

DIALOGUE

Fall 2009
VOL. 13, NO. 4

News and Perspectives from the ABA Division for Legal Services

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Military Pro Bono Project Update

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One year after the idea of building a national pro bono referral highway from servicemember clients to civilian lawyers became a reality, case traffic is moving apace and the legal world is taking notice.

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As of mid-September 2009, the innovative ABA Military Pro Bono Project (the "Project") secured pro bono legal assistance for nearly 120 military men and women in civil-law matters by connecting them to motivated lawyer volunteers in the 34 states where the cases arose. Founded by the Standing Committee on Legal Assistance for Military Personnel, the Project—still in the developmental phase—has received crucial initial operating support from the Section of Litigation, many of whose members are counted among the Project's pro bono volunteers.

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While the Project is neither the first nor the only source of pro bono legal help for those who serve and have served this country, it is the first centralized national platform for channeling worthy active-duty cases to the right civilian lawyers. The Project's customized on-line referral platform screens and packages meritorious matters for delivery to qualified pro bono counsel in locations across the country where legal representation is needed. All cases originate through military handling attorneys stationed around the globe, and each referral must be approved, as meritorious and otherwise appropriate, by a senior legal officer within each service branch. Project Director Jason T. Vail of the ABA manages the placement of referral requests that arrive through the website, tapping a database of nearly 500 volunteers who also sign up through the website, www.militaryprobono.org. The web resource is programmed to generate regular quantitative reports of interest to the services' respective legal assistance leadership (for that service's cases) and various ABA constituencies.

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A year out from its September 2008 case-referral launch, this much can be said with reasonably certainty about the ABA Military Pro Bono Project: (1) though still in development, it is working well, as designed and according to plan, taking thoroughly-screened, appropriate cases and connecting them to pro bono volunteers; (2) it is well appreciated by clients, military handling

attorneys, and senior military legal officers, who have strongly signaled that the program is delivering a real benefit to military lawyers and servicemember clients; and (3) it is achieving an elevated profile both inside and outside the ABA, appreciated by leadership as a novel and effective conduit for direct ABA support to those men and women who put it all on the line for our country.

Perhaps the best measure of the program's impact to date is the response of military lawyers who have turned to it for support. In an unsolicited email to Project staff via the website, LT Joseph P. Melaragno of the U.S. Navy JAG in the Legal Service Office for Europe and Southwest Asia, wrote:

"I just wanted to convey to you the fact that I think that this is a terrific program. We have had numerous servicemembers assisted by this program who are stationed here in Europe. This program has proven invaluable for those junior military members that can't afford to fly back to the states or retain an attorney at their own expense. These servicemembers are extremely appreciative of all of your efforts to make this happen. Without this program, they would be forced to attempt to handle these matters on their own or spend what little money they have to obtain an attorney. Ultimately, this program is providing a tremendous benefit to your servicemen and servicewomen. On behalf of them, I offer my utmost gratitude for all of your efforts."

In a like vein, John Meixell, the Chief of the U.S. Army Legal Assistance Policy Division, has observed, "The ABA Military Pro Bono Project has been a superb program for our servicemembers. It provides them with a vital resource, thereby allowing them to quickly resolve their legal problems and keep their focus on accomplishing the mission. More importantly, it shows our servicemembers that their sacrifices are appreciated and valued by the American legal community."

When the Project's operational shake-out began, the Fall 2008 issue of *Dialogue* ran a piece suggesting five possible criteria for measuring the Project's impact going forward. After a year of development, it makes sense to take stock by applying those same criteria:

"A strong and reliable inventory of pro bono firms of all sizes"

The Project's initial lawyer volunteer recruitment push targeted mainly large and medium-sized firms. One year later, the current volunteer inventory of nearly 500 volunteers encompasses law firms of all sizes in nearly every state in the nation. Based on the early case referral request flow, the Project is now focused on attracting more small firms and firms with family law concentrations—the substantive legal area capturing a large majority of the matters referred to date.

The sheer number of volunteers to date is a measure of the bar's deep interest in helping servicemembers. As the solicitation of other law firm sizes and types evolves, the Project expects to see a consistently strong level of interest on the part of lawyer volunteers in helping this most deserving and oft-overlooked clientele.

"A continued buy-in from the services"

The legal assistance leadership of the five service branches has proven to be a committed, encouraging and closely involved resource, enabling its success through the formative stages. The services' legal assistance chiefs helped to carefully craft and enforce project criteria while encouraging Project support at every turn. They were closely consulted on the on-line case-referral program design, resulting in a case-intake form that is closely attuned to the services' needs and functions.

Said John Meixell, the Army Chief of Legal Assistance, "The ongoing dialogue with the Project Director has been critical to designing an effective intake system. As originally designed, the intake criteria were carefully crafted to capture all of the necessary client information and to make the process efficient and useable for military lawyers. As we've worked together through the past year, we've identified areas where we could improve the process and Jason has quickly adapted those processes to create a more efficient system."

One initial question concerned the willingness and ability of the services to create a critical quality-control check for the referral process: the identification and involvement of a corps of "supervising attorneys" (i.e., senior legal officers) who review each referral proposed by a military handling attorney and ensure it meets program standards before being forwarded to the ABA. It was understood early on that the quality of referred cases would depend in significant part on the level of engagement of these senior officers. To date, *all* of the involved services have evinced an extraordinary commitment to making this critical quality-control feature function well. Even more fundamentally, the military legal establishment has consistently and forcefully told the program staff and volunteer leadership at all levels of the ABA that they believe in the mission of the ABA Pro Bono Project, that it is helping servicemember clients, and that the services are committed to making it work.

To cap it off, the ABA learned as this article was being prepared that the Secretary of Defense, Robert Gates, has personally acknowledged the program by asking the services to support its development as a partial solution to the raft of family law cases facing today's servicemembers, cases that are largely a consequence of extensive and repeated deployments to conflict zones.

"A consensus on what the Military Pro Bono Project is and is not"

Another initial concern was that the Project not devolve into a repository for undesirable cases that would neither engage civilian volunteers nor meet the mission of assisting on the most deserving servicemember cases. Fortunately, so far that concern has proven to be unfounded. Care has been taken by Project Director Vail and military participants to ensure that the Project is taking on clients only where military legal assistance attorneys have exhausted all means, within reason and their resources, of resolving the legal problem. In fact, as part of the case-intake process, each referring attorney is required to affirm that alternative means of resolving the matter, short of pro bono referral, have been exhausted.

Rather than inadvertently evolving into a substitute for adequate military legal assistance services, in its early stages the Project has added significant new value to military legal assistance, helping in cases where the installation attorney has done everything possible. In a typical Military Pro Bono Project case, a volunteer takes a case arising in the servicemember's home jurisdiction far from the military base and military legal assistance. The volunteer lawyer can go to court for the client if necessary—an option often unavailable to the on-base military lawyer due either to distance from the forum state or state bar restrictions on court appearances by lawyers licensed in other states. Military attorneys are often licensed in states other than that in which they are stationed. For example, in one case a soldier was referred to the Project by a legal assistance attorney at Fort Leavenworth, Kansas, where the soldier was stationed. The referral was for a case filed in Illinois. The Project was able to connect the soldier with an attorney in Illinois who successfully resolved the legal matter on behalf of the soldier despite the geographical distance between them. As noted by COL Samuel J. Rob, the Fort Leavenworth Staff Judge Advocate, in a letter thanking the Project for its assistance of the soldier, "The ABA Military Pro Bono Project is, without a doubt, a huge benefit to the military community."

"Serving those who have borne the burden of deployment"

The Project has remained firmly focused on the objective of prioritizing assistance for those who are or have been deployed to conflict zones. A significant percentage of cases referred to the Project have originated with legal assistance attorneys located in Iraq, Afghanistan, and other locations around the world where the servicemember's duties and distance from home can make seeking counsel to resolve a legal problem an insurmountable task—not to mention a distraction and impediment to mission readiness. The Project not only has endeavored to prioritize placement of pro bono matters on behalf of these clients, it has strived to ensure that the Project's online case referral tools are as accessible as possible to military legal assistance attorneys, regardless of their location.

As noted by U.S. Navy JAG LT Garrett S. Snow, in an email to the Project, "I just wanted to drop a line and say how grateful I am for the Military Pro Bono Project. I just submitted a referral for a case. Whether an attorney can be located or not, I think it's incredible that I can be on an aircraft carrier in the middle of the Pacific Ocean, see a client with a problem, and

log in to refer his case that same day. This is the kind of assistance that our forward-deployed sailors, marines, and soldiers need. Thank you!”

“Maintaining and building internal ABA support and external partnerships”

The ABA Military Pro Bono Project faces a crucial juncture. It requires broader financial support from beyond the ABA to ensure its viability going forward. It also requires the further involvement of other ABA lawyer groups that can provide the family lawyers and smaller-firm practitioners necessary for a balanced and contributing volunteer base. Every indication is that those volunteers will step up, as all have before. Project staff have made steady progress connecting with bar and pro bono organizations in the states, as a means of recruiting volunteers, and hopes to continue with that process.

The civil legal needs of this generation of American servicemembers, including tens of thousands who have spent years in distant conflict zones, away from families and homes, are vast. A single ABA Project cannot even contemplate meeting those needs, any more than the services military legal assistance programs have been able to so, despite best efforts. But the Project can make an important contribution by facilitating help for deserving servicemembers in appropriate cases.

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