 2. THE LAW SCHOOL: AN EDUCATIONAL INSTITUTION

Although the law school is committed to serving the community,<sup>101</sup> it embraces the PBC primarily as a tool to teach the value of pro bono service to its students. The educational experience involves exposing law students to both the tremendous unmet legal needs of low-income communities and strategies for juggling pro bono service with legal practice. The students experience not only

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100. PBC lawyers are asked to attend trainings, attend meetings with law students and social service providers, prepare sessions for legal education workshops, and attend advice and counsel "clinics" with clients.

101. A core value of Roger Williams University and accordingly, of the School of Law, is "commitment to community service." See Roger Williams University, *Mission & Core Values*, <http://www.rwu.edu/about/mission> (last visited Feb. 5, 2010).

the rewards, but also the challenges, of pro bono work, thus paving the way for a realistic vision of pro bono work when they begin their careers.

With a primary mission of education for students, the law school aspires to ensure that each PBC project is pedagogically sound, involving sufficient training and oversight for the students and quality feedback and guidance from supervising attorneys. Because direct supervision of students is provided by busy law firm attorneys, however, not law school staff or faculty, fulfilling this goal can be a challenge. Unlike a law school clinical program in which a small number of law students are supervised by a faculty member as they learn the practice of law, PBC students are dependent on supervision from attorneys juggling many demands. When PBC attorneys are young associates who are just learning how to incorporate pro bono work into their practice, this mentoring and supervisory goal is sometimes harder to achieve.<sup>102</sup>

In response, PBC staff members provide attorneys and law students with formal guidelines and best practices regarding supervision at the beginning of each project and monitor the relationship between the law students and their supervising attorneys throughout projects.<sup>103</sup> Moreover, although PBC staff members do not supervise the work of specific projects, they are available on campus to discuss any issues that arise with projects and to act as facilitators when challenges present themselves.

### 3. THE COMMUNITY-BASED ORGANIZATION: A SERVICE-DRIVEN INSTITUTION

Despite divergent substantive missions, the CBOs' overriding mutual goal is to provide service to their low-income clients. The CBOs participate in the PBC because access to legal service is a precious commodity for their clients. Understandably, CBO staff members' initial focus tends to be more on their clients' urgent legal needs—often already on the courthouse steps—and less on the broader impact to be gained from non-litigation types of legal assistance.<sup>104</sup> For the most part, the CBOs are familiar with legal service entities that accept individual case referrals. They are less familiar with the PBC's "project based"

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102. The integration of more law firm partners into the PBC may help remedy this challenge in the future. Studies show that involvement from organizational leadership is critical to the success of strategic collaborative efforts. See AUSTIN, *supra* note 12, at 53 ("Every successful strategic alliance studied had significant support and direct involvement from top leaders in the partnering organizations.").

103. PBC staff "check-in" with students monthly, if not more often, and schedule student meetings three to four times per academic year.

104. This is hardly surprising. Most people identify the role of the lawyer as advocate in court. The media promotes this vision of lawyers, when in fact, most lawyers are not litigators and play a variety of roles in providing legal assistance to clients, whether pro bono or paying clients. See, e.g., Carrie Menkel-Meadow, *The Sense and Sensibilities of Lawyers: Lawyering in Literature, Narratives, Film and Television, and Ethical Choices Regarding Career and Craft*, 31 MCGEORGE L. REV. 1, 5, 16 (1999); see also Kara Anne Nagorney, Note, *A Noble Profession? A Discussion of Civility Among Lawyers*, 12 GEO. J. LEGAL ETHICS 815, 821 (1999). For less flattering portrayals of lawyers in the media, see Abbe Smith, *Can You Be a Good Person and a Good Prosecutor?*, 14 GEO. J. LEGAL ETHICS 355, 358 (2001).

approach, which focuses primarily on non-litigation and preventive legal work. For instance, a CBO staff member, not surprisingly, approaches a client's recent eviction from a foreclosed property as an immediate crisis meriting referral to an attorney, rather than also as a potential PBC project involving systemic and legislative advocacy to protect the rights of renters in foreclosed properties.<sup>105</sup>

PBC staff work closely with CBOs to help them identify their clients' challenges as opportunities to use the law to achieve effective solutions that may prevent some of those challenges from becoming crises requiring immediate triage. This strategy means, however, that oftentimes the CBOs cannot rely on the PBC for emergency referrals to individual attorneys. Initially, this arrangement frustrated the CBO staff, but, over time, the CBOs come to understand and value the PBC approach and see firsthand how many of the PBC projects assist large numbers of their clients and prevent developing legal issues from escalating.

## B. THE FACILITATION CHALLENGE

The PBC's blueprint envisioned connecting each law firm and CBO so that, over time, they would develop a mutually beneficial and enduring relationship that would require less day-to-day management by the PBC staff. At this early juncture, however, the PBC staff is still deeply involved in identifying pro bono projects and facilitating communication among the partners. When the CBO or law firm has an issue with an aspect of the project or a partner is unable to fulfill a PBC commitment, the PBC staff steps in to address the problem. While the PBC staff is not provided with confidential details about any individual representation, this facilitative role can insulate the lawyer from feeling the immediacy of the CBO's and client's needs. The PBC staff is often in the uncomfortable position of encouraging the CBO to be a more demanding client or of encouraging the lawyer to be more attentive to the CBO client.

As the PBC matures, one goal is to serve less as micro-level facilitators of projects and more as macro-level relationship-builders: recruiting new law firms and CBOs, launching new projects, matching law students to projects, providing backup support, serving as trouble-shooter, gathering statistics and data about pro bono needs and efforts, creating trainings, holding symposia, facilitating the Advisory Board,<sup>106</sup> and influencing pro bono policy within the state. As a first step in moving to this macro-level facilitation, the PBC has begun systematizing projects and protocols. These efforts include developing institutional infra-

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105. Other than the Rhode Island Affiliate of the ACLU, which focuses on civil liberties, Rhode Island does not have an organization devoted to impact litigation.

106. To foster communication and involve the partner groups in solving or addressing the challenges described above, the PBC established an advisory board during its second year. The advisory board meetings afford the opportunity to brainstorm about systemic issues facing more than one CBO and its clients, providing a forum for law firms to discuss pro bono and related issues and creating a forum for law students to understand the "big picture" of the PBC.

structure within the partnering organizations and firms, identifying a law firm coordinator,<sup>107</sup> drafting memoranda of understanding among the project participants, creating project manuals, streamlining procedures, promoting best practices, working closely with the Advisory Board, and nurturing the relationships between the law firms and the CBOs.

Finally, as the PBC staff continue to address the challenges to this new collaborative approach to pro bono, the PBC may serve as a useful model for smaller urban and rural legal communities that lack the national (and international) firm presence that has been so effective in creating a pro bono culture in large cities.<sup>108</sup> The PBC is playing an important role in the development of pro bono policies in firms and in developing new relationships between the legal community and CBOs in Rhode Island. Many communities that do not have multiple legal service providers struggle with how to address the tremendous need for legal assistance, to engage law firms in providing that assistance, and to inspire the next generation of lawyers to incorporate pro bono into their practice. The PBC may offer an opportunity for a collaborative approach that leverages multiple untapped resources.

### CONCLUSION

The Pro Bono Collaborative is an experiment in bringing together three diverse constituencies and cultures—law firms, community-based organizations, and law students—to achieve one critical goal: to expand and improve pro bono legal assistance to low-income clients and communities. The PBC answers the call from Professor White, Professor Rhode, and others to increase pro bono service by translating the legal profession's principle into practice through an innovative, collaborative model. It seeks to create incentives for law firm attorneys—especially non-litigators who often do not participate in pro bono service opportunities—by offering a wide range of pro bono options, as well as support. It engages law students in pro bono service in their formative years to help them experience the benefits of pro bono service within a private setting. It offers CBOs a new option for addressing the legal needs, both individual and systemic, of their clients and connects them with untapped resources.

While challenging, collaboration among these disparate groups also may prove to be an effective means of redefining how legal need is understood and addressed at the community level and how the legal profession views its role in addressing that need. By engaging these diverse constituencies in the common

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107. Unlike larger cities, where many law firms have pro bono coordinators, many of the Rhode Island firms are local offices of larger firms in other cities so they do not have the infrastructure or support for pro bono work.

108. Anecdotal evidence suggests that the largest cities have been effective in fostering increased pro bono commitments from these firms through recruiting, press, and other competition-p pressures which are not readily applied in smaller and rural communities. *See, e.g.*, Cummings, *supra* note 4, at 46-47.

goal of providing effective pro bono legal assistance, the PBC asks each to question its assumptions. Law firms must ask: "Are we doing enough to find creative ways to incorporate pro bono service into our practice?" Law schools must ask: "Are we sufficiently integrating pro bono into the law school experience, particularly for students likely to practice in a private setting?" CBOs must ask: "Are we partnering with the legal community in the most effective way to address our constituents' legal needs?"

As the conversation continues in the legal profession about increasing pro bono participation and in the community about how to serve the multiple needs of low-income clients, the PBC offers a partnership-based model that may prove effective, particularly in smaller cities and communities that have not had strong participation in pro bono programs. This model also provides a case study for the benefits and challenges of collaboration. The PBC shows that to be effective, the collaboration itself must be facilitated and nurtured. Nonetheless, previously unmet legal need will now be addressed and communities will have a mechanism for identifying systemic problems faced by low-income communities *because* of the unique collaborative approach of the PBC. Lawyers and communities cannot accomplish these lofty goals alone.

APPENDIX A  
LIST OF PBC PROJECTS

Pilot Projects (2006-2007):

**1. The Special Education Advocacy Project** involved six attorneys at Partridge Snow & Hahn LLP advocating on behalf of families served by Casey Family Services whose children had special education needs. The project included advice and counsel and, when necessary, representation at Individualized Educational Plan (IEP) meetings. Four law students provided research and other support to the attorneys.

**2. The Affordable Housing Project** partnered a Brown Rudnick Berlack & Israels LLP attorney with six law students to research and draft legal and legislative materials for the implementation of the Statewide Community Housing Land Trust (CHLT). In doing so, the project helped facilitate the future purchase of hundreds of condominium units by low-income families. Final drafts of the closing documents and proposed legislative changes were delivered to the community partners with a full explanation of their research and conclusions and legal analysis of potential future challenges to the CHLT goals.

**3. The Legal Rights Workshop Project** involved the provision of legal rights workshops to families served by the Children's Crusade of RI (renamed College Crusade of RI). In partnership with RWU law students, attorneys at Edwards Angell Palmer & Dodge LLP researched, prepared, and presented rights workshops focused on housing, immigration, healthcare, domestic violence, and benefits to parents, in both English and Spanish.

Projects (2007-Present):

**1. Tax Project**—a legislative advocacy project to enable income tax amnesty for many poor, often elderly, Rhode Islanders;

**2. Mariposa Center Project**—assembling documentation required to incorporate the center as a 501(c)(3) non-profit service provider and providing ongoing tax advice;

**3. Women's Center RI Project**—providing housing rights workshops for residents of a domestic violence shelter, representing residents in their family law matters, and developing a state-wide Court Watch initiative;

**4. George A. Wiley Center Project**—researching and drafting utility shut-off legislation for introduction by the Wiley Center;

**5. Friends of Commission on Women**—completing incorporation and obtaining 501(c)(3) status for a new organization called "Friends of the Rhode Island Commission on Women";

**6. Ecuadorian Association of RI**—providing advice and counsel regarding obtaining incorporation and 501(c)(3) status for the organization;

**7. Liberian Truth and Reconciliation Project**—taking statements from Liberian refugees in Rhode Island for the Liberian Truth and Reconciliation Commission;

**8. Gap Kids Project**—researching and drafting an amicus brief in an important juvenile justice case before the state supreme court;

**9. Dream Center Project**—providing advice and counsel regarding obtaining non-profit status for this group providing day-time services to the homeless;

**10. Asylum Project**—preparing asylum petitions, including interviews and affidavit drafting, as well as representation before the immigration tribunal;

**11. Guardianship Project**—providing legal assistance for parents seeking guardianship of their severely and profoundly disabled children approaching the age of adulthood;

**12. Streetworker Project**—providing legal research and rights information to the Institute for the Study and Practice of Non-Violence to assist streetworkers in their work with gangs;

**13. Foreclosure/Renters' Protections Project**—legal research regarding the foreclosure process and a state-by-state survey of successful renter protections nationwide with a goal of introducing legislation to protect renters whose homes have been foreclosed;

**14. PrYSM Project**—providing legal research and advice to community organization that works with Southeast Asian Youth to address administrative barriers to obtaining state-issued photo identification;

**15. Street Sights Project**—researching and authoring monthly legal column in Street Sights, a newspaper for homeless individuals and advocates;

**16. Youth Pride Project**—providing research and advice to community organization on laws and policies that protect lesbian, gay, transgendered, and questioning youth from discrimination and violence in public schools;

**17. Women's Development Corporation Project**—legal research and potential administrative advocacy aimed at enforcing inclusionary zoning laws;

**18. Disability Law Center Project**—direct representation of families with children who have special needs and are facing hurdles in receiving services in public schools;

**19. Grand Divas Project**—advice and counsel to kinship-care organization regarding incorporation and filing for 501(c)(3) status;

**20. Housing Workshops and Clinics**—providing educational workshops and direct representation for clients of large social service agencies regarding housing related issues.

APPENDIX B  
PARTNERING LAW FIRMS

Adler Pollock & Sheehan P.C.  
Brown Rudnick Berlack & Israels LLP  
Dechert LLP  
Edwards Angell Palmer & Dodge LLP  
Hinckley Allen Snyder LLP  
Motley Rice LLC  
Nixon Peabody LLP  
Pannone Lopes Devereaux & West LLC  
Partridge Snow & Hahn LLP  
Ratcliffe Harten Burke & Galamaga LLP  
Taylor Duane Barton & Gilman LLP