

**ORIGINAL**

THE LEGAL SERVICES CORPORATION

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**Executive Office**

**1991 ANNUAL CONFERENCE  
OF  
LEGAL SERVICES PROVIDERS**

**December 9, 1991  
10:55 a.m.**

**The Clarion Hotel  
The Clark Room  
200 South 4th Street  
St. Louis, Missouri**

**Discussion Group C  
Pro Bono Service**

**Diversified Reporting Services, Inc.**

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## P R O C E E D I N G S

1  
2 MR. UDDO: I think we'll go ahead and start. I'm  
3 Basile Uddo from the Board of the Corporation, and Rick  
4 Teitelman is the co-facilitator, and Rick is the executive  
5 director of Eastern Missouri Legal Services.

6 Our job for the next 50 minutes is to talk about  
7 pro bono services as one of the three general topics that we  
8 have determined should be discussed in the smaller group  
9 sessions to try to get some input from the folks in the field  
10 about the various sources of funding.

11 Unfortunately, neither of the speakers this morning  
12 mentioned much about pro bono services to give us something  
13 to react to or to respond to or to talk about.

14 So I thought maybe the best thing that we could do,  
15 particularly from my perspective as a member of the Board, is  
16 to hear from you folks a little bit of your thoughts about  
17 pro bono services, how they have helped over the past decade,  
18 if they have increased as much as I think the popular wisdom  
19 believes it has increased, what role pro bono services have  
20 played, and what might be the future of pro bono services in  
21 the mix of funding and delivery systems that we expect will  
22 continue to exist, at least for the next decade.

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1           And I don't have an particular formal way of  
2 wanting to do that. All I would ask is, procedurally, make  
3 sure that you give the reporter a chance to see who is  
4 speaking, and try to do it individually, and let her see, as  
5 I said, your name tag, so that our record can be preserved  
6 and we know who is speaking at all times.

7           Does anybody have any thoughts that can get us  
8 started?

9           MS. LINDENAUER: I'd be very happy to.

10          MR. UDDO: I thought you would.

11          MS. LINDENAUER: Susan Lindenauer. I am counsel to  
12 the executive director of the Legal Aid Society of New York  
13 City.

14          We have had active pro bono for as long as we have  
15 been in existence, which is 115 years, but I'm not going to  
16 talk in that time frame.

17          I'm going to talk in the time frame of the  
18 existence of Legal Services as most of us think of it, which  
19 is post-1966, and talk about it in a number of perspectives:  
20 one, the increased participation by the private bar; two,  
21 what they have done; and three, the impact upon another thing  
22 that is very dear to the heart of the Legal Aid Society of

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1 New York City, which is the ability to raise private funds,  
2 because we are one of the very few programs that receives  
3 more support from the private bar than we do from the  
4 Corporation by a multiple, several multiples.

5 The birth of the legal services movement on a  
6 national level really had an impact in New York City in that  
7 it raised the consciousness of members of the private bar  
8 about the need for staff-delivered legal services, and then  
9 ultimately about the inability of a staff model with the  
10 levels of funding that exist to meet the entire need.

11 That, along with some persuasion in the late '70s,  
12 early '80s, coming from the Washington Legal Services  
13 Corporation, helped to bring our pro bono activities, which  
14 were always there, up to a much, much higher level of  
15 participation.

16 That participation is not only something which is  
17 now encouraged by Washington and recognized by the bar, but  
18 it is also recognized by the Legal Aid Society, and I think  
19 it has been for a long time, as something which builds  
20 friends in the private bar, the types of friends that you  
21 want to have forever.

22 If you recruit newer attorneys, and I won't say

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1 young because some of them begin as attorneys in a second  
2 career, if you recruit newer attorneys fresh out of law  
3 school or while they are in law school, to do pro bono, and  
4 if they are in the private sector, you build support, you  
5 build understanding.

6 You build support in a philosophical sense, and we  
7 have found it also builds support in the financial sense.

8 MR. UDDO: Susan, when you say in law school, you  
9 recruit in law school

10 MS. LINDENAUER: We recruit from the local law  
11 schools and from other law schools students to do pro bono  
12 work over the summer and during the course of the year. We  
13 also have law students who are working for firms during the  
14 summer, who come to New York City to work for a firm during  
15 the summer.

16 We have persuaded the firms that as part of their  
17 work for the firm during that summer experience they do pro  
18 bono work with us for some portion of the time that they are  
19 spending in the particular firm or -- it's generally in a  
20 firm. We really have taken that time and used it  
21 productively on certain types of things that a law student  
22 can do, whether it might be research or some -- in some

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1 instances, with some training, some administrative  
2 representation.

3 MR. UDDO: So the law firm pays them, hires them,  
4 and they do pro bono work.

5 MS. LINDENAUER: Yes, hires them, and most of their  
6 time during the summer is spent, let's say if they're with a  
7 firm for, let's say eight or ten weeks, they will commit,  
8 perhaps, to spending the equivalent of two weeks. It  
9 wouldn't be necessarily on a concentrated basis, but they  
10 will go through some training under our aegis and then  
11 undertake some representation, let's say, in an  
12 administrative matter, or they will in fact do some research.

13 But we build on that once the new lawyer joins the  
14 firm and we go out and actively recruit. We go and visit  
15 with firms. We have a team that goes and visits the firm and  
16 puts on a presentation and tries to recruit people when they  
17 arrive at the door of the firm, to make that part of their --  
18 make them recognize that that is part of their  
19 responsibility.

20 And in so doing, we hope, and we often do capture  
21 them not only for that period of time, but for the future,  
22 not only for pro bono participation in our civil legal

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1 services program, but also for financial support as  
2 associates and later as partners.

3 And I would say that most of the people who are on  
4 our Board who come from major firms in New York City have at  
5 some point done some pro bono work with us.

6 And that linkage not only serves to increase the  
7 recognition on the part of the firms and the private bar of  
8 the need for legal services, but their support for our  
9 program as well, and what we have tried to do, too, is not  
10 just to look at the needs that we would traditionally meet  
11 and see where the private bar would fit in.

12 We also have looked, I think somewhat creatively at  
13 some of the areas where the firms can provide us with  
14 assistance, where we may not be as strong. For example, in  
15 setting up tenant associations for co-oping buildings, in  
16 representing nonprofit community-based organizations and  
17 obtaining their 501.c.3s.

18 We have found ways to really not only use the  
19 litigators but to use the people who do corporate work and  
20 real estate, and that builds additional linkages.

21 So, I think that one can look at pro bono as  
22 something that is an obligation of all members of the bar,

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1 and that will assist programs in delivery of legal services,  
2 expand their own resources, but not only in terms of person  
3 power, but ultimately I think that is a way to build some  
4 base for law firm or individual lawyer financial support as  
5 well.

6 MR. UDDO: You don't have mandatory pro bono in New  
7 York, do you?

8 MS. LINDENAUER: No, we do not. Our chief judge,  
9 Sol Walker, had, about two years ago, talked about initiating  
10 mandatory pro bono, and put together a commission to look at  
11 the level of pro bono that is being delivered. That  
12 commission has come back with a report. He delayed a further  
13 decision on the issue of mandatory pro bono for a year, I  
14 guess for two years, and we will know, I guess, some time in  
15 1992 whether we are going to be faced with mandatory pro  
16 bono.

17 My suspicion is that we will not be faced with  
18 mandatory pro bono, but I suspect that the stick will  
19 continue to be held over our heads by the courts.

20 MR. UDDO: Is anybody here from a state that has  
21 mandatory pro bono? I don't know how many do. California  
22 does, doesn't it? Is anybody here from California?

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1           What are other people's experiences with respect to  
2 whether or not pro bono services are a significant  
3 contributing factor to the delivery of legal services? Yes,  
4 Don.

5           MR. HANRAHAN: I am Don Hanrahan from Land of  
6 Lincoln Legal Assistance in Springfield, Illinois, and my  
7 experience is that in rural communities in the Midwest and  
8 Illinois, where we practice, pro bono is more of a myth than  
9 a reality. Despite a campaign in the 1980s by the Illinois  
10 State Bar Association to recruit pro bono attorneys in all  
11 areas, there's very few who do pro bono in the small, rural  
12 communities.

13           In the more urban communities of the Midwest, like  
14 Springfield, Illinois, that has a population of about  
15 110,000, you do get some pro bono. The key is getting the  
16 involvement of the local judiciary and the local bar  
17 association in those kinds of communities, and where that has  
18 happened there have been some very good pro bono programs in  
19 several branch offices at Land of Lincoln and the Champaign-  
20 Urbana areas and East St. Louis and in the Alton area.

21           But in Springfield itself, I have only 17 pro bono  
22 lawyers out of a bar association of 800. It's appalling.

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1 And this whole past year I've ben working with a subcommittee  
2 of the bar association. They finally agreed that a  
3 subcommittee was necessary to explore this problem, and I've  
4 gotten very little help from the bar association there, so  
5 the reason I signed up -- this might be a lot different than  
6 others -- I just need to find out how we can set up pro bono  
7 in communities where the attorneys themselves are resistant  
8 to the idea. Maybe not resistant to the idea, but having no  
9 conception of what it is.

10 In the rural areas, they think that pro bono means  
11 the guy that didn't pay the bill last week, and so we have a  
12 real problem with recruiting the lawyers necessary to even  
13 set up a program.

14 MR. UDDO: Is there a statewide program? Does the  
15 state bar sponsor any kind of a pro bono program?

16 MR. HANRAHAN: Well, maybe Phil could talk more  
17 about that. There's a move afoot, but they don't have any  
18 money and they don't -- I mean, it's sort of a publicity --  
19 it seems more like a publicity thing than it is an active  
20 recruitment.

21 MR. MILSK: Do you want me to answer that?

22 MR. UDDO: Yes.

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1 MR. MILSK: I am Phil Milsk. I'm the state support  
2 center director in Illinois. I am also headquartered in  
3 Springfield.

4 Back in, I think it was '83, the state bar  
5 association started a program called the Illinois Volunteers  
6 for Justice. It has been used mainly as a recruiting tool.  
7 They did hire a staff attorney to go out to various counties  
8 and try to recruit. That was more or less a failure, mainly  
9 because he was an outsider. No one in the local bar  
10 associations knew him.

11 As Don mentioned, in the more populated areas it  
12 was a little bit easier to recruit. Just recently, the state  
13 bar association has renewed its efforts through the bar  
14 president for this year to develop a plan. We are trying to  
15 have input into the plan because we don't want them to make  
16 the same mistakes we made the last time. We think that there  
17 needs to be a lot more local involvement, and not just  
18 somebody at the state bar association saying to the local  
19 areas, do this, do that. I don't think that will work.

20 The only thing that I am aware of that they are  
21 doing now is that they do send out registration forms to all  
22 new graduates, new admittees to the bar, and we want them to

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1 create a project where there is more hands-on involvement in  
2 recruitment, but at the local level, where there is more  
3 coordination.

4 MR. TEITELMAN: Does anyone have a successful rural  
5 program they'd like to talk about as far as pro bono?

6 MR. UDDO: Let me just ask one question before we  
7 get there. Does Illinois have the -- did they adopt the ABA  
8 model rules which -- model rules has not a pro bono  
9 requirement as such, but a pro bono commitment, so the bar  
10 association has the leverage of saying, this is part of your  
11 professional obligation. I mean, it's in the rule.

12 MR. MILSK: Yes. I can give you an example of one  
13 rural program that was successful. It was the office -- I  
14 also worked at Land of Lincoln Legal Assistance in Southern  
15 Illinois for 12 years. The reason it was successful, when  
16 this Volunteer for Justice program started, the bar president  
17 was in our town. He was the head partner of one of the  
18 biggest law firms in the area. Every one of his associates  
19 and partners signed up. That's why it was successful.

20 MR. UDDO: Louisiana's experience was, when the bar  
21 president got interested in it, the whole state got  
22 interested in it.

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1 MR. GILMORE: I'm Tom Gilmore from Western Kentucky  
2 Legal Services in Madisonville, which is 15,000 people, so I  
3 guess that qualifies as rural.

4 We've got up to 60 percent of attorneys doing pro  
5 bono in some counties, and what we have done, we put on  
6 training events, and we hired a full-time coordinator. It  
7 takes a lot of work. You have to speak to a lot of people,  
8 go to a lot of bar association, meetings. In some cases  
9 drink a lot of beer with people. They just have to get to  
10 know you.

11 And by doing these CLE training events we get  
12 people in, show them who we are, what we do, and while  
13 they're in a good mood, we sign them. up. And then you have  
14 to make sure you don't give them junk. They have to be good  
15 cases, and you have to file them, and not use it as a dumping  
16 ground for things we don't want to fool with.

17 And it's grown little by little, and it's been very  
18 successful, but it's taken a lot of effort.

19 MR. UDDO: Where are you from, again?

20 MR. GILMORE: Madisonville, Kentucky.

21 MR. UDDO: Your full-time coordinator is employed  
22 by the state, or by --

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1 MR. GILMORE: By us. We got a \$15,000 grant from  
2 the bar association to hire a coordinator, and she spends a  
3 lot of time on the road, and we've got a Supreme Court  
4 Justice from our area that endorsed the program, which  
5 doesn't hurt.

6 MR. UDDO: But the coordinator is only in your  
7 area?

8 MR. GILMORE: Right.

9 MR. UDDO: She is only working in your area. She  
10 is not state-wide.

11 MR. GILMORE: No, 24 counties. It's --

12 MR. UDDO: Pretty big area.

13 MR. GILMORE: -- a big area.

14 MR. UDDO: Dave?

15 MR. YODER: The comment that was made about bar  
16 leadership, I think, is significant. Last year the president  
17 of the Indiana Bar Association was interested in pro bono,  
18 and created the first Indiana State Bar Pro Bono Committee.

19 It got off to a slow start because the initial  
20 leadership was someone who was active in bar functions but  
21 wasn't plugged into pro bono, so it took about a year to  
22 begin the educational process, but a couple of things that I

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1 think we did discover in that process were two things that  
2 the state bar will focus on this year as we now move forward  
3 and develop an active program.

4 One is that it is absolutely imperative that the  
5 state bar function in conjunction with the local programs,  
6 who all have very active and very successful pro bono  
7 programs going on in their primary service areas, but to  
8 follow up on the Illinois experience, in those rural  
9 communities where the local programs also find it extremely  
10 expensive to do outreach and to do development, we don't have  
11 a lot of pro bono going on in the state.

12 So, it appears that what we will be doing as a  
13 committee this year, in addition to a lot of organizational  
14 things and some additional research and follow-up, is that we  
15 will be looking at it as a two-pronged approach. One will be  
16 working with and supporting and augmenting and doing whatever  
17 we can to further strengthen local legal service program pro  
18 bono projects, and secondly, then, through the auspices of  
19 the state bar association, reaching out into those rural  
20 areas that are more difficult and more expensive for the  
21 local programs to reach.

22 MR. UDDO: Tom, in your situation you said you had

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1 60 percent of the bar?

2 MR. GILMORE: In some counties.

3 MR. UDDO: In some counties, 60 percent. How do  
4 you overcome their resistance, other than giving them beer  
5 and signing them up?

6 MR. GILMORE: Well, we do things for them, like  
7 we've done bankruptcy training and Social Security training.  
8 We have, like every three or four years, we have like a  
9 Social Security roundtable, where we get a U.S. Attorney and  
10 an ALJ and a bunch of people to come in, and we pay them like  
11 a two-day seminar for CLE -- or Social Security practitioners  
12 in our area, and that gives us a time, a chance.

13 They meet us, we meet them, they find out what we  
14 do, something about us, and like I say, you get them in a  
15 good mood, you do something for them, and then you get their  
16 signature on the line, and you start sending them cases.

17 MR. UDDO: What seems to be the norm for how much  
18 of a commitment you try to get from them or anybody who's got  
19 experience? How many cases?

20 MR. GILMORE: Two cases a year.

21 MR. UDDO: Two cases a year? Is that pretty much  
22 standard?

1 MR. DONAHUE: One case a year.

2 MR. UDDO: One case? Where is that?

3 MR. DONAHUE: Rhode Island.

4 MS. LINDENAUER: In New York we have worked with  
5 the state, county, and city bar associations in developing  
6 training programs for lawyers to do various types of work,  
7 including bankruptcy, family law, and other areas where pro  
8 bono resources can be effectively used, and in order to take  
9 the training program, they have to commit to doing -- and it  
10 depends upon the particular type of work. It may be two, it  
11 may be three cases during the course of a year.

12 MR. UDDO: Did you get anything helpful so far,  
13 Don?

14 MR. HANRAHAN: Yes, I think so. I'm going to drink  
15 lots of beer.

16 (Laughter.)

17 MR. GILMORE: I guess what I'm trying to say is, it  
18 takes a personal touch, and if you get them in a good mood  
19 and sort of shame them, if you're doing something for them  
20 free, how can they walk out the door? You know, you stand at  
21 the door, and you give them something to do.

22 MR. HANRAHAN: We have done some of that stuff.

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1 Like we did domestic violence training, and we did Social  
2 Security training, and we do have some commitment to do  
3 Social Security and SSI cases, but then they want to do those  
4 because they have found out they can get money out of them.

5 And the problem that I have right in my service  
6 territory, which is an eight-county area, is that in the  
7 Springfield area, where there's 800 lawyers, some of them are  
8 government lawyers, and so we tried to set up something that  
9 they can do different than everybody else, and the lack of  
10 interest was appalling there. Even though the government bar  
11 association was trying to really push it, they got no  
12 cooperation from their membership.

13 And the other obstacle is sort of just this  
14 complete inertia in the local bar association which seems to  
15 have been traditionally just a social organization, and to  
16 try and find the key operators in that system, and it was  
17 only in the last year that I hooked up with several of the  
18 judges, and we started to get the ball rolling.

19 I hope that something is going to pan out.

20 MR. UDDO: Let me ask you about the judges. I  
21 wanted to ask you about that. You say when you get them  
22 involved, it helps. What, they just jawbone people, or

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1 they --

2 MR. HANRAHAN: Well, they -- what the proposal is  
3 right now is that the presiding judge is going to write a  
4 letter that is going to go out to all the members of the bar  
5 association strongly encouraging them to do this, and then  
6 if the subcommittee of the bar association ever actually gets  
7 recognized as something other than where crazy people want to  
8 be, then I think it will take off, but it's taken so much  
9 work just to get it to this point, and I'm not sure what is  
10 going to happen if we -- you know, it isn't going to get much  
11 farther.

12 MR. BRICKING; Let me give you an example.

13 MR. UDDO: You have to identify yourself.

14 MR. BRICKING: Amos Bricking, with Legal Services  
15 in Louisville, Kentucky.

16 Fourteen rural counties, and the only two where we  
17 have any kind of actual big involvement on pro bono is  
18 because of the judge, and in most parts of the country the  
19 judge basically is in charge, much more in rural counties, at  
20 motion hours, all during the month, probably more in charge  
21 than the mayor and the county judge and everybody else, in  
22 some cases.

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1           And in one county we have 100 percent of the  
2 lawyers signed up for the program because of the judge; in  
3 another county, 50 percent. In the other 12 rural counties,  
4 not so much yet, but we haven't really hooked into the judge.  
5 So, I'm not sure -- I know that's not the only way, but if  
6 you get to a judge -- judges have an interest, obviously, in  
7 having us available on a respondent in divorce cases, and if  
8 that is consistent with our priorities, the volunteer lawyers  
9 in the counties can do that.

10           We provide out of pocket expenses, mileage,  
11 transportation, and costs for the program, and also a  
12 separate malpractice policy for all the participants so they  
13 don't have to use their own if there's a problem, and it's  
14 very inexpensive, as probably most of you know, if you have  
15 one.

16           But I think the judge is the key. If you can  
17 really sit down with that judge and let him know that if all  
18 these people sign up, then maybe the kind of referrals can be  
19 made, and more people can be represented before his court.  
20 There's a chance.

21           MR. UDDO: Don, when you say the bar association,  
22 were you referring to the local bar association?

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1 MR. HANRAHAN; Yes, the local bar association.

2 MR. UDDO: Have you tried to get the state bar  
3 association more involved in this?

4 MR. HANRAHAN: They are just starting to get  
5 something involved, so it seems like it is hopeful for the  
6 coming year.

7 MR. UDDO: What about this pay in malpractice  
8 insurance? That's a good idea. Are other people doing that  
9 Because I know in Louisiana we heard from a lot of people  
10 that they'd sign up, but, you know, that's more exposure, and  
11 their rates are going to go up, and it's a big risk, and they  
12 don't want to take it. Are a lot of people doing that?

13 MS. LINDENAUER: In New York we pay malpractice  
14 coverage for all volunteers.

15 MR. GILMORE: Another thing we've done in rural  
16 areas is, we've found a good case and referred it to a  
17 private lawyer, and then used the press, and they've come  
18 back later and said, this has helped my practice enormously,  
19 you know, when they get that kind of publicity, so you are  
20 appealing to, you know, something that most lawyers  
21 understand.

22 MR. TEITELMAN: On a macro level, using the judges

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1 in Missouri really worked very well in the rural areas, when  
2 the Chief Judge of the Supreme Court and the president of the  
3 Missouri bar sent letters out to every lawyer in the state  
4 urging them to join the pro bono, and then we had a training  
5 session for all the programs, but that, I would say, I think,  
6 even more so than the urban areas. We call rural out-state  
7 Missouri. They responded.

8 MR. UDDO; Yes.

9 MR. HALLIBURTON: Dick Halliburton, Legal Aid of  
10 Western Missouri.

11 We have some rural counties also in the western  
12 third of the state. One thing that we have tried with some  
13 success is just to give out an award locally, through the  
14 local bar association in the rural area at a local meeting  
15 that is well-attended. And then the awardee usually does a  
16 pitch, and we sign up people on the spot. That has been  
17 probably the most -- in addition to these other things that  
18 have been mentioned, one of the more successful methods of  
19 recruiting in the rural areas.

20 MS. LINDENAUER: In New York State the legal aid  
21 committee about ten years ago established presidential pro  
22 bono awards for each judicial district, and they are given

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1 out by the president of the state bar on Law Day, with a  
2 luncheon and pretty good press coverage, too.

3 And that, I think, is one of the things that helps,  
4 and then local bar associations started also giving pro bono  
5 awards, and then, surprisingly, what they did is, many of  
6 them realized that, well, it's nice to recognize the pro bono  
7 attorneys, then they started recognizing the Legal Services  
8 attorneys as well, so that was a nice development.

9 MR. UDDO: In sort of looking at the future, it is  
10 pretty clear that a lot of the pressure from pro bono  
11 activity and involvement came about in the '80s during the  
12 time when the federal dollars were declining, or at least  
13 staying static for many years, and the Corporation itself  
14 created the PAI involvement, and did other things to try to  
15 develop pro bono activity.

16 But what about the future? I mean, how do you view  
17 pro bono for the future? Is it something that you are  
18 enthusiastic about because it gives good relationships  
19 between the private bar and the Legal Services world, and it  
20 can, apparently -- in Tom's area, I mean, with 60 percent of  
21 the lawyers signed up, you're actually getting some work  
22 there, or is it something you think is going to die out?

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1 Just to kind of get some future perspective.

2 MR. MILSK: Yes. I think that pro bono development  
3 in the '80s was a very positive aspect of Legal Services.  
4 There were a lot of negatives, but that was one of the best  
5 aspects of what took place in the '80s.

6 My main concern not only is the development of pro  
7 bono in the rural areas, but also the quality control. We  
8 used to have to handle a lot of complaints, and part of that  
9 may have been our fault in not doing more training, but you  
10 have to walk a fine line between dealing with the clients'  
11 complaints and not insulting the lawyers, and keeping them  
12 involved.

13 Especially in counties where you might have only  
14 two lawyers, if you alienate one, then you are left with one  
15 or none, in some instances, so I would be interested in  
16 hearing people comment about the quality control aspects of  
17 pro bono.

18 MR. UDDO: Susan?

19 MS. LINDENAUER: This is the type of -- I am going  
20 to describe the type of program that really is not easy to  
21 develop. It takes a long time to develop, but it is worth at  
22 least considering, and it's much more difficult, I would

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1 suspect, in a rural area.

2           What we have is, we have a volunteer division of  
3 the Legal Aid Society, which -- we are a very large  
4 organization. We are principally a defender organization,  
5 but the volunteer division has a staff, a paid staff of  
6 approximately 15 or 18 lawyers who handle some cases on their  
7 own, but they also, in essence, supervise all the volunteer  
8 work that is done under their aegis, and that can be quite a  
9 considerable amount.

10           There are duplicate files, a file in the volunteer  
11 division office and the file with the pro bono attorney, and  
12 there is a real involvement, not just a ministerial  
13 involvement, to make certain that not only is there training,  
14 but there also is consultation.

15           That requires, you know, a decent staff component,  
16 and the dedication of substantial resources. It works. It  
17 works well. We have expanded that model into our civil  
18 division, which is principally a staff model, but also does a  
19 substantial amount of work with pro bono attorneys where we  
20 have a staff attorney teamed with either a single attorney or  
21 a team of attorneys from a firm, so that there is that type  
22 of control and oversight, and a collegial relationship is

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1 developed, and our people, our lawyers are trained not to  
2 ride herd in a way which is heavy-handed. But that is  
3 something that we have found works very well.

4 Now, if you have a small program, there's a limit  
5 to how much one or two or even ten people can do in the way  
6 of supervision, and there, I think you have to spend perhaps  
7 more time in the training, and then perhaps, instead of  
8 having almost a co-counseling relationship, you may have to  
9 serve as a backup office, and that we do, too.

10 I mean, we do some training for pro bono activities  
11 that are carried on directly by three bar associations where  
12 we do not become the attorney of record, but we act as the  
13 backup. I think all of that is necessary.

14 There is no way that I can say that pro bono  
15 doesn't mean that you remain involved on some level. If you  
16 really care about the quality of the service that is going to  
17 be delivered, you have to have some involvement.

18 MR. UDDO: Dennis Bricking has a question.

19 MR. BRICKING: I wonder about the future in terms  
20 of joint projects with bar associations, and I would just ask  
21 around the room to see if anybody is involved, because I am  
22 beginning to hear of examples, projects where five or more

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1 people from the Board, and an equal number from the bar  
2 association are on a separate board, or a separate policy-  
3 making group that actually runs the operation, maybe even to  
4 the extent of the budget, and certainly to the extent of the  
5 quality control, and the intake system, and the rest.

6 Does anybody have that experience, and how well  
7 does it work?

8 MR. YOUELLS: I am Randi Youells from Legal  
9 Services Corporation of Iowa.

10 The bar is set up by a private, separate board, by  
11 a private, nonprofit corporation about five years ago called  
12 the Iowa State Bar Association Volunteer Lawyers Project, and  
13 that board is composed of people from the private bar,  
14 members of the ISPA, and people from our board.

15 And it works very well, but that's not without a  
16 lot of shakedown that has gone on during the last five years,  
17 and what has happened during the last five years is a  
18 division of responsibility, so that the ISPA and Volunteer  
19 Lawyers Project does the recruiting, the giving out of  
20 awards, the schmoozing and boozing of the private lawyers to  
21 get them into Volunteer Lawyer Project activities, and the  
22 Legal Services Corporation of Iowa runs the referral and

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1 replacement component.

2           And we served last year about 1,500 low income  
3 Iowans throughout most of the state, which is a very rural  
4 state. That is not how it was envisioned when it started out  
5 five years ago. It was envisioned that they would be  
6 involved in the niche of the nuts and bolts of referring the  
7 cases and processing the cases, and that didn't work out for  
8 a wide variety of reasons.

9           But I think the separate organization does a lot.  
10 Because it's the bar's organization, when people call and  
11 receive an invitation to join and it is someone from the bar  
12 actually making that invitation, the awards being given are  
13 given out by the bar, and this summer they did something that  
14 might work in Illinois, where the Young Lawyers Division of  
15 the Iowa Bar Association contacted every person in Iowa who  
16 was licensed, who was not signed up for the Volunteer Lawyers  
17 Project, asked them to sign up, and if they didn't, they  
18 received a personal letter from the chief justice of the Iowa  
19 Supreme Court asking them to reconsider again.

20           So, I think they have more leverage than we would  
21 have. I think it works well.

22           MR. BRICKING: Is there competition for IOLTA or

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1 other budget dollars?

2 MS. YOUELLS: They receive about \$100,000 to fund  
3 the Iowa State Volunteer Lawyers Project, and we receive  
4 about \$300,000 from IOLTA, so I don't consider it  
5 competition. It's just kind of a splitting of the pie.

6 You know, three years ago, I think we saw them as a  
7 competitor. We don't do that anymore.

8 MR. YODER: Norm Metzger's program in Indianapolis,  
9 subgrants with the Marion County Bar Association in a joint  
10 project on pro bono, that has been a successful operation.

11 MR. TEITELMAN: Regina has got a question over  
12 here.

13 MR. UDDO: Identify yourself for the record,  
14 please, Regina.

15 MS. ROGOFF: I'm Regina Rogoff, Central Texas Legal  
16 Aid, and I guess what I see for the future of pro bono is a  
17 couple of things that impacted our program, so that what is  
18 happening in our service area is that we are doing some  
19 creative things in terms of enlarging the available volunteer  
20 lawyers through the use of clinics, divorce clinics and debt  
21 canceling and bankruptcy clinics and such, but what that has  
22 done is put a real strain on our delivery system.

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1           It has meant that more applicants have to be  
2 processed in order to produce an adequate pool for referral,  
3 and it also -- which -- it may sound strange to complain  
4 about the availability of volunteer resources, but I think  
5 what we sometimes miss in this is that there is a cost. We  
6 have had to actually do some staffing changes, in that we end  
7 up laying off a lawyer and hiring additional support staff in  
8 order to be able to process the additional numbers of  
9 clients.

10           In the end, I hope that more low income clients  
11 will be served. I will have less control over the quality of  
12 that service and the outcome of that service, and more of it  
13 will be provided in these alternative models, and that has  
14 some negative moral impact on my staff, who do support pro  
15 bono but are reluctant to see themselves merely as the  
16 screening conduit to refer elsewhere, meaning they are  
17 invested in delivering the service and don't see our program  
18 as simply an avenue for clients to come in, have eligibility  
19 determined, case type determined, substantive merits, whether  
20 it should go on or not, and then leave us.

21           The staff, I think, particularly paralegals, have  
22 found it unnerving -- I'm not quite sure what the exact word

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1 is, but discomfoting about not knowing what happens to the  
2 client after they get passed on to one of the clinics.

3 And the other point I have is that in Texas the  
4 best thing for pro bono has been the threat of mandatory pro  
5 bono. A lawsuit was filed against the state bar which has  
6 been dismissed, I think rightly so, on jurisdictional  
7 grounds, and a state legislator introduced a bill. The state  
8 bar went through a sunset process, and one of the criticisms  
9 was the low level of pro bono, and so they are under kind of  
10 a threat, the gun of mandatory pro bono being enacted by the  
11 legislature.

12 And so that has encouraged lawyers to volunteer,  
13 the idea being that if enough lawyers volunteer, it will  
14 disprove the basis on which mandatory pro bono is being  
15 sought, discrediting that.

16 Again, it is all well and good to have more and  
17 more volunteers, but unless there are resources available to  
18 administer them -- I mean, the threat of mandatory pro bono  
19 may produce a groundswell of voluntary pro bono, but it  
20 hasn't produced any fiscal support to administer the pro  
21 bono, and I think that is going to be a problem.

22 MR. TEITELMAN: One quick question. In the '80s we

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1 all saw growth in pro bono. How many people -- this is a  
2 McLaughlin Report kind of question. How many people see in  
3 the next five years a 50 percent growth in pro bono? Do  
4 people see saturation? Okay. How many see 50 percent growth  
5 in the next five years?

6 (A show of hands.)

7 MR. TEITELMAN: How many people see 25 percent?

8 (A show of hands.)

9 MR. TEITELMAN: How many people see 10 percent?

10 (A show of hands.)

11 MR. TEITELMAN: How many people see no growth?

12 (A show of hands.)

13 MR. TEITELMAN: And you see a decrease?

14 (A show of hands.)

15 MR. DONAHUE: It's going to grow, provided we could  
16 find some way that the pro bono lawyers are going to get  
17 recognition by the courts, and what we do is, we provide  
18 stickers judges are aware of that are placed on the pro bono  
19 files, so that the judges are aware that it is a pro bono  
20 case.

21 And his case is always called ahead of the  
22 calendar, and if he wants a continuance he is given a little

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1 more consideration, so there's a little item very other month  
2 in our newsletter we have an honor roll of attorneys handling  
3 pro bono cases, and it is very interesting. If you forget  
4 somebody's name they call up and tell you. They are very  
5 conscious of the fact that they want people to know this,  
6 particularly the judges.

7 MR. UDDO: Would you identify yourself for the  
8 record?

9 MR. DONAHUE: Jack Donahue, from Colorado Springs,  
10 Colorado.

11 MR. UDDO: Regina, let me ask you a question.  
12 Would that problem with the discomfort level of the paralegal  
13 be solved if there was more reporting back as to what  
14 happened with the clients?

15 MS. ROGOFF: Yes, we are trying to do that.  
16 We are, I think, similar to Iowa, we have a separate non-  
17 profit corporation that was set up in the '80s with a board  
18 of directors. We provide them office space and direct  
19 support. We are trying to have more information come back  
20 about what the referral was, what the outcome was. Yes, but  
21 that is administrative paperwork.

22 MR. UDDO: Do you have any IOLTA funds? Does the

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1 private corporation get any IOLTA funds?

2 MS. ROGOFF: Both of them get it. They get about  
3 \$60,000, and we get about \$400,000. But they just serve one  
4 county; we serve six counties.

5 MR. UDDO: Yes, Dave.

6 MR. YODER: Rick's question really got to the point  
7 of why I chose this session. I don't know what the impact is  
8 going to be on our pro bono over the next year. A year ago,  
9 I was very much in the same kind of quandary that Regina is  
10 talking about. We have what we consider a successful pro  
11 bono program.

12 In fact, the state bar gave its first pro bono  
13 awards this year, and our major bar association got one of  
14 those for its participation in other things. We feel good  
15 about that but we're stagnated, and one of the reasons we've  
16 been stagnated is because the costs of doing pro bono have  
17 been escalating, in fact, and are significant, and with a  
18 very small program of 13 staff people in a state that does  
19 not have IOLTA and not a lot of those other kinds of funds,  
20 it has become a real economic burden on the program to try to  
21 expand it to what we think its potential is.

22 But recent events in our state, and in particular

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1 in our area, have encouraged me to try to come up with some  
2 new ways of expanding it, and particularly in conjunction  
3 with Valpariso Laws School, which recently passed a mandatory  
4 pro bono requirement for student graduation, to which my  
5 response was to suggest a mandatory pro bono requirement for  
6 faculty to provide training, CLE, and do all those kinds of  
7 things.

8 But when we need to discuss these things, the law  
9 school doesn't have the funds to put into the kind of program  
10 that we think could be created, and I certainly don't, or I'm  
11 going to have less than four attorneys, and so, you know, how  
12 we maximize the bar association's new interest in pro bono,  
13 the law school's interest, our prior success, our  
14 relationship with the bar, which is solid, without decimating  
15 a Legal Services program that still, I think, is the most  
16 important factor in meeting the legal needs of the poor.

17 MR. UDDO: How is Valpariso -- I mean, are those  
18 students doing it through the law school, or are they doing  
19 it --

20 MR. YODER: This is the problem. They passed the  
21 regulation, and then they turned to me and they said, okay,  
22 Dave, we don't know how were going to get 20 hours per

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1 student for 150 students; help us design the program. We  
2 have designed the program now for the implementation. Quite  
3 frankly, I'm scared to death about it, because of the time  
4 commitment.

5 MR. TEITELMAN: We've got a question back here with  
6 Dick Taylor.

7 MR. TAYLOR: There are limitations that I perceive  
8 with regard to pro bono. One is that my perception is that  
9 private lawyers aren't necessarily where poor people are, and  
10 that private lawyers appear to organize themselves, or to  
11 organize law firms and to locate where there's economic  
12 activity and paying clients, and poor people aren't  
13 necessarily in those places.

14 In North Carolina, for example, 60 percent of the  
15 bar is in four cities, or four counties, in Greensboro,  
16 Raleigh, Winston-Salem, and Charlotte, and only about 20 or  
17 25 percent of the poor people are in those places, so that  
18 since we are organized around a sort of geographic  
19 responsibility that if you call upon programs to have  
20 successful pro bono models and they just don't have the  
21 lawyers -- we have some counties with no lawyers, many  
22 counties with just, you know, three or four lawyers.

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1           We have 100 counties in the state, and so the  
2 lawyers just aren't necessarily where the clients are, and  
3 unless we move to a model like the private bar does, where  
4 the state-wide and national law firms that represent people  
5 broader than in the fixed geographic areas, a geographic  
6 region-by-region responsibility for developing pro bono is  
7 problematic.

8           A second limitation that I wanted to comment about  
9 was that lawyers, private lawyers aren't trained in the type  
10 of work that we do or the kind of problems that our clients  
11 have, and we get complaints often that the intellectual  
12 property lawyer didn't get a case that he knows how to do, or  
13 the security lawyers didn't get referred a case.

14           And, you know, we don't have that many intellectual  
15 property demands. So, unless private lawyers who want the  
16 type pro bono work are willing to devote time to develop a  
17 property loss specialty, a pro bono specialty, unless we can  
18 come up with some other way of addressing that, that's a  
19 problem.

20           And lastly, at least in North Carolina, I think we  
21 had the lowest number of lawyers per capita. I think there's  
22 one lawyer for every 375 people in the general population,

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1 and there's, I think, nationally one for 750, or something  
2 like that.

3 But in any event, there just aren't enough lawyers  
4 to do it. I mean, 10,000 lawyers in North Carolina, on two  
5 cases per lawyer, can't make much impact on a client  
6 population of 1.2 million people.

7 So, it's a supplementary and an important, and I  
8 agree with the comments about it being one of the most  
9 significant, positive things that has happened to us in the  
10 '80s, but there are limits to this system, and we may be  
11 pushing the limits.

12 MR. UDDO: Don?

13 MR. HANRAHAN: Yes. Another limit that hasn't been  
14 mentioned is simply the type of case that the pro bono  
15 lawyers seem to be willing to take, and not just in office  
16 but in other offices in our program I think the experience  
17 has been that they want easy cases.

18 And someone mentioned not making the pro bono cases  
19 a dumping ground for cases we don't like, but on the other  
20 hand, it should be, if there is a way to make it something  
21 more than a bunch of default divorces, a lot of the more  
22 successful pro bono programs in our territory have ended up

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1 being simple divorces and straight Chapter VII bankruptcies,  
2 and that type of problem, which may not necessarily be the  
3 most critical legal need that our clients have, as shown by  
4 legal needs studies.

5 So, you know, even though I am optimistic that  
6 we can get a lot more lawyers participating, at least in my  
7 service territory, I am not sure that it will have an impact  
8 on some individual clients' lives, but unless we can figure  
9 out a way to make pro bono something more significant than it  
10 is, it is not going to be a major contributor to solving the  
11 legal problems of poor people in the 1990s.

12 MR. TEITELMAN: Some things to do to make it more  
13 significant is, the St. Louis Bar Journal, put out by the St.  
14 Louis bar, one of its quarterly editions was dedicated  
15 totally to pro bono, and it gives some legitimacy to your  
16 program when the bar association puts out an edition of its  
17 publication.

18 There's plenty of them back there. This is a point  
19 of light, also with George Bush -- President Bush, I should  
20 say, and the Senators, and also the media, the press on it,  
21 which gives recognition to the law firms that join in the  
22 program we had a campaign on, and this is our annual report,

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1 which lists every volunteer lawyer, and then this also is the  
2 press, the media, particularly the business pages.

3 The lawyers are more likely to want to have it in  
4 the business pages, where their clients read it, than  
5 anything else. And here's ten projects we did. So, it's all  
6 back here. Pick it up. We don't want to take it back to the  
7 office. That's it.

8 MR. EMANUEL: You know, I'm from Shreveport,  
9 Louisiana, and the project director.

10 Let's say three or four years ago it took me  
11 perhaps one damn week to worry about pro bono, and I think we  
12 had a very successful program. We did a great job, and I  
13 think that was one of the best things that happened to our  
14 local area in terms of support and client service.

15 But now, and I was just sitting here, now it takes  
16 me more than one day to address, because we have to deal with  
17 staff supervision, quality control, perks, recognition,  
18 training, retention problems, growth problems. It does take  
19 us more of our time to foster pro bono activities, and so I  
20 don't know how much more growth we can achieve.

21 MR. UDDO: What about the New Orleans model and the  
22 effort in New Orleans?

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1           MR. EMANUEL: We work very closely with them, both  
2 the program and the pro bono project. We have a similar  
3 program in Shreveport, and you know, we are working on the  
4 state activities and conference thing. I am simply saying as  
5 the program director more resources now are going to provide  
6 a good, healthy, successful pro bono activity now than it  
7 took, let's say, three or four years ago, and I can't say by  
8 investing more in it now than we did three or four years ago  
9 that we are seeing the number of clients being served than we  
10 are seeing the number of clients being served increase  
11 substantially.

12           So I am all for them. I don't know about the  
13 growth in the future, though.

14           MR. UDDO: I've got to wrap it up, but I want to  
15 wrap it up with a question and try to get some quick answers  
16 to it. One of the obvious interests I have is what can the  
17 Legal Services Corporation do to assist the continued  
18 development of the pro bono project and pro bono activities.

19           I suspect the interest is going to be more money,  
20 but if there's more that you can say than that, which is not  
21 falling on deaf ears, I might mention -- I mean, I think the  
22 Corporation is prepared to put more money behind pro bono

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1 activities, but if there's other things that I can take back  
2 to the Board from this session, I'd like to do it, and we  
3 didn't leave ourselves a lot of time to do that in, but if we  
4 could just quickly get some thoughts. Susan.

5 MS. LINDENAUER: National recognition of some of  
6 the -- you know, do something on that level, too. I think  
7 that would be very, very helpful.

8 MR. UDDO: All right.

9 MR. BRICKING: Contacts with the local and all bar  
10 associations, state bar associations from you, from your  
11 Board, urging them to work with existing Legal Services  
12 programs, and to deal with this issue of administrative costs  
13 and to deal with quality controls. I think that would be  
14 helpful, because they may hear from the ABA, but they don't  
15 hear from you.

16 MR. UDDO: All right. Dave?

17 MR. YODER: Our pro bono recruitment has become  
18 more successful as our program has become stronger and more  
19 successful, and I think strengthening programs is the key to  
20 getting the private bar to want to participate.

21 MR. UDDO: Just general strengthening of the  
22 program, or with some special effort to assist in pro bono

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1 activity?

2 MR. YODER: I think that goes with a strong  
3 program.

4 MR. UDDO: Yes, ma'am.

5 MS. HOYEMA: Yes, my name is Lucille Hoyema  
6 representing Legal Services. We are a Native American  
7 component of the larger legal services that is located in  
8 Tucson. We provide individual services to five Indian  
9 communities, plus we have three small tribes' contracts that  
10 we also do, and regarding pro bono I say they are not in  
11 existence as far as the Indian communities that we serve, and  
12 I really would like to see some type of assistance regarding  
13 that.

14 MR. UDDO: Maybe later you can give me some  
15 specific ideas about how we could help in that particular  
16 area.

17 Anybody else? Yes.

18 MR. HALLIBURTON: If you are talking in terms of  
19 increasing financial support from the Corporation, I would  
20 just urge you not to consider increasing the percentage of  
21 PAI requirement. In fact, I urge you to perhaps reduce it  
22 back to 10 percent.

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1 MR. TEITELMAN: Leave it more local. More  
2 flexibility, make it a local alternative.

3 MR. UDDO: Anybody else? Regina? I will just go  
4 right around the room.

5 MS. ROGOFF: I really agree with David. I think  
6 that ultimately our success in our communities is based on  
7 our ability to establish institutional integrity and be  
8 effective in the community, and if we are seen as part of the  
9 delivery of -- part of the administration of justice, I think  
10 that we can attract other sources of funds, we can attract  
11 private lawyers.

12 When we are seen as under the gun, and not  
13 supported by our own national Corporation, and when there is  
14 negative publicity in the paper and it looks like, you know,  
15 we may -- you know, over the last decade it looked like we  
16 might not survive -- those are very hard obstacles to  
17 overcome.

18 I think David's point that the stronger we are, the  
19 better able we are to encourage and support the involvement  
20 of private lawyers, and that also in some ways argues against  
21 competition. If each of these models is seen as in  
22 competition with each other, we are not seen as working

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1 together, and competition has -- you know, we have to compete  
2 for IOLTA dollars, but we work very, very hard with the other  
3 providers in our area to negotiate that in advance, about  
4 what percentage of the money is appropriate to go to each of  
5 the providers.

6 We approach it, although it is competitive -- in  
7 fact, in my main county, we make a joint presentation with  
8 IOLTA program, separate, non-profit corporation, separate  
9 board of directors. Their president of the Board, my  
10 president of the Board, their director and I go in together,  
11 saying, you know, we work together hand in glove. We don't  
12 want to be competing with each other.

13 MR. FITZSIMMONS: I am Jim Fitzsimmons from North  
14 Dakota, and I guess I don't want to draw the rural-urban  
15 scenario, but in answer to your question, I think one of the  
16 problems a lot of us in the rural states have is exactly what  
17 Mr. Taylor said. We have only a small number of lawyers, and  
18 we have a lot of expertise in real estate law and the other  
19 specialized areas, but we don't have enough lawyers in those  
20 rural areas who have expertise in family law, poverty law,  
21 landlord-tenant, et cetera.

22 I think if there was any type of way to make money

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1 available for training to work on those areas, that would be  
2 an excellent idea, especially in the rural areas.

3 We are presently talking to our law schools about  
4 putting in some type of a requirement that everybody who  
5 graduates have at least a course or two in what would be  
6 designed as poverty law, so that when they get out of law  
7 school, Number One, they can't opt out and say, hey, I don't  
8 know anything about that.

9 And Number Two, be honest. I mean, lawyers  
10 appear confident, and a lot of them would be intimidated. A  
11 lawyer doesn't want to walk into a courtroom his first year  
12 out of law school and make a fool out of himself, especially  
13 if he is a real estate lawyer or he's a corporate lawyer. We  
14 even have a couple of those in North Dakota.

15 He wants to have the confidence, and when I first  
16 came to North Dakota, poor people were a little concerned  
17 about going to a legal aid lawyers when we started in the  
18 '70s.

19 Now, I have trouble getting them good, competent  
20 pro bono lawyers because they are saying they don't know what  
21 it's about, and I think we need to somehow or another, in  
22 cooperation with the Legal Services Corporation, help provide

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1 some training in those areas so that our lawyers are  
2 confident, and our clients, who are the most important, are  
3 confident in those lawyers that we are sending.

4 MR. UDDO: Thank you. We have to return to the  
5 main session. Thank you all for your comments.

6 (The session was concluded at 11:55 a.m.)

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